
A BILL FOR AN ACT

RELATING TO AGRICULTURAL TAX CREDITS.

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

1 SECTION 1. In 1978, voters approved Article XI, section 3,
2 of the Constitution of the State of Hawaii. This section laid
3 out the framework for state policies to promote agriculture and
4 conserve productive agricultural lands in the state. Article
5 XI, section 3, reads as follows:

6 "The State shall conserve and protect
7 agricultural lands, promote diversified agriculture,
8 increase agricultural self-sufficiency and assure the
9 availability of agriculturally suitable lands. The
10 legislature shall provide standards and criteria to
11 accomplish the foregoing.

12 Lands identified by the State as important
13 agricultural lands needed to fulfill the purposes
14 above shall not be reclassified by the State or
15 rezoned by its political subdivisions without meeting
16 the standards and criteria established by the
17 legislature and approved by a two-thirds vote of the



1 body responsible for the reclassification or rezoning
2 action."

3 To address the issue of important agricultural lands, Act
4 183, Session Laws of Hawaii, was enacted. Act 183 establishes
5 standards, criteria, and mechanisms to identify important
6 agricultural lands and implement the intent and purpose of
7 Article XI, section 3, of the State Constitution.

8 Act 183 also recognized that while the supply of lands
9 suitable for agriculture is critical, the long-term viability of
10 agriculture depends on other factors as well. These factors
11 include:

- 12 (1) Commodity prices;
- 13 (2) Availability of water and irrigation;
- 14 (3) Agricultural research and outreach;
- 15 (4) Application of production technologies;
- 16 (5) Marketing; and
- 17 (6) Availability and cost of transportation services.

18 Tax incentives are a critical component of the long-term
19 viability of agriculture on important agricultural lands in the
20 state. The legislature finds that is in the public interest to
21 assist agricultural businesses who hold a majority of their



1 lands in important agricultural lands through incentives such as
2 income tax credits.

3 The purpose of this Act is to further the implementation of
4 Act 183 by establishing the important agricultural land
5 agricultural business tax credit to assist agricultural
6 businesses with more than fifty per cent of the lands the
7 businesses own, lease, or use, excluding lands classified as
8 conservation lands, as important agricultural lands.

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

12 "§235- Important agricultural land agricultural
13 business tax credit. (a) There shall be allowed to each
14 taxpayer subject to the taxes imposed by this chapter an income
15 tax credit, which shall be deductible from the taxpayer's net
16 income tax liability, if any, imposed by this chapter for the
17 taxable year in which the credit is properly claimed.

18 (b) The amount of the credit shall be one hundred per cent
19 of the qualified agricultural costs incurred by an agricultural
20 business during the taxable year; provided that this amount
21 shall be reduced pursuant to subsection (c). No other credit
22 may be claimed under this chapter for the qualified agricultural



1 costs for which a credit is claimed under this section for the
2 taxable year.

3 (c) The amount of the qualified agricultural costs
4 eligible to be claimed under this section shall be reduced by
5 the amount of funds received by an agricultural business during
6 the taxable year from the irrigation repair and maintenance
7 special fund under section 167-24.

8 (d) The cost upon which the tax credit is computed shall
9 be determined at the entity level. In the case of a
10 partnership, S corporation, estate, trust, or other pass through
11 entity, the allowable tax credit may be claimed by the partners,
12 shareholders, beneficiaries, or members.

13 If a deduction is taken under section 179 (with respect to
14 election to expense depreciable business assets) of the Internal
15 Revenue Code, no tax credit shall be allowed for that portion of
16 the qualified agricultural cost for which the deduction is
17 taken.

18 The basis of eligible property for depreciation or
19 accelerated cost recovery system purposes for state income taxes
20 shall be reduced by the amount of credit allowable and claimed.

21 No deduction shall be allowed for those costs for which a
22 credit is claimed under this section.



1 (e) If the tax credit under this section exceeds the
2 taxpayer's income tax liability, the excess of credit over
3 liability may be used as a credit against the taxpayer's income
4 tax liability in subsequent years until exhausted. All claims
5 for a tax credit under this section, including amended claims,
6 shall be filed on or before the end of the twelfth month
7 following the close of the taxable year for which the credit is
8 claimed. Failure to comply with the foregoing provision shall
9 constitute a waiver of the right to claim the credit.

10 (f) The director of taxation shall prepare any forms that
11 may be necessary to claim a credit under this section. The
12 director may also require the taxpayer to furnish information to
13 ascertain the validity of the claim for credit made under this
14 section and may adopt rules necessary to effectuate the purposes
15 of this section pursuant to chapter 91.

16 (g) The agribusiness development corporation, in
17 consultation with the department, shall determine what
18 information is necessary on an annual basis to enable a
19 quantitative and qualitative assessment of the outcomes of the
20 tax credit to be determined. Every qualified taxpayer, no later
21 than the last day of the taxable year following the close of the
22 taxpayer's taxable year in which qualified costs were expended,



1 shall submit a written, certified statement to the agribusiness
2 development corporation in the form specified by the
3 agribusiness development corporation providing this information
4 to the agribusiness development corporation. Any taxpayer
5 failing to submit this information to the agribusiness
6 development corporation in the manner prescribed by the
7 agribusiness development corporation prior to the last day of
8 the taxable year following the close of the taxpayer's taxable
9 year in which qualified costs were expended shall not be
10 eligible to receive the tax credit, and any credit already
11 claimed for that taxable year shall be recaptured in total. The
12 amount of the recaptured tax credit shall be added to the
13 taxpayer's tax liability for the taxable year in which the
14 recapture occurs. Notwithstanding any law to the contrary, a
15 statement submitted under this subsection shall be a public
16 document.

17 On an annual basis, the agribusiness development
18 corporation, in consultation with the department, shall submit a
19 report evaluating the effectiveness of the tax credit. The
20 report shall include but not be limited to findings and
21 recommendations to improve the effectiveness of the tax credit



1 to further encourage the development of agricultural businesses
2 that own, hold, or use important agricultural lands.

3 (h) The tax credit allowed under this section shall be
4 available for taxable years beginning after December 31, 2006.

5 (i) As used in this section:

6 "Agricultural business" means any taxpayer with a
7 commercial agricultural, silvicultural, or aquacultural facility
8 or operation, including:

9 (1) The care and production of livestock and livestock
10 products, poultry and poultry products, apiary
11 products, and plant and animal production for nonfood
12 uses;

13 (2) The planting, cultivating, harvesting, and processing
14 of crops; and

15 (3) The farming or ranching of any plant or animal species
16 in a controlled salt, brackish, or freshwater
17 environment;

18 provided that the taxpayer maintains its principal place of
19 business in the state and more than fifty per cent of the land
20 the taxpayer owns, leases, or uses, excluding lands classified
21 as conservation lands, is important agricultural lands.



1 "Important agricultural lands" means lands identified and
2 designated as important agricultural lands pursuant to part III
3 of chapter 205.

4 "Net income tax liability" means income tax liability
5 reduced by all other credits allowed under this chapter.

6 "Qualified agricultural costs" means expenditures for:

7 (1) The plans, design, engineering, construction,
8 renovation, repair, maintenance, and equipment for:

9 (A) Roads or utilities serving lands used by an
10 agricultural business for agricultural purposes;

11 (B) Agricultural processing facilities in Hawaii that
12 process crops or livestock from an agricultural
13 business;

14 (C) Water wells, reservoirs, dams, water storage
15 facilities, water pipelines, ditches, or
16 irrigation systems for which the majority of the
17 lands serviced by its water are important
18 agricultural lands; and

19 (D) Agricultural housing specifically for laborers of
20 an agricultural business;



- 1 (2) Feasibility studies, regulatory processing, and legal
- 2 and accounting services related to the items in
- 3 paragraph (1); and
- 4 (3) Equipment used to cultivate, grow, harvest, or process
- 5 agricultural products by an agricultural business."

6 SECTION 3. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so much
8 thereof as may be necessary for fiscal year 2007-2008 and the
9 sum of \$ or so much thereof as may be necessary for fiscal
10 year 2008-2009 to the department of taxation for the costs to
11 administer the important agricultural land agricultural business
12 tax credit.

13 The sums appropriated shall be expended by the department
14 of taxation.

15 SECTION 4. There is appropriated out of the general
16 revenues of the state of Hawaii the sum of \$ or so much
17 thereof as may be necessary for fiscal year 2007-2008 and the
18 sum of \$ or so much thereof as may be necessary for fiscal
19 year 2008-2009 to the agribusiness development corporation to
20 administer the important agricultural land agricultural business
21 tax credit.



1 SECTION 5. New statutory material is underscored.

2 SECTION 6. This Act shall take effect on .



Report Title:

Important Agricultural Land Agricultural Business Tax Credit

Description:

Establishes the Important Agricultural Land Agricultural Business Tax Credit. (HB902 HD1)

