

JAN 24 2024

A BILL FOR AN ACT

RELATING TO THE AQUACULTURE INVESTMENT TAX CREDIT.

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 part VI to be appropriately
3 designated and to read as follows:

4 "§235- Aquaculture investment tax credit. (a) There
5 shall be allowed to each taxpayer subject to the taxes imposed
6 by this chapter an aquaculture investment tax credit that shall
7 be deductible from the taxpayer's net income tax liability, if
8 any, imposed by this chapter for the taxable year in which the
9 investment was made and the following four years; provided that
10 the credit is properly claimed. The tax credit shall be as
11 follows:

12 (1) In the year the investment was made, per cent;

13 (2) In the first year following the year in which the
14 investment was made, per cent;

15 (3) In the second year following the investment, per
16 cent;



1 (4) In the third year following the investment, per
2 cent; and

3 (5) In the fourth year following the investment, per
4 cent,

5 of the investment made by the taxpayer in each qualified
6 aquaculture business, up to a maximum allowed credit in the year
7 the investment was made, \$; in the first year
8 following the year in which the investment was made,
9 \$; in the second year following the year in which the
10 investment was made, \$; in the third year following
11 the year in which the investment was made, \$; and in
12 the fourth year following the year in which the investment was
13 made, \$.

14 (b) In the case of a partnership, S corporation, estate,
15 or trust, the tax credit allowable is for qualified expenses
16 incurred by the entity for the taxable year. The qualified
17 expenses upon which the tax credit is computed shall be
18 determined at the entity level. Distribution and share of
19 credit shall be determined by rule.

20 (c) The credit allowed under this section shall be claimed
21 against the net income tax liability for the taxable year. For



1 the purpose of this section, "net income tax liability" means
2 net income tax liability reduced by all other credits allowed
3 under this chapter.

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

14 (e) If at the close of any taxable year in the five-year
15 period in subsection (a):

16 (1) The business no longer qualifies as a qualified
17 aquaculture business;

18 (2) The business or an interest in the business has been
19 sold by the taxpayer investing in the qualified
20 aquaculture business; or



1 (3) The taxpayer has withdrawn the taxpayer's investment
2 wholly or partially from the qualified aquaculture
3 business,
4 the credit claimed under this section shall be recaptured. The
5 recapture shall be equal to per cent of the amount of the
6 total tax credit claimed under this section in the preceding two
7 taxable years. The amount of the credit recaptured shall apply
8 only to the investment in the particular qualified aquaculture
9 business that meets the requirements of paragraph (1), (2), or
10 (3). The recapture provisions of this subsection shall not
11 apply to a tax credit claimed for a qualified aquaculture
12 business that does not fall within the provisions of paragraph
13 (1), (2), or (3). The amount of the recaptured tax credit
14 determined under this subsection shall be added to the
15 taxpayer's tax liability for the taxable year in which the
16 recapture occurs under this subsection.

17 (f) Every taxpayer, before March 31 of each year in which
18 an investment in a qualified aquaculture business was made in
19 the previous taxable year, shall submit a written, certified
20 statement to the director of taxation identifying:



- 1 (1) Qualified investments, if any, expended in the
- 2 previous taxable year; and
- 3 (2) The amount of tax credits claimed pursuant to this
- 4 section, if any, in the previous taxable year.
- 5 (g) The department shall:
- 6 (1) Maintain records of the names and addresses of the
- 7 taxpayers claiming the credits under this section and
- 8 the total amount of the qualified investment costs
- 9 upon which the tax credit is based;
- 10 (2) Verify the nature and amount of the qualifying
- 11 investments;
- 12 (3) Total all qualifying and cumulative investments that
- 13 the department certifies; and
- 14 (4) Certify the amount of the tax credit for each taxable
- 15 year and cumulative amount of the tax credit.

16 Upon each determination made under this subsection, the
17 department shall issue a certificate to the taxpayer verifying
18 information submitted to the department, including qualifying
19 investment amounts, the credit amount certified for each taxable
20 year, and the cumulative amount of the tax credit during the

1 credit period. The taxpayer shall file the certificate with the
2 taxpayer's tax return with the department.

3 The director of taxation may assess and collect a fee to
4 offset the costs of certifying tax credits claims under this
5 section. All fees collected under this section shall be
6 deposited into the tax administration special fund established
7 under section 235-20.5.

8 (h) As used in this section:

9 "Qualified aquaculture business" means a business engaged
10 in the propagation, cultivation, or farming of aquatic plants
11 and animals in controlled or selected environments for research,
12 commercial, or stocking purposes, including aquaponics or any
13 growing of plants or animals with aquaculture effluent, in the
14 State."

15 SECTION 2. New statutory material is underscored.

16 SECTION 3. This Act, upon its approval, shall apply to
17 taxable years beginning after December 31, 2024.

18

INTRODUCED BY: *Shawna K. Frantz*



S.B. NO. 3238

Report Title:

Aquaculture Investment Tax Credit

Description:

For taxable years beginning after 12/31/2024, provides an aquaculture investment tax credit for investments into a qualified aquaculture business.

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