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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The legislature finds that providing additional  
2 support to Hawaii's agriculture industry could help to reduce  
3 reliance on agricultural imports, foster job growth, and advance  
4 progress toward the Aloha+ Challenge goal to increase local food  
5 production. The legislature notes that the previous iteration  
6 of the tax credit established by this Act had consistent growth  
7 in participation over the five years it was in existence, while  
8 having little fiscal impact to the State. The legislature  
9 believes that reducing the burden on the emerging number of  
10 small farmers seeking costly, but necessary, certifications and  
11 inspections will help promote the production of locally-grown  
12 food.

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

16           "§235-           Organic foods production tax credit. (a) There  
17 shall be allowed to each qualified taxpayer subject to the tax



1 imposed under this chapter, an income tax credit that shall be  
2 deductible from the taxpayer's net income tax liability, if any,  
3 imposed by this chapter for the taxable year in which the credit  
4 is properly claimed.

5 (b) The amount of the tax credit shall be equal to the  
6 qualified expenses of the qualified taxpayer, up to a maximum of  
7 \$ \_\_\_\_\_ per taxable year.

8 (c) In the case of a partnership, S corporation, estate,  
9 or trust, the tax credit allowable is for qualified expenses  
10 incurred by the entity for the taxable year. The expenses upon  
11 which the tax credit is computed shall be determined at the  
12 entity level. Distribution and share of credit shall be  
13 determined by rule.

14 (d) The total amount of tax credits allowed under this  
15 section shall not exceed \$ \_\_\_\_\_ for all qualified taxpayers  
16 in any taxable year; provided that any taxpayer who is not  
17 eligible to claim the credit in a taxable year due to the  
18 \$ \_\_\_\_\_ cap having been exceeded for that taxable year  
19 shall be eligible to claim the credit in the subsequent taxable  
20 year.



1       (e) Every qualified taxpayer, before March 31 of each year  
2 in which qualified expenses were incurred by the taxpayer in the  
3 previous taxable year, shall submit a written, certified  
4 statement to the chairperson of the board of agriculture  
5 identifying:

6       (1) Qualified expenses incurred in the previous taxable  
7 year; and

8       (2) The amount of the tax credit claimed by the taxpayer  
9 pursuant to this section, if any, in the previous  
10 taxable year.

11       (f) The department of agriculture shall:

12       (1) Maintain records of the names and addresses of the  
13 qualified taxpayers claiming the credits under this  
14 section and the total amount of the qualified expenses  
15 upon which the tax credits are based;

16       (2) Verify the nature and amount of the qualified  
17 expenses;

18       (3) Total all qualified and cumulative expenses that the  
19 department certifies;



1       (4) Certify the amount of the tax credit for each taxpayer  
2       for each taxable year and the cumulative amount of the  
3       tax credit; and

4       (5) Publicize the tax credit.

5       Upon each determination made under this subsection, the  
6       department of agriculture shall issue a certificate to the  
7       taxpayer verifying information submitted to the department of  
8       agriculture, including amounts of qualified expenses, the credit  
9       amount certified for the taxpayer for each taxable year, and the  
10      cumulative amount of tax credits certified. The taxpayer shall  
11      file the certificate with the taxpayer's tax return with the  
12      department of taxation.

13      The board of agriculture may assess and collect a fee to  
14      offset the costs of certifying tax credit claims under this  
15      section.

16      (g) The director of taxation:

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

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



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

3       (h) If the tax credit under this section exceeds the  
4       taxpayer's net income tax liability, the excess of the credit  
5       over liability may be used as a credit against the taxpayer's  
6       net income tax liability in subsequent years until exhausted.  
7       All claims for the tax credit under this section, including  
8       amended claims, shall be filed on or before the end of the  
9       twelfth month following the close of the taxable year for which  
10       the credit may be claimed. Failure to comply with the foregoing  
11       provision shall constitute a waiver of the right to claim the  
12       credit.

13       (i) As used in this section:

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

16       "Organic Foods Production Act" means the federal Organic  
17       Foods Production Act of 1990, as amended (7 U.S.C. 6501 et  
18       seq.).

19       "Organic system plan" has the same meaning as provided in  
20       title 7 Code of Federal Regulations section 205.2.



1 "Qualified expenses" means expenses incurred by a qualified  
2 taxpayer to produce organically produced agricultural products,  
3 including expenses incurred to obtain organic certification from  
4 the United States Department of Agriculture, pursuant to the  
5 Organic Foods Production Act. "Qualified expenses" includes:

6 (1) Application fees;

7 (2) Inspection costs;

8 (3) Fees related to equivalency agreement or arrangement  
9 requirements, travel or per diem for inspectors, user  
10 fees, sales assessments, and postage; and

11 (4) Costs for any equipment, materials, or supplies  
12 necessary for organic certification or production of  
13 agricultural products, in accordance with the  
14 qualified taxpayer's organic system plan and the  
15 organic production and handling requirements of the  
16 National Organic Program, codified at title 7 Code of  
17 Federal Regulations part 205, subpart C, including but  
18 not limited to certified organic seed, cover crops, or  
19 animal feed.

20 "Qualified expenses" shall not include any amount refunded or to  
21 be refunded to the taxpayer by the United States Department of



1 Agriculture's organic certification cost-share program or any  
2 other similar financial assistance program.

3 "Qualified taxpayer" means a producer, handler, or handling  
4 operation, as those terms are defined in title 7 United States  
5 Code section 6502:

6 (1) That sells agricultural products in adherence to the  
7 standards and requirements of the Organic Foods  
8 Production Act;

9 (2) That has applied for organic certification, in  
10 accordance with the requirements of the Organic Foods  
11 Production Act; and

12 (3) Whose gross income from the sale of organically  
13 produced agricultural products for the most recently  
14 reported fiscal year totals no more than \$500,000."

15 SECTION 3. If any provision of this Act, or the  
16 application thereof to any person or circumstance, is held  
17 invalid, the invalidity does not affect other provisions or  
18 applications of the Act that can be given effect without the  
19 invalid provision or application, and to this end the provisions  
20 of this Act are severable.

21 SECTION 4. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on June 30, 3000,  
2 and shall apply to taxable years beginning after December 31,  
3 2023; provided that this Act shall be repealed on December 31,  
4 2033.



**Report Title:**

Organic Foods Production Tax Credit

**Description:**

Establishes an organic foods production tax credit applicable to taxable years beginning after 12/31/2023. Sunsets 12/31/2033. Effective 6/30/3000. (HD2)

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

