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S.B. NO. 679

A Bill for an Act Relating to the Capital Goods Excise Tax Credit.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 235-110.7, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) There shall be allowed to each taxpayer subject to the tax imposed by this chapter a capital goods excise tax credit which shall be deductible from the taxpayer’s net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

The amount of the tax credit shall be determined by the application of the following rates against the cost of the eligible depreciable tangible personal property used by the taxpayer in a trade or business and [purchased and] placed in service within Hawaii after December 31, 1987. For calendar years beginning after: December 31, 1987, the applicable rate shall be [3] three per cent; December 31, 1988, and thereafter, the applicable rate shall be [4] four per cent. For taxpayers with fiscal taxable years, the applicable rate shall be the rate for the calendar year in which the eligible depreciable tangible personal property used in the trade or business is [purchased and] placed in service within Hawaii.

[In the case of partners, S corporation shareholders, or beneficiaries of estates and trusts who are taxable on the distributive share of net income received, the credit under this section for the taxable year shall be allowable only to the extent of the ratio of the distributive share of income received from the partnership, S corporation, estate or trust to the entire gross income subject to the tax imposed by this chapter.]

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for eligible depreciable tangible personal property which is placed in service by the entity. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined by rules.

In the case of eligible depreciable tangible personal property for which a credit for sales or use taxes paid to another state is allowable under section 238-3(i), the amount of the tax credit allowed under this section shall not exceed the amount of [the] use tax actually paid under chapter 238 relating to such tangible personal property.

If a deduction is taken under section 179 (with respect to election to expense certain depreciable business assets) of the Internal Revenue Code of 1954, as amended, no tax credit shall be allowed for that portion of the cost of property for which the deduction was taken.”

2. By amending subsection (e) to read:

“(e) As used in this section, the definition of section 38 property (with respect to investment in depreciable tangible personal property) as defined by section 48(a)(1)(A), (a)(1)(B), (a)(3), (a)(4), (a)(7), (a)(8), (a)(10)(A), (b), (c), (f), (l), (m), and (s) of the Internal Revenue Code of 1954, as amended as of December 31, 1984, is operative for the purposes of this section only.

As used in this section:

“Cost” means (1) the actual invoice price of the tangible personal property, or (2) the basis from which depreciation is taken under section 167 (with respect to depreciation) or from which a deduction may be taken under section 168 (with respect to accelerated cost recovery system) of the Internal Revenue Code of 1954, as amended, whichever is less.

“Eligible depreciable tangible personal property” is section 38 property as defined by the operative provisions of section 48 and having a depreciable life under section 167 or for which a deduction may be taken under section 168 of the federal Internal Revenue Code of 1954, as amended.

“Purchased and placed in service” means the date the property was acquired, or available or ready for use, whichever is earlier. Property purchased and placed in service does not include property which was owned or used at any time during 1987 by the taxpayer or related person, or property acquired in a transaction in which the user of such property does not change.]

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“Placed in service” means the earliest of the following taxable years:

- (1) The taxable year in which, under the:
 - (A) Taxpayer’s depreciation practice, the period for depreciation; or
 - (B) Accelerated cost recovery system, a claim for recovery allow-
ances;
with respect to such property begins; or
- (2) The taxable year in which the property is placed in a condition or state
of readiness and availability for a specifically assigned function.

“Purchase” means an acquisition of property.

“Tangible personal property” means tangible personal property which is [purchased and] placed in service within Hawaii after December 31, 1987, and the purchase or importation of which resulted in a transaction which was subject to the imposition and payment of tax at the rate of four per cent under chapter 237 or 238. “Tangible personal property” does not include tangible personal property which is an integral part of a building or structure or tangible personal property used in a foreign trade zone, as defined under chapter 212.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act, upon its approval, shall be effective for taxable years beginning after December 31, 1988.

(Approved April 11, 1989.)