
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 in
8 Hawaii.

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

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



1 The purpose of this Act is to improve the State's ability
2 to measure and evaluate the impact of various tax incentives on
3 Hawaii's economy. This Act:

4 (1) Authorizes the department of taxation to evaluate and
5 analyze existing and proposed tax incentives; and

6 (2) Directs the department of taxation to study the
7 economic impact of:

8 (A) The high technology business investment tax
9 credit;

10 (B) The tax credit for research activities;

11 (C) The technology infrastructure renovation tax
12 credit; and

13 (D) Tax incentives relating to stock options from
14 qualified high technology businesses.

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

18 "§231- Tax incentive analysis and evaluation. For
19 purposes of determining the economic impact of and evaluating
20 existing and proposed tax incentives provided under this title,
21 the department may:



- 1 (1) Contract with technical experts at the national and
2 international level who are knowledgeable in the field
3 of technology and research investment to evaluate
4 existing and proposed tax incentives in Hawaii;
- 5 (2) Establish a working group of industry, tax, and
6 economic development experts in Hawaii to identify and
7 develop a set of standards, benchmarks, and data
8 elements for the evaluation and quantification of the
9 economic effects of existing and proposed tax
10 incentives in Hawaii;
- 11 (3) Coordinate and receive relevant information from other
12 state agencies, including the department of labor and
13 industrial relations and the department of business,
14 economic development, and tourism, to develop
15 benchmarks and evaluation methodologies to determine
16 the measurement data that will need to be analyzed;
- 17 (4) Review taxpayer returns to collect and analyze
18 aggregate data on the impact of tax incentives; and
- 19 (5) Update the department's analysis of tax incentives to
20 assist bodies such as the tax review commission and the
21 council on revenues to better perform their
22 responsibilities."



1 SECTION 3. Section 235-17, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) Claims for credit under this section shall be subject
4 to the following limitations:

5 (1) On or after July 1, 2006, no qualified production cost
6 that has been financed by investments for which a
7 credit was claimed by any taxpayer pursuant to section
8 235-110.9 is eligible for credits under this
9 section[-]; and

10 (2) After June 30, 2008, no taxpayer shall be eligible to
11 claim the tax credit under this section for qualified
12 productions that are financed, in whole or in part, by
13 investments for which a credit has been claimed by the
14 taxpayer as a qualified high technology business under
15 section 235-110.9. If a claim for credit is made
16 under this section after June 30, 2008, the taxpayer
17 shall no longer qualify for the credit under section
18 235-110.9 and one hundred per cent of the credit that
19 has been claimed under section 235-110.9 shall be
20 subject to recapture."

21 SECTION 4. Section 235-20.5, Hawaii Revised Statutes, is
22 amended to read as follows:



1 **"§235-20.5 Tax administration special fund; established.**

2 There is established a tax administration special fund, into
3 which shall be deposited fees collected under sections 235-20,
4 235-110.9, and 235-110.91, and penalties collected under section
5 2 of Act 206, [+]Session Laws of Hawaii 2007[+]. The moneys in
6 the fund shall be expended by the department to offset the costs
7 associated with:

8 (1) Issuing comfort letters;

9 (2) Administering the tax credit under ~~[section]~~ sections
10 235-110.9[-] and 235-110.91, including issuing
11 certificates; and

12 ~~[(3) Issuing certificates under section 235-110.91].~~

13 (3) Conducting economic research and analysis of the
14 effect of the State's tax laws."

15 SECTION 5. Act 206, Session Laws of Hawaii 2007, is
16 amended as follows:

17 1. By amending subsection (b) of section 2 to read:

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



- 1 (1) Identification of the industry sector or sectors in
2 which the qualified high technology business conducts
3 business, as set forth in paragraphs (2) to (8) of the
4 definition of "qualified research" in section 235-7.3,
5 Hawaii Revised Statutes;
- 6 (2) Investment credit data, including the amount of
7 investments received by the qualified high technology
8 business [~~in the reporting calendar year~~];
- 9 (3) Revenue and expense data; and
- 10 (4) Hawaii employment and wage data, including the numbers
11 of full and part-time employees retained, new jobs,
12 and temporary positions.

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

21 2. By amending subsections (d) and (e) of section 2 to
22 read:



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

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



1 ~~shall report the results of its study to the legislature by~~
2 ~~December 1 of each year.] "~~

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

5 "SECTION 8. This Act shall take effect on July 1, 2007[~~7~~
6 ~~and shall apply to investments received by a qualified high~~
7 ~~technology business after June 30, 2007]~~; provided that this Act
8 shall be repealed on January 1, [~~2011,~~] 2012, and sections 235-
9 20.5 and 235-110.9(b), Hawaii Revised Statutes, shall be
10 reenacted in the form in which they read on [~~the day before the~~
11 ~~effective date of this Act.~~] June 30, 2007."

12 SECTION 7. The department of taxation shall study the
13 economic impact of the tax credits and other tax incentives
14 provided under sections 235-9.5, 235-110.51, 235-110.9, and 235-
15 110.91, Hawaii Revised Statutes, on Hawaii's economy, and
16 evaluate their effectiveness. The department shall report its
17 findings to the legislature no later than twenty days prior to
18 the convening of each regular session of the legislature.

19 For the purpose of evaluating the credits and incentives
20 provided under sections 235-9.5, 235-110.51, 235-110.9, and 235-
21 110.91, Hawaii Revised Statutes, 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 that:
 - 7 (A) Receive, or whose investors receive, credits
8 pursuant to sections 235-110.51, 235-110.9, and
9 235-110.91, Hawaii Revised Statutes; or
 - 10 (B) Benefit, or whose investors benefit, from stock
11 options whose income or capital gains are
12 excluded from taxation under section 235-9.5,
13 Hawaii Revised Statutes;
- 14 for the purposes of aggregating the data to determine
15 their impact. Such data may be sub-aggregated into
16 industry sectors to delineate and differentiate between
17 short-term and longer-term economic effects.

18 SECTION 8. Nothing contained in this Act shall be
19 interpreted as waiving any liability, as provided by other
20 operative law, for the confidentiality and safeguarding of
21 taxpayer information.



1 SECTION 9. There is appropriated out of the tax
2 administration special fund the sum of \$60,000 or so much
3 thereof as may be necessary for fiscal year 2008-2009 for one
4 full time equivalent (1.0 FTE) economist position.

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

7 SECTION 10. Statutory material to be repealed is bracketed
8 and stricken. New material is underscored.

9 SECTION 11. This Act shall take effect on July 1, 2020;
10 provided that sections 3, 4, and 6 shall be repealed on January
11 1, 2012, and section 235-20.5, Hawaii Revised Statutes, shall be
12 reenacted in the form in which it read on June 30, 2007.



Report Title:

High Technology Tax Incentives; Study

Description:

Authorizes the Department of Taxation (DOTAX) to study and evaluate the economic impact of existing and proposed state tax incentives. Authorizes DOTAX to collect and evaluate information from January 1, 2002, as part of its annual survey of businesses that have benefited from various high technology tax incentives. Requires DOTAX to report annually to the Legislature, until 2012, on its findings of the economic impact of the tax incentives. Appropriates funds. (SB711 HD2)

