
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 forward
4 progress toward the Aloha+ Challenge goal to increase local food
5 production. The legislature notes that the previous iteration
6 of this tax credit had consistent growth in participation over
7 the five years it was in existence, while having little fiscal
8 impact to the State. The legislature believes that reducing the
9 burden on the emerging number of small farmers seeking costly,
10 but necessary, certifications and inspections will help promote
11 the production of locally-grown food.

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

15 "§235- Organic foods production tax credit. (a) There
16 shall be allowed to each qualified taxpayer subject to the tax
17 imposed under this chapter, an income tax credit that shall be



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

4 (b) The amount of the tax credit shall be equal to the
5 qualified expenses of the qualified taxpayer, up to a maximum of
6 \$50,000.

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

13 (d) The total amount of tax credits allowed under this
14 section shall not exceed \$2,000,000 for all qualified taxpayers
15 in any taxable year; provided that any taxpayer who is not
16 eligible to claim the credit in a taxable year due to the
17 \$2,000,000 cap having been exceeded for that taxable year shall
18 be eligible to claim the credit in the subsequent taxable year.

19 (e) Every qualified taxpayer, before March 31 of each year
20 in which qualified expenses were incurred by the taxpayer in the
21 previous taxable year, shall submit a written, certified



1 statement to the chairperson of the board of agriculture
2 identifying:

3 (1) Qualified expenses incurred in the previous taxable
4 year; and

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

8 (f) The department of agriculture shall:

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

13 (2) Verify the nature and amount of the qualified
14 expenses;

15 (3) Total all qualified and cumulative expenses that the
16 department certifies;

17 (4) Certify the amount of the tax credit for each taxpayer
18 for each taxable year and the cumulative amount of the
19 tax credit; and

20 (5) Publicize the tax credit.



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

9 The board of agriculture may assess and collect a fee to
10 offset the costs of certifying tax credit claims under this
11 section.

12 (g) The director of taxation:

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

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

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

20 (h) If the tax credit under this section exceeds the
21 taxpayer's net income tax liability, the excess of the credit



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

9 (i) As used in this section:

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

12 "Organic Foods Production Act" means the federal Organic
13 Foods Production Act of 1990, as amended (7 U.S.C. 6501 et
14 seq.).

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

17 "Qualified expenses" means expenses incurred by a qualified
18 taxpayer to produce organically produced agricultural products,
19 including expenses incurred to obtain organic certification from
20 the United States Department of Agriculture, pursuant to the
21 Organic Foods Production Act. "Qualified expenses" includes:



1 (1) Application fees;

2 (2) Inspection costs;

3 (3) Fees related to equivalency agreement/arrangement
4 requirements, travel/per diem for inspectors, user
5 fees, sales assessments, and postage; and

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

15 "Qualified expenses" shall not include any amount refunded or to
16 be refunded to the taxpayer by the United States Department of
17 Agriculture's organic certification cost-share program or any
18 other similar financial assistance program.

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



- 1 (1) That sells agricultural products in adherence to the
2 standards and requirements of the Organic Foods
3 Production Act;
- 4 (2) That has applied for organic certification, in
5 accordance with the requirements of the Organic Foods
6 Production Act; and
- 7 (3) Whose gross income from the sale of organically
8 produced agricultural products for the most recently
9 reported fiscal year totals no more than \$500,000."

10 SECTION 3. If any provision of this Act, or the
11 application thereof to any person or circumstance, is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act that can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 4. New statutory material is underscored.

17 SECTION 5. This Act, upon its approval, shall apply to
18 taxable years beginning after December 31, 2023; provided that
19 this Act shall be repealed on December 31, 2033.

20



H.B. NO. 608

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INTRODUCED BY:

Chae

JAN 20 2023



H.B. NO. 608

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.

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

