
A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature has recognized the importance
2 of promoting innovation and research-based activities with the
3 enactment of several path-breaking tax credits and programs to
4 promote growth in technology and other innovation-related
5 sectors. Likewise, the legislature has sought to encourage a
6 range of industries and activities judged to be of value in
7 creating a higher-wage and more knowledge-intensive economy.

8 It is important that the effectiveness of these efforts and
9 other such incentives be evaluated. It is also of utmost
10 importance to maintain taxpayer confidentiality. As a self-
11 reporting, self-assessing tax system, the tax collections in
12 Hawaii depend on confidentiality of the collection process to
13 ensure the fullest compliance.

14 To assure accountability in the disposition of public
15 funds, government must balance taxpayer confidentiality with the
16 other interests of the public.

17 The purpose of this Act is to improve the State's ability
18 to measure and evaluate the impact being made on Hawaii's



1 economy through the use of the high technology business
2 investment tax credit and the tax credit for research
3 activities.

4 SECTION 2. Chapter 231, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§231- Tax incentive analysis and evaluation. For
8 purposes of determining the economic impact and evaluating
9 existing and proposed tax incentives provided under this title,
10 the department may:

11 (1) Contract with technical experts at the national and
12 international level knowledgeable in the field of
13 technology and research investment to evaluate existing
14 and proposed tax incentives in Hawaii;

15 (2) Establish a working group of industry, tax, and
16 economic development experts in Hawaii to identify and
17 develop a set of standards, benchmarks, and data
18 elements for the evaluation and quantification of the
19 economic impacts of existing and proposed tax
20 incentives in Hawaii;

21 (3) Coordinate and receive relevant information from other
22 state agencies including the department of labor and



1 industrial relations and the department of business,
2 economic development, and tourism to assist in the
3 development of the benchmarks and evaluation
4 methodologies and determine the measurement data that
5 will need to be analyzed;

6 (4) Review taxpayer returns to collect and analyze
7 aggregate data on the impact of tax incentives; and

8 (5) Update its analysis of tax incentives to assist bodies
9 such as the tax review commission and the council on
10 revenues to better perform their responsibilities."

11 SECTION 3. Section 235-20.5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§235-20.5 Tax administration special fund; established.**

14 There is established a tax administration special fund, into
15 which shall be deposited fees collected under sections 235-20,
16 235-110.9, and 235-110.91, and penalties collected under section
17 2 of Act 206, [+]Session Laws of Hawaii 2007[+]. The moneys in
18 the fund shall be expended by the department to offset the costs
19 associated with:

20 (1) Issuing comfort letters; and

21 (2) Administering the tax credit under [~~section~~] sections
22 235-110.9[-] and 235-110.91, including issuing



1 certificates [~~+~~ and
2 ~~(3) Issuing certificates under section 235-110.91]."~~

3 SECTION 4. Act 206, Session Laws of Hawaii 2007, is
4 amended as follows:

5 1. By amending section 2 to read:

6 "SECTION 2. (a) A qualified high technology business that
7 accepts an investment for which the credit under section 235-
8 110.9, Hawaii Revised Statutes, may be claimed shall complete
9 and file with the director of taxation through the department
10 website, an annual survey on electronic forms prepared and
11 prescribed by the department. The annual survey shall be filed
12 before June 30 of each calendar year following the five calendar
13 years in which the credit for the investment may be claimed
14 under section 235-110.9, Hawaii Revised Statutes. The
15 department may adjust the due date of the annual survey by rule.

16 (b) The annual survey shall include the following
17 information for the time period or periods specified by the
18 department [~~+~~], which may include the period from and after
19 January 1, 2002:

20 (1) Identification of the industry sector or sectors in
21 which the qualified high technology business conducts
22 business, as set forth in paragraphs (2) to (8) of the



1 definition of "qualified research" in section 235-7.3,
2 Hawaii Revised Statutes;

3 (2) Investment credit data, including the amount of
4 investments received by the qualified high technology
5 business [~~in the reporting calendar year~~];

6 (3) Revenue and expense data; and

7 (4) Hawaii employment and wage data, including the numbers
8 of full and part-time employees retained, new jobs,
9 and temporary positions.

10 The department shall request information in each of these
11 categories sufficient to measure the effectiveness of the tax
12 credit. The department may request any additional information
13 necessary to measure the effectiveness of the tax credit such as
14 information related to patents. In preparing the survey and
15 requesting any additional information, the department shall
16 ensure that qualified high technology businesses are not subject
17 to duplicative reporting requirements.

18 (c) A qualified high technology business required to file
19 an annual survey under subsection (a) that fails to file the
20 survey by the due date or any extension thereof, shall be
21 assessed a penalty of \$1,000 per month for each month the annual
22 survey is not filed not to exceed a total of \$6,000 for every



1 annual survey not filed. Penalties collected under this
2 subsection shall be deposited into the tax administration
3 special fund established under section 235-20.5, Hawaii Revised
4 Statutes.

5 (d) The department shall use information collected under
6 this section and through other reporting requirements of the
7 department to prepare summary descriptive statistics by
8 category. The information shall be reported at the aggregate
9 level to prevent compromising identities of qualified high
10 technology business investors or other confidential information.
11 The department shall also identify each qualified high
12 technology business that is the beneficiary of investments under
13 section 235-110.9, Hawaii Revised Statutes. [~~The department
14 shall report the information required under this subsection to
15 the legislature by September 1 of each year.~~]

16 (e) The department shall use the information collected
17 under this section to study the effectiveness of the credit
18 under section 235-110.9, Hawaii Revised Statutes. The
19 department shall report on the amount of investment made into
20 qualified high technology businesses, the number of qualified
21 high technology businesses in each industry sector, jobs
22 created, compensation levels, qualified research activities, and



1 other factors as the department determines. [~~The department~~
2 ~~shall report the results of its study to the legislature by~~
3 ~~December 1 of each year.~~]

4 (f) The department shall adopt rules [~~pursuant~~] without
5 regard to chapter 91 to implement this section."

6 SECTION 5. Act 206, Session Laws of Hawaii 2007, is
7 amended by amending section 8 to read as follows:

8 "SECTION 8. This Act shall take effect on July 1, 2007[,
9 ~~and shall apply to investments received by a qualified high~~
10 ~~technology business after June 30, 2007~~]; provided that this Act
11 shall be repealed on January 1, [~~2011,~~] 2012, and sections 235-
12 20.5 and 235-110.9(b), Hawaii Revised Statutes, shall be
13 reenacted in the form in which they read on the day before [~~the~~
14 ~~effective date of this Act.~~] June 20, 2007.

15 SECTION 6. The department of taxation shall study the
16 economic impact of the tax credits provided under sections 235-
17 110.9 and 235-110.91 on Hawaii's economy, and evaluate the
18 effectiveness of the tax credits. The department shall report
19 its findings to the legislature no later than twenty days prior
20 to the start of each regular session of the legislature.

21 For the purpose of evaluating the credits provided under
22 sections 235-110.9 and 235-110.91, the department of taxation



1 shall to the extent possible, collect and evaluate information
2 from January 1, 2002. The department may also:

- 3 (1) Exercise its powers under section 231- ;
- 4 (2) Use the information collected and analyses conducted
5 under Act 206, Session Laws of Hawaii 2007; and
- 6 (3) Review the returns of companies whose investors receive
7 credits pursuant to section 235-110.9 and the returns
8 of companies that receive credit pursuant to section
9 235-110.91 for the purposes of aggregating the impact
10 data to determine their impacts. Such data may be sub-
11 aggregated into industry sectors as to delineate and
12 differentiate between short-term and longer-term
13 economic impacts.

14 SECTION 7. Nothing contained in this Act shall be
15 interpreted as waiving any liability, as provided by other
16 operative law, for the confidentiality and safeguarding of
17 taxpayer information.

18 SECTION 8. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$250,000 or so much
20 thereof as may be necessary for fiscal year 2008-2009 to carry
21 out the purposes of this Act.



1 The sum appropriated shall be expended by the department of
2 taxation for the purposes of this Act.

3 SECTION 9. Statutory material to be repealed is bracketed
4 and stricken. New material is underscored.

5 SECTION 10. This Act shall take effect on July 1, 2008;
6 provided that sections 3, 4, and 6 shall be repealed on January
7 1, 2012, and section 235-20.5, Hawaii Revised Statutes, shall be
8 reenacted in the form in which it read on June 20, 2007.

9

[Handwritten signature]

INTRODUCED BY:

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

~~*[Handwritten signature]*~~

[Handwritten signature]

~~*[Handwritten signature]*~~

[Handwritten signature]

~~*[Handwritten signature]*~~

[Handwritten signature]

[Handwritten signature]

~~*[Handwritten signature]*~~

[Handwritten signature]

~~*[Handwritten signature]*~~
[Handwritten signature]
JAN 22 2008



Report Title:

High Technology Business Tax Credits; Study

Description:

Provides DoTAX with the powers necessary to evaluate and study the economic impact of Hawaii tax incentives; requires DoTAX to collect information from 1/1/2002, evaluate the high technology business tax credits, and report annually to the Legislature, ending in 2012; appropriates funds; sunsets January 1, 2012.

