

ACT 154

S.B. NO. 464

A Bill for an Act Relating to Taxation.

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

SECTION 1. Section 235-12.5, Hawaii Revised Statutes, is amended to read as follows:

“§235-12.5 Renewable energy technologies; income tax credit. (a) When the requirements of subsection ~~[(e)]~~ (d) are met, each individual or corporate taxpayer that files an individual or corporate net income tax return for a taxable year may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed for every eligible renewable energy technology system that is installed and placed in service in the State by a taxpayer during the taxable year. ~~[This credit shall be available for systems installed and placed in service in the State after June 30, 2003.]~~ The tax credit may be claimed as follows:

- (1) ~~Solar thermal energy systems for:~~
 - (A) ~~Single-family residential property for which a building permit was issued prior to January 1, 2010: thirty-five per cent of the actual cost or \$2,250, whichever is less;~~
 - (B) ~~Multi-family residential property: thirty-five per cent of the actual cost or \$350 per unit, whichever is less; and~~
 - (C) ~~Commercial property: thirty-five per cent of the actual cost or \$250,000, whichever is less;~~
 - (2) ~~Wind-powered energy systems for:~~
 - (A) ~~Single-family residential property: twenty per cent of the actual cost or \$1,500, whichever is less;~~
 - (B) ~~Multi-family residential property: twenty per cent of the actual cost or \$200 per unit, whichever is less; and~~
 - (C) ~~Commercial property: twenty per cent of the actual cost or \$500,000, whichever is less; and~~
 - (3) ~~Photovoltaic energy systems for:~~
 - (A) ~~Single-family residential property: thirty-five per cent of the actual cost or \$5,000, whichever is less;~~
 - (B) ~~Multi-family residential property: thirty-five per cent of the actual cost or \$350 per unit, whichever is less; and~~
 - (C) ~~Commercial property: thirty-five per cent of the actual cost or \$500,000, whichever is less;]~~
- (1) For each solar energy system: thirty-five per cent of the actual cost or the cap amount determined in subsection (b), whichever is less;
 - or
 - (2) For each wind-powered energy system: twenty per cent of the actual cost or the cap amount determined in subsection (b), whichever is less;

provided that multiple owners of a single system shall be entitled to a single tax credit; and provided further that the tax credit shall be apportioned between the owners in proportion to their contribution to the cost of the system.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for every eligible renewable energy technology system that is installed and placed in service in the State 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 pursuant to section 235-110.7(a).

(b) The amount of credit allowed for each eligible renewable energy technology system shall not exceed the applicable cap amount, which is determined as follows:

- (1) If the primary purpose of the solar energy system is to use energy from the sun to heat water for household use, then the cap amounts shall be:
 - (A) \$2,250 per system for single-family residential property;
 - (B) \$350 per unit per system for multi-family residential property;
and
 - (C) \$250,000 per system for commercial property;
- (2) For all other solar energy systems, the cap amounts shall be:
 - (A) \$5,000 per system for single-family residential property; provided that if all or a portion of the system is used to fulfill the substitute renewable energy technology requirement pursuant to section 196-6.5(a)(3), the credit shall be reduced by thirty-five per cent of the actual system cost or \$2,250, whichever is less;
 - (B) \$350 per unit per system for multi-family residential property;
and
 - (C) \$500,000 per system for commercial property;
and
- (3) For all wind-powered energy systems, the cap amounts shall be:
 - (A) \$1,500 per system for single-family residential property; provided that if all or a portion of the system is used to fulfill the substitute renewable energy technology requirement pursuant to section 196-6.5(a)(3), the credit shall be reduced by twenty per cent of the actual system cost or \$1,500, whichever is less;
 - (B) \$200 per unit per system for multi-family residential property;
and
 - (C) \$500,000 per system for commercial property.

~~[(b)]~~ (c) For the purposes of this section:

“Actual cost” means costs related to the renewable energy technology systems under subsection (a), including accessories and installation, but not including the cost of consumer incentive premiums unrelated to the operation of the system or offered with the sale of the system and costs for which another credit is claimed under this chapter.

“Household use” means any use to which heated water is commonly put in a residential setting, including commercial application of those uses.

“Renewable energy technology system” means a new system that captures and converts a renewable source of energy, such as ~~[wind, heat (solar thermal), or light (photovoltaic) from the sun]~~ solar or wind energy, into:

- (1) A usable source of thermal or mechanical energy;
- (2) Electricity; or
- (3) Fuel.

“Solar or wind energy system” means any identifiable facility, equipment, apparatus, or the like that converts ~~[insolation]~~ solar or wind energy to useful thermal or electrical energy for heating, cooling, or reducing the use of other types of energy that are dependent upon fossil fuel for their generation.

~~[(e)]~~ (d) For taxable years beginning after December 31, 2005, the dollar amount of any utility rebate shall be deducted from the cost of the qualifying system and its installation before applying the state tax credit.

~~[(d)]~~ (e) The director of taxation shall prepare any forms that may be necessary to claim a tax credit under this section, including forms identifying the technology type of each tax credit claimed under this section, whether for

[solar thermal, photovoltaic from the sun,] solar or wind. The director may also require the taxpayer to furnish reasonable 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.

~~(e)~~ (f) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted~~[-]~~, unless otherwise elected by the taxpayer pursuant to subsection (g) or (h). All claims for the tax credit under this section, including amended claims, shall 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 this subsection shall constitute a waiver of the right to claim the credit.

~~(f) By or before December, 2005, to the extent feasible, using existing resources to assist the energy efficiency policy review and evaluation, the department shall assist with data collection on the following:~~

- (1) The number of renewable energy technology systems that have qualified for a tax credit during the past year by:
 - (A) Technology type (solar thermal, photovoltaic from the sun, and wind); and
 - (B) Taxpayer type (corporate and individual); and
- (2) The total cost of the tax credit to the State during the past year by:
 - (A) Technology type; and
 - (B) Taxpayer type.

~~(g) For systems installed and placed in service in 2009, no residential home developer shall be entitled to claim the credit under subsections (a)(1)(A), (a)(2)(A), and (a)(3)(A). A residential home developer is defined as a person who holds more than one residential dwelling for sale as inventory.]~~

(g) For solar energy systems, a taxpayer may elect to reduce the eligible credit amount by thirty per cent and if this reduced amount exceeds the amount of income tax payment due from the taxpayer, the excess of the credit amount over payments due shall be refunded to the taxpayer; provided that tax credit amounts properly claimed by a taxpayer who has no income tax liability shall be paid to the taxpayer; and provided further that no refund on account of the tax credit allowed by this section shall be made for amounts less than \$1.

The election required by this subsection shall be made in a manner prescribed by the director on the taxpayer's return for the taxable year in which the system is installed and placed in service. A separate election may be made for each separate system that generates a credit. An election once made is irrevocable.

(h) Notwithstanding subsection (g), for any renewable energy technology system, an individual taxpayer may elect to have any excess of the credit over payments due refunded to the taxpayer, if:

- (1) All of the taxpayer's income is exempt from taxation under section 235-7(a)(2) or (3); or
- (2) The taxpayer's adjusted gross income is \$20,000 or less (or \$40,000 or less if filing a tax return as married filing jointly);

provided that tax credits properly claimed by a taxpayer who has no income tax liability shall be paid to the taxpayer; and provided further that no refund on account of the tax credit allowed by this section shall be made for amounts less than \$1.

A husband and wife who do not file a joint tax return shall only be entitled to make this election to the extent that they would have been entitled to make the election had they filed a joint tax return.

The election required by this subsection shall be made in a manner prescribed by the director on the taxpayer's return for the taxable year in which the

system is installed and placed in service. A separate election may be made for each separate system that generates a credit. An election once made is irrevocable.

(i) No taxpayer shall be allowed a credit under this section for the portion of the renewable energy technology system required by section 196-6.5 that is installed and placed in service on any newly constructed single-family residential property authorized by a building permit issued on or after January 1, 2010.

(j) To the extent feasible, using existing resources to assist the energy-efficiency policy review and evaluation, the department shall assist with data collection on the following for each taxable year:

(1) The number of renewable energy technology systems that have qualified for a tax credit during the calendar year by:

(A) Technology type; and

(B) Taxpayer type (corporate and individual); and

(2) The total cost of the tax credit to the State during the taxable year by:

(A) Technology type; and

(B) Taxpayer type.

(k) This section shall apply to eligible renewable energy technology systems that are installed and placed in service on or after July 1, 2009.”

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

SECTION 3. This Act shall take effect on July 1, 2009, and shall apply to taxable years beginning after December 31, 2008.

(Approved June 25, 2009.)