ACT 108

S.B. NO. 208

A Bill for an Act Relating to Taxation.

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

SECTION 1. The legislature finds that Hawaii's economy depends upon the health of the visitor industry, which needs a considerable amount of revitalization. In addition, the legislature finds that seventy per cent or more of Hawaii's visitor accommodations are in dire need of refurbishing, repair, or renovation. Many are more than twenty or thirty years old.

One step toward improving the State's fiscal health that will increase long-term revenue while providing jobs in the construction industry is to encourage visitor accommodations to remodel their facilities. A tax credit aimed at visitor accommodation upgrades will encourage the owners of these facilities to refurbish, repair, and renovate their facilities. In turn, these newly remodeled facilities will generate additional tax revenues providing a sound return on the State's initial investment.

The purpose of this Act is to establish a tax credit for remodeling of visitor accommodations.

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

"§235- **Hotel remodeling tax credit.** (a) There shall be allowed to each taxpayer subject to the taxes imposed by this chapter and chapter 237D an income 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 credit shall be four per cent of the renovation costs incurred during the taxable year for each qualified hotel facility located in Hawaii, and shall not include the renovation costs for which another credit was claimed under this chapter for the taxable year. The total amount of the credit shall be further limited by an amount that shall not exceed ten per cent of the transient accommodations tax paid by the taxpayer in the preceding taxable year that is attributable to the qualified hotel facility.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for renovation costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to section 235-110.7(a).

If a deduction is taken under section 179 (with respect to election to expense depreciable business assets) of the Internal Revenue Code of 1986, as amended, no tax credit shall be allowed for that portion of the renovation cost for which the deduction is taken.

The basis of eligible property for depreciation or ACRS purposes for state income taxes shall be reduced by the amount of credit allowable and claimed.

(b) As used in this section:

"Qualified hotel facility" means a hotel/hotel-condo as defined in section 486K-1 and which was placed in service before the effective date of this Act.

"Renovation cost" means any costs for plans, design, construction, and equipment related to alterations and modifications to an existing qualified hotel facility.

(c) The credit allowed under this section shall be claimed against the net income tax liability for the taxable year. For the purpose of this tax credit, ''net income tax liability'' means net income tax liability reduced by all other credits allowed under this chapter.

(d) If the tax credit under this section exceeds the taxpayer's 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 a tax credit under this section must be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(e) The director of taxation shall prepare such forms as may be necessary to claim a credit under this section. The director also may require the taxpayer to furnish information to ascertain the validity of the claim for credit made under this section and may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

(f) The tax credit allowed under this section shall be available for taxable years beginning after December 31, 1996, and shall not be available for taxable years beginning after December 31, 1998.''

SECTION 3. New statutory material is underscored.[1]

SECTION 4. This Act shall take effect upon approval and shall be repealed on December 31, 1999.

(Approved June 5, 1997.)

Note

1. Edited pursuant to HRS §23G-16.5.