

JAN 26 2022

A BILL FOR AN ACT

RELATING TO TAX EXPENDITURE ACCOUNTABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 231, Hawaii Revised Statutes, is
2 amended by adding a new section to read as follows:

3 "§231- Tax expenditures. (a) All laws that enact,
4 modify, or extend the availability of a tax expenditure shall
5 include the following:

6 (1) An explanation of the intent in enacting each tax
7 expenditure, including the expected economic and
8 employment benefit to the State;

9 (2) An analysis of whether the economic or employment
10 benefit to the State provided by the tax expenditure,
11 if any, outweighs its cost;

12 (3) A repeal date that makes the tax expenditure available
13 for no more than thirty-six months;

14 (4) A static revenue estimate of the tax expenditure for
15 each of the fiscal years in the State's financial
16 plan;

17 (5) For tax expenditures that are modified or extended:

S.B. NO. 3146

1 (A) The total cost of the tax expenditure over the
2 previous three fiscal years;

3 (B) A static revenue estimate for each of the fiscal
4 years in the State's financial plan if the tax
5 expenditure were repealed;

6 (C) An analysis describing the extent to which the
7 tax expenditure is fulfilling its desired
8 purpose, including whether the State has realized
9 the anticipated economic benefit and increase in
10 tax revenue. The analysis should also include
11 the number of jobs created in the State and
12 whether the cost of the tax expenditure is
13 outweighed by its benefits.

14 (b) The director shall prescribe such rules as may be
15 necessary or appropriate to carry out the purposes of this
16 section.

17 (c) For the purposes of this section:

18 (1) "State financial plan" refers to the financial plan
19 required under section 37-69;

20 (2) "Static revenue estimate" means a revenue estimate
21 that assumes that the gross domestic product will
22 remain unchanged by the legislative proposal. A

S.B. NO. 3146

1 "static revenue estimate" may take into account
2 taxpayers' likely behavioral responses to proposed
3 changes in tax law. Behavioral effects can be broadly
4 characterized as shifts in the timing of transactions
5 and income recognition, shifts between business
6 sectors and entity form, shifts in portfolio holdings,
7 shifts in consumption, and tax planning and avoidance
8 strategies.

9 (3) "Tax expenditure" means any credit, deduction,
10 exclusion, exemption, or any other tax benefit that
11 provides a preferential rate of tax or deferral of tax
12 liability, authorized under title 14 for the purpose
13 of incentivizing economic activity. The term "tax
14 expenditure" does not include tax measures enacted as
15 a result of conformity with the Internal Revenue Code,
16 nor any modifications to tax measures required by the
17 United States or state constitutions."

18 SECTION 2. Chapter 231, Hawaii Revised Statutes, is
19 amended by adding a new section to read as follows:

20 "§231- Lawful disclosure of certain tax expenditure
21 information. (a) Notwithstanding any law to the contrary, for
22 tax expenditures that encourage certain economic activities, the

S.B. NO. 3146

1 claimant taxpayer's identity and the amount of tax expenditure
2 claimed shall be subject to public disclosure under chapter 92F.
3 The identity of any taxpayer to which a tax expenditure subject
4 to this section flows through shall not be subject to public
5 disclosure. For the purposes of this section, the definition of
6 "tax expenditure" is the same as the term is defined in section
7 231- .

8 (b) For the purpose of this section, the tax expenditures
9 that encourage certain industries or economic activities
10 include:

- 11 (1) Exemption from general excise tax for eligible
12 business activities in an enterprise zone under
13 section 209E-11;
- 14 (2) Renewable energy technologies income tax credit under
15 section 235-12.5(b) (1) (C), (2) (C), and (3) (C);
- 16 (3) Motion picture, digital media, and film production
17 income tax credit under section 235-17;
- 18 (4) Renewable fuels production tax credit under section
19 235-110.31;
- 20 (5) Fuel tax credit for commercial fishers under section
21 235-110.6;

S.B. NO. 3146

- 1 (6) Ship repair industry tax credit under section 235-
- 2 110.65;
- 3 (7) Tax credit for research activities under section 235-
- 4 110.91;
- 5 (8) Important agricultural land qualified agricultural
- 6 cost tax credit under section 235-110.93;
- 7 (9) Organic foods production tax credit under section 235-
- 8 110.94;
- 9 (10) Exemption from general excise tax for certain
- 10 convention, conference, and trade show fees under
- 11 section 237-16.8;
- 12 (11) Exemption from general excise tax for services related
- 13 to ships and aircraft under section 237-24.3(3);
- 14 (12) Exemption from general excise tax for labor
- 15 organizations under section 237-24.3(9);
- 16 (13) Exemption from general excise tax for aircraft leasing
- 17 under sections 237-24.3(11) and 238-1(6);
- 18 (14) Exemption from general excise tax for aircraft service
- 19 and maintenance facilities under sections 237-24.9 and
- 20 238-1(8);
- 21 (15) Exemption from general excise tax for ship building and
- 22 ship repair under section 237-28.1; and

S.B. NO. 3146

Report Title:

Tax Expenditure Accountability

Description:

Requires laws that enact, modify, or extend the availability of a tax expenditure to contain specific information, revenue estimates, and analyses before becoming law. Allows the disclosure of certain tax credit information.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Taxation.

TITLE: A BILL FOR AN ACT RELATING TO TAX EXPENDITURE ACCOUNTABILITY.

PURPOSE: To promote transparency when tax preferences are enacted and to allow for the disclosure of tax information relating to tax expenditure claims.

MEANS: Add two new sections to chapter 231, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Tax expenditures are any credit, deduction, exclusion, exemption, or any other tax benefit that provides preferential rate of tax or deferral of tax liability. Tax expenditures are often enacted based on anticipated benefits such as an increase in gross domestic product, job creation, and enhanced tax revenue. The State Auditor is responsible for reviewing tax expenditures on a periodic basis under section 23-71, HRS, et seq., but the review has proven difficult because the purpose of enacting the tax expenditures and anticipated benefits to the State are not clear. The proposal requires all laws enacting, modifying, and extending the availability of tax expenditures to contain the purpose and anticipated benefits.

The disclosure of the identity of the taxpayers and amount of tax expenditures claimed is important to support public trust and fairness. When only certain taxpayers receive preferential treatment, the other taxpayers have the right to know who the recipients are.

Impact on the public: The general public will benefit by knowing why any given tax expenditure was enacted, whether the tax

expenditure met those expectations, and who received preferential treatment.

Impact on the department and other agencies:
The Department and other agencies will be benefit through improved public trust of the government.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.