
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Hawaii is vulnerable to soaring prices and
2 disruptions of its energy imports, which can hinder, cripple, or
3 even devastate the State's economy and the well-being of its
4 inhabitants. As the most isolated land mass on Earth, Hawaii
5 imports nearly ninety per cent of its energy and almost one
6 hundred per cent of its transportation resources. The
7 legislature finds that it is critical for Hawaii to ensure
8 greater energy security by becoming more self-sufficient in its
9 energy and food supply.

10 The legislature also finds that Act 202, Session Laws of
11 Hawaii 2016, established a renewable fuels production tax credit
12 for the purpose of achieving greater energy security for Hawaii.
13 However, the tax credit was repealed on December 31, 2021.

14 Accordingly, the purpose of this Act is to reinstate the
15 renewable fuels production tax credit.



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

4 "§235- Renewable fuels production tax credit. (a)

5 Each year during the credit period, there shall be allowed to
6 each 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 twenty cents
14 per seventy-six thousand British thermal units of renewable
15 fuels using the lower heating value sold for distribution in
16 Hawaii; provided that the taxpayer's production of renewable
17 fuels is not less than two billion five hundred million British
18 thermal units of renewable fuels per calendar year; provided
19 further that the amount of the tax credit claimed under this
20 section by a taxpayer shall not exceed any amount that the
21 department may establish by rule adopted pursuant chapter 91.

1 No other tax credit may be claimed under this chapter for the
2 costs incurred in producing the renewable fuels that are used to
3 properly claim a tax credit under this section for the taxable
4 year.

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

11 (b) In the case of a partnership, S corporation, estate,
12 or trust, distribution and share of the renewable fuels
13 production tax credit shall be determined pursuant to section
14 704(b) (with respect to a partner's distributive share) of the
15 Internal Revenue Code of 1986, as amended. For a fiscal year
16 taxpayer, the taxpayer shall report the credit in the taxable
17 year in which the calendar year end is included.

18 (c) No later than thirty days following the close of the
19 calendar year, every taxpayer claiming a credit under this
20 section shall complete and file an independent, third-party
21 certified statement, at the taxpayer's sole expense, with and in



1 the form prescribed by the Hawaii state energy office, providing
2 the following information:

3 (1) The type, quantity, and British thermal unit value,
4 using the lower heating value, of each qualified fuel,
5 broken down by the type of fuel, produced and sold
6 during the previous calendar year;

7 (2) The feedstock used for each type of qualified fuel;

8 (3) The proposed total amount of credit to which the
9 taxpayer is entitled for each calendar year and the
10 cumulative amount of the tax credit the taxpayer
11 received during the credit period;

12 (4) The number of full-time and number of part-time
13 employees of the facility and those employees' states
14 of residency, totaled per state; and

15 (5) The number and location of all renewable fuel
16 production facilities within and outside of the State.

17 (d) Within thirty calendar days after the due date of the
18 statement required under subsection (c), the Hawaii state energy
19 office shall:

20 (1) Acknowledge, in writing, receipt of the statement; and



1 (2) Issue a certificate to the taxpayer reporting the
2 amount of renewable fuels produced and sold, the
3 amount of credit that the taxpayer is entitled to
4 claim for the previous calendar year, and the
5 cumulative amount of the tax credit during the credit
6 period.

7 (e) The taxpayer shall file the certificate issued under
8 subsection (d) with the taxpayer's tax return with the
9 department of taxation. The director of taxation may audit and
10 adjust the certification to conform to the facts.

11 (f) The total amount of tax credits allowed under this
12 section shall not exceed \$30,000,000 for all eligible taxpayers
13 in any calendar year. If the credit claims under this section
14 exceed \$30,000,000 for all eligible taxpayers in any given
15 calendar year, the \$30,000,000 shall be divided between all
16 eligible taxpayers for that year in proportion to the total
17 amount of renewable fuels produced by all eligible taxpayers.
18 Upon reaching \$30,000,000 in the aggregate, the Hawaii state
19 energy office shall immediately discontinue issuing certificates
20 and notify the department of taxation. In no instance shall the



1 total dollar amount of certificates issued exceed \$30,000,000
2 per calendar year.

3 (g) Notwithstanding any other law to the contrary, the
4 information collected and compiled by the Hawaii state energy
5 office under subsections (c) and (d) for the purposes of the
6 renewable fuels production tax credit shall be available for
7 public inspection and dissemination subject to chapter 92F.

8 (h) If the credit under this section exceeds the
9 taxpayer's net income tax liability, the excess of the credit
10 over liability may be used as a credit against the taxpayer's
11 net income tax liability in subsequent years until exhausted,
12 unless otherwise elected by the taxpayer pursuant to subsection
13 (i) or (j). All claims for a credit under this section shall be
14 properly filed on or before the end of the twelfth month
15 following the close of the taxable year for which the credit may
16 be claimed. Failure to comply with the foregoing provision or
17 to provide the certified statement required under subsection (c)
18 shall constitute a waiver of the right to claim the credit.

19 (i) A taxpayer may elect to reduce the eligible credit
20 amount by thirty per cent and if this reduced amount exceeds the
21 amount of income tax payment due from the taxpayer, the excess



1 of the credit amount over payments due shall be refunded to the
2 taxpayer; provided that tax credit amounts properly claimed by a
3 taxpayer who has no income tax liability shall be paid to the
4 taxpayer; and provided further that no refund on account of the
5 tax credit allowed by this section shall be made for amounts
6 less than \$1.

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

11 (j) Notwithstanding subsection (i), an individual taxpayer
12 may elect to have any excess of the credit over payments due
13 refunded to the taxpayer, if:

14 (1) All of the taxpayer's income is exempt from taxation
15 under section 235-7(a)(2) or (3); or

16 (2) The taxpayer's adjusted gross income is \$20,000 or
17 less (or \$40,000 or less if filing a tax return as
18 married filing jointly);

19 provided that tax credits properly claimed by a taxpayer who has
20 no income tax liability shall be paid to the taxpayer; and



1 provided further that no refund on account of the tax credit
2 allowed by this section shall be made for amounts less than \$1.

3 A married couple who does not file a joint tax return shall
4 only be entitled to make this election to the extent that they
5 would have been entitled to make the election had they filed a
6 joint tax return.

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

11 (k) Prior to production of any renewable fuels for the
12 calendar year, the taxpayer shall provide written notice of the
13 taxpayer's intention to begin production of renewable fuels.
14 The written notice shall be provided to the department of
15 taxation and the Hawaii state energy office and shall include
16 information on the taxpayer, facility location, facility
17 production capacity, anticipated production start date, and the
18 taxpayer's contact information. Notwithstanding any other law
19 to the contrary, the written notice described in this
20 subsection, including taxpayer and facility information, shall



1 be available for public inspection and dissemination subject to
2 chapter 92F.

3 (1) The taxpayer shall provide written notice to the
4 director of taxation and the chief energy officer of the Hawaii
5 state energy office within thirty days following the start of
6 production. The notice shall include the production start date
7 and expected renewable fuels production for the next twelve
8 months. Notwithstanding any other law to the contrary, the
9 written notice described in this subsection shall be available
10 for public inspection and dissemination subject to chapter 92F.

11 (m) Following each calendar year in which a credit under
12 this section has been claimed, the chief energy officer of the
13 Hawaii state energy office shall submit a written report to the
14 governor and legislature regarding the production and sale of
15 renewable fuels. The report shall include:

16 (1) The number and location of renewable fuels production
17 facilities in the State and outside the State that
18 have claimed a credit under this section;

19 (2) The total number of British thermal units of renewable
20 fuels, broken down by type of fuel produced and sold
21 during the previous calendar year; and



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

3 (n) The director of taxation:

4 (1) Shall prepare any forms that may be necessary to claim
5 a tax credit under this section;

6 (2) May require the taxpayer to furnish reasonable
7 information to ascertain the validity of the claim for
8 the tax credit made under this section; and

9 (3) May adopt rules under chapter 91 necessary to
10 effectuate the purposes of this section.

11 (o) As used in this section:

12 "Credit period" means a maximum period of ten consecutive
13 years, beginning from the first taxable year in which a taxpayer
14 begins renewable fuels production at a level of at least two
15 billion five-hundred million British thermal units of renewable
16 fuels per calendar year.

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

19 "Renewable feedstocks" means:



- 1 (1) Biomass crops and other renewable organic material,
- 2 including but not limited to logs, wood chips, wood
- 3 pellets, and wood bark;
- 4 (2) Agricultural residues;
- 5 (3) Oil crops, including but not limited to algae, canola,
- 6 jatropha, palm, soybean, and sunflower;
- 7 (4) Sugar and starch crops, including but not limited to
- 8 sugar cane and cassava;
- 9 (5) Other agricultural crops;
- 10 (6) Grease and waste cooking oil;
- 11 (7) Food wastes;
- 12 (8) Municipal solid wastes and industrial wastes;
- 13 (9) Water, including wastewater; and
- 14 (10) Animal residues and wastes,
- 15 that can be used to generate energy.

16 "Renewable fuels" means fuels produced from renewable
 17 feedstocks; provided that the fuel:

- 18 (1) Is sold as a fuel in Hawaii; and
- 19 (2) Meets the relevant ASTM International specifications
- 20 or other industry specifications for the particular
- 21 fuel, including but not limited to:



- 1 (A) Methanol, ethanol, or other alcohols;
- 2 (B) Hydrogen;
- 3 (C) Biodiesel or renewable diesel;
- 4 (D) Biogas;
- 5 (E) Other biofuels;
- 6 (F) Renewable jet fuel or renewable gasoline; or
- 7 (G) Logs, wood chips, wood pellets, or wood bark."

8 SECTION 3. New statutory material is underscored.

9 SECTION 4. This Act shall take effect upon its approval,
10 and shall apply to taxable years beginning after December 31,
11 2022.



Report Title:

Income Tax; Renewable Fuels Production Tax Credit

Description:

Reinstates the renewable fuels production tax credit. (SD2)

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

