

ACT 235

H.B. NO. 3164

A Bill for an Act Relating to Income Tax Credits.

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

SECTION 1. Section 46-16.7, Hawaii Revised Statutes is amended by amending subsection (c) to read as follows:

“(c) The general excise and use tax surcharges received from the State by each county shall be used as follows:

- (1) The city and county of Honolulu shall use the surcharges to develop a fixed rail rapid transit system. All private source revenues generated or pledged to develop a fixed rail rapid transit system that are received prior to the operation of the system shall be used as county matching funds for moneys requested from the transit capital development fund, pursuant to chapter 51D, before surcharges may be used. The director of finance shall determine whether or not private sources are adequate to meet county matching requirements. The director of finance shall submit a report of the findings to the legislature. Upon legislative acceptance of the findings, within sixty days of the first regular legislative session convened following the submittal of the findings, no additional moneys may be expended from the transit fund; provided that:
  - (A) Such limitation on the expenditure of moneys from the transit fund shall not occur prior to December 31, 1992; and
  - (B) Private source revenues received prior to the operation of the system shall be committed to the funding of the fixed rail rapid transit system prior to any determination regarding the duration of the surcharge.
- (2) All surcharges collected by the State for the city and county of Honolulu but not used for the purpose of developing a fixed rail rapid transit system shall be deposited into the state treasury to be returned to the taxpayers who resided in the city and county of Honolulu for more than two hundred days of the taxable year in the aggregate during the time that the surcharges were collected, in the form of an income tax credit, the amount of the credit to be determined by law.
- (3) The general excise and use tax surcharge shall be repealed upon the determination by the director of finance that all authorized capital costs of the fixed rail rapid transit system or county projects under paragraph (4) have been collected and distributed pursuant to chapter 248.
- (4) The counties of Hawaii, Kauai, and Maui shall use the surcharges

for public transportation systems, including mass transportation, sewage, or water development, and parks, including park operation, maintenance, infrastructure, or purchase.”

SECTION 2. Section 235-16, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“[(a)] If the collection of the county general excise and use tax surcharge starts on January 1, 1993, as provided in sections 46-16.7, 237-8.5, and 238-2.5, then for taxable years, in each year that the surcharge is in effect, beginning after December 31, 1992, and ending before January 1, 2003, each resident individual taxpayer, who files an individual income tax return for a taxable year, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, may claim a county surcharge excise tax credit in the amount computed under this section against the resident taxpayer’s individual income tax liability for the taxable year for which the individual income tax return is being filed; provided that a resident individual who has no income or no income taxable under this chapter and who is not claimed or is not otherwise eligible to be claimed as a dependent by a taxpayer for federal or Hawaii state individual income tax purposes may claim this credit. [The amount of the credit shall be computed by multiplying a resident individual’s adjusted gross income by sixty per cent and the product of that multiplication by .006; provided that if an individual is filing jointly with the individual’s spouse their jointly determined adjusted gross income shall be used; provided further that the amount of the credit shall not exceed \$450 nor be less than \$18.]

- (1) Each resident individual taxpayer who resides for more than two hundred days of the taxable year in the aggregate in a county in which the county general excise and use tax surcharge is in effect may claim the tax credit according to the adjusted gross income bracket shown in the following schedule:

TAX CREDIT SCHEDULE

| <u>Adjusted Gross Income</u>    | <u>Tax Credit</u> |
|---------------------------------|-------------------|
| <u>Under \$5,000</u>            | <u>\$ 25</u>      |
| <u>\$5,000 under \$10,000</u>   | <u>45</u>         |
| <u>\$10,000 under \$15,000</u>  | <u>65</u>         |
| <u>\$15,000 under \$20,000</u>  | <u>90</u>         |
| <u>\$20,000 under \$30,000</u>  | <u>110</u>        |
| <u>\$30,000 under \$40,000</u>  | <u>125</u>        |
| <u>\$40,000 under \$50,000</u>  | <u>145</u>        |
| <u>\$50,000 under \$75,000</u>  | <u>185</u>        |
| <u>\$75,000 under \$100,000</u> | <u>205</u>        |
| <u>\$100,000 and over</u>       | <u>210</u>        |

- (2) Each resident individual taxpayer who resides for more than two hundred days of the taxable year in the aggregate in a county which has not adopted the county general excise and use tax surcharge may claim a tax credit according to the adjusted gross income bracket shown in the schedule below:

TAX CREDIT SCHEDULE

| <u>Adjusted Gross Income</u>   | <u>Tax Credit</u> |
|--------------------------------|-------------------|
| <u>Under \$5,000</u>           | <u>\$ 5</u>       |
| <u>\$5,000 under \$10,000</u>  | <u>10</u>         |
| <u>\$10,000 under \$20,000</u> | <u>15</u>         |
| <u>\$20,000 under \$30,000</u> | <u>20</u>         |
| <u>\$30,000 under \$40,000</u> | <u>25</u>         |
| <u>\$40,000 under \$50,000</u> | <u>30</u>         |
| <u>\$50,000 under \$75,000</u> | <u>35</u>         |
| <u>\$75,000 and over</u>       | <u>40</u>         |

A husband and wife filing separate returns for a taxable year for which a joint return could have been filed by them shall claim only the tax credit to which they would have been entitled had a joint return been filed."

SECTION 3. Section 235-16, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) If the tax credit is claimed by an individual who does not reside in the appropriate county as set forth in subsection (a)(1) or (a)(2), there shall be added to and become a part of the tax liability of the individual:

(1) The amount of the tax credit claimed under this section multiplied by three; or

(2) Ten per cent of the income tax liability for the taxable year for which the individual income tax return is being filed,

whichever is greater.

All claims for tax credits under this section, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit."

SECTION 4. Section 235-55.9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The medical services excise tax credit shall be four per cent of qualified medical expensed paid by the resident individual during the taxable year. For individual resident taxpayers residing for more than two hundred days of the taxable year in the aggregate in a county in which the county general excise and use tax surcharge is in effect, the medical services excise tax credit shall be four and one-half per cent of qualified medical expenses paid by the resident individual during the taxable year. The amount of the tax credit claimed on each individual income tax return shall not exceed:

(1) \$200,

(2) \$400 for a resident individual sixty-five years of age or over, or

(3) \$600 for a resident individual and spouse both sixty-five years of age or over,

provided that a husband and wife filing separate returns for a taxable year for which a joint return could have been filed by them shall claim only the tax credit to which they would have been entitled had a joint return been filed."

SECTION 5. Section 235-55.9, Hawaii Revised Statutes, is amended by

amending subsection (f) to read as follows:

“(f) If the tax credit is claimed by an individual at the rate of four and one-half per cent, and the individual resides in a county in which the county general excise and use tax surcharge is not in effect, or if the tax credit at the rate of four and one-half per cent is claimed in a county which has a county general excise and use tax surcharge in effect by an individual who has resided in that county for not more than two hundred days of the taxable year in the aggregate, there shall be added to and become part of the tax liability of the individual:

(1) The amount of the tax credit claimed under this section multiplied by three; or

(2) Ten per cent of the income tax liability for the taxable year for which the individual income tax return is being filed,

whichever is greater.

All claims for tax credits under this section, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.”

SECTION 6. Section 235-110.7, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(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 placed in service within Hawaii after December 31, 1987. For calendar years beginning after: December 31, 1987, the applicable rate shall be three per cent; December 31, 1988, and thereafter, the applicable rate shall be four per cent, except that for the period January 1, 1993, through December 31, 2002, and [if] for eligible depreciable tangible personal property used in a trade or business that is purchased in a county in which the county general excise and use tax surcharge is in effect and placed in service in any county the applicable rate shall be four and one-half 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 placed in service within Hawaii.

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 use tax, and for the period January 1, 1993, through December 31, 2002, the amount of the county general excise and use tax surcharge, 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.

(b) If the tax credit is claimed by a taxpayer at the rate of four and one-half per cent, and the tangible personal property is purchased in a county in which the county general excise and use tax surcharge is not in effect, there shall be added to and become part of the tax liability of the taxpayer:

- (1) The amount of the tax credit claimed under this section multiplied by three; or
- (2) Ten per cent of the income tax liability for the taxable year for which the income tax return is being filed,

whichever is greater.

If the capital goods excise tax credit allowed under subsection (a) exceeds the taxpayer's net income tax liability, the excess of credit over liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credit allowed by this section shall be made for amounts less than \$1.

All claims for tax credits under this section, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit."

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1992.

(Approved June 17, 1992.)