
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Renewable fuels production tax credit. (a) Each
5 year during the credit period, there shall be allowed to each
6 taxpayer subject to the taxes imposed by this chapter a
7 renewable fuels production tax credit that shall be applied to
8 the taxpayer's net income tax liability, if any, imposed by this
9 chapter for the taxable year in which the credit is properly
10 claimed.

11 For each taxpayer producing renewable fuels, the annual
12 dollar amount of the renewable fuels production tax credit
13 during the ten-year credit period shall be equal to cents
14 per seventy-six thousand British thermal units of renewable
15 fuels using the lower heating value produced for distribution in
16 the State; provided that the taxpayer's production of renewable
17 fuels is no less than fifteen billion British thermal units of



1 renewable fuels per year; provided further that the amount of
2 the tax credit claimed under this section by a taxpayer shall
3 not exceed \$ _____ per taxable year. No other tax credit
4 shall be claimed under this chapter for the costs related to
5 renewable fuels production that are used to properly claim a tax
6 credit under this section for the taxable year.

7 (b) The Hawaii state energy office shall:

- 8 (1) Verify the amount and type of renewable fuels
9 produced, including the purpose for which the fuel was
10 produced;
- 11 (2) Total all renewable fuels production that the Hawaii
12 state energy office certifies for purposes of
13 paragraph (3);
- 14 (3) Certify the total amount of the tax credit for each
15 taxable year and the cumulative amount of the tax
16 credit during the credit period; and
- 17 (4) Every five years, certify that the renewable fuels
18 produced have life cycle emissions substantially below
19 that of fossil fuels.

20 Upon each determination, the Hawaii state energy office
21 shall issue a certificate to the taxpayer verifying the amount



1 of renewable fuels produced, the credit amount certified for
2 each taxable year, and the cumulative amount of the tax credit
3 during the credit period. The taxpayer shall file the
4 certificate with the taxpayer's tax return with the department
5 of taxation. Notwithstanding the Hawaii state energy office's
6 certification authority under this section, the director of
7 taxation may audit and adjust the certification to conform to
8 the facts.

9 If in any year, the annual amount of certified credits
10 reaches \$ _____ in the aggregate, the Hawaii state energy
11 office shall immediately discontinue certifying credits and
12 notify the department of taxation. In no instance shall the
13 total amount of certified credits exceed \$ _____ per year.

14 (c) If the credit under this section exceeds the
15 taxpayer's net income tax liability, the excess of the credit
16 over liability may be used as a credit against the taxpayer's
17 net income tax liability in subsequent years until exhausted.
18 All claims for a credit under this section shall be properly
19 filed on or before the end of the twelfth month following the
20 close of the taxable year for which the credit may be claimed.



1 Failure to comply with the foregoing provision shall constitute
2 a waiver of the right to claim the credit.

3 (d) A taxpayer may elect to reduce the eligible credit
4 amount by thirty per cent; provided that if this reduced amount
5 exceeds the amount of income tax payment due from the taxpayer,
6 the excess of the credit amount over payments due shall be
7 refunded to the taxpayer; provided further that no refund on
8 account of the tax credit allowed by this section shall be made
9 for amounts less than \$1.

10 The election required by this subsection shall be made in a
11 manner prescribed by the director on the taxpayer's return for
12 the taxable year in which the credit is claimed. An election
13 once made is irrevocable.

14 (e) Before production of any renewable fuels for the year,
15 the taxpayer shall provide written notice of the taxpayer's
16 intention to begin production of renewable fuels. The
17 information shall be provided to the department of taxation and
18 the Hawaii state energy office on forms provided by the Hawaii
19 state energy office and shall include information on the
20 taxpayer, facility location, facility production capacity,



1 anticipated production start day, and taxpayer's contact
2 information.

3 (f) The taxpayer shall provide written notice to the
4 director of taxation and chief energy officer of the Hawaii
5 state energy office within thirty days following the start of
6 production of any renewable fuels. The notice shall include the
7 production start date and expected renewable fuels production
8 for the next twelve months.

9 (g) Each calendar year during the credit period, the
10 taxpayer shall provide information to the chief energy officer
11 of the Hawaii state energy office on:

12 (1) The number of British thermal units of renewable fuels
13 produced and sold during the previous calendar year;

14 (2) The type of fuels produced;

15 (3) Renewable feedstocks used for renewable fuels
16 production;

17 (4) The number of employees of the facility and each
18 employee's state of residency; and

19 (5) The projected number of British thermal units of
20 renewable fuels production for the succeeding year.



1 (h) In the case of a partnership, S corporation, estate,
2 or trust, distribution and share of the renewable fuels
3 production tax credit shall be determined pursuant to section
4 704(b) of the Internal Revenue Code of 1986, as amended, with
5 respect to a partner's distributive share.

6 (i) Following each year in which a credit under this
7 section has been claimed, the chief energy officer of the Hawaii
8 state energy office shall submit a written report to the
9 governor and legislature regarding the production and sale of
10 renewable fuels. The report shall include:

11 (1) The number, location, and production of renewable
12 fuels production facilities in the State and outside
13 the State that have claimed a credit under this
14 section;

15 (2) The total number of British thermal units of renewable
16 fuels, itemized by type of fuel produced and sold
17 during the previous year; and

18 (3) The projected number of British thermal units of
19 renewable fuels production for the succeeding year.

20 (j) The director of taxation:



1 (1) Shall prepare forms that may be necessary to claim a
2 credit under this section;

3 (2) May require the taxpayer to furnish information to
4 ascertain the validity of the claim for credit made
5 under this section; and

6 (3) May adopt rules pursuant to chapter 91 necessary to
7 effectuate the purposes of this section.

8 (k) Each taxpayer, together with all of its related
9 entities, as determined under section 267(b) of the Internal
10 Revenue Code of 1986, as amended, and all business entities
11 under common control, as determined under sections 414(b),
12 414(c), and 1563(a) of the Internal Revenue Code of 1986, as
13 amended, shall not be eligible for more than a single ten-year
14 credit period.

15 (l) The Hawaii state energy office shall exempt from
16 disclosure any information collected pursuant to subsections
17 (b), (e), and (f) to the extent it would adversely affect
18 personal privacy rights or proprietary interests. Any
19 disclosure of the information collected pursuant to subsections
20 (b), (e), and (f) for public inspection and dissemination shall
21 be consistent with the policies, procedures, and standards



1 developed by the chief information officer and consistent with
2 applicable law, including chapter 92F and other state and
3 federal laws related to security and privacy.

4 (m) As used in this section:

5 "Credit period" means a maximum period of ten consecutive
6 years, beginning from the first taxable year in which a taxpayer
7 begins renewable fuels production at a level of at least fifteen
8 billion British thermal units of renewable fuels per year.

9 "Net income tax liability" means income tax liability
10 reduced by all other credits allowed under this chapter.

11 "Renewable feedstocks" means:

12 (1) Biomass crops;

13 (2) Agricultural residue;

14 (3) Oil crops, including but not limited to algae, canola,
15 jatropha, palm, soybean, and sunflower;

16 (4) Sugar and starch crops, including but not limited to
17 sugar cane and cassava;

18 (5) Other agricultural crops;

19 (6) Grease and waste cooking oil;

20 (7) Food wastes;

21 (8) Municipal solid wastes and industrial wastes;



1 (9) Water, including wastewater; and

2 (10) Animal residues and wastes that can be used to
3 generate energy.

4 "Renewable fuels" means fuels produced from renewable
5 feedstocks; provided that the fuel:

6 (1) Is sold as a fuel; and

7 (2) Meets the relevant ASTM International specifications
8 for the particular fuel or other industry
9 specification for the particular fuel or other
10 industry specifications for liquid or gaseous fuels,
11 including but not limited to:

12 (A) Methanol, ethanol, or other alcohols;

13 (B) Hydrogen;

14 (C) Biodiesel or renewable diesel;

15 (D) Biogas;

16 (E) Other biofuels;

17 (F) Bioenergy; or

18 (G) Renewable jet fuel or renewable gasoline."

19 SECTION 2. New statutory material is underscored.

20 SECTION 3. This Act shall take effect on July 1, 2100.



Report Title:

Renewable Fuels Production; Income Tax Credit

Description:

Establishes a renewable fuels production tax credit. Effective 7/1/2100. (SD1)

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