

JAN 19 2007

A BILL FOR AN ACT

RELATING TO DISASTER RELIEF.

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

1 SECTION 1. (a) There shall be allowed to each taxpayer
2 who is not claimed or is not otherwise eligible to be claimed as
3 a dependent by another taxpayer for federal or Hawaii state
4 individual income tax purposes, who files a net income tax
5 return for a taxable year, a one-time nonrefundable earthquake
6 victim tax credit, except as otherwise provided in this Act.
7 The tax credit shall be deductible from the taxpayer's net
8 income tax liability imposed by chapter 235.

9 (b) The amount of the tax credit shall be equal to the
10 amount expended by the taxpayer for costs directly related to
11 the damage directly caused by the earthquakes occurring on the
12 dates specified in subsection (c) to the taxpayer's real or
13 personal property; provided that:

14 (1) The expenses or costs are not reimbursable by
15 insurance proceeds or disaster relief payments from
16 government agencies or non-profit organizations;

17 (2) The tax credit shall not exceed \$30,000 per individual
18 taxpayer;



1 (3) The tax credit shall not exceed \$250,000 per trust,
2 estate, partnership, association, company, or
3 corporation;

4 (4) No refund as provided in subsection (f) or payment on
5 account of the tax credit allowed by this Act shall be
6 made for amounts less than \$1.

7 (c) The tax credit shall apply to a taxpayer who suffered
8 damage to the taxpayer's real or personal property that is
9 situated in the State, having occurred on October 15, 2006.

10 (d) To qualify for the income tax credit, the taxpayer
11 shall certify to the department of taxation that the taxpayer is
12 in compliance with all applicable federal, state, and county
13 statutes, rules, and regulations.

14 (e) To qualify for the income tax credit, the taxpayer
15 shall sign a statement and provide information determined by the
16 department of taxation as necessary to claim the credit under
17 penalties of perjury.

18 (f) If the tax credit under this section exceeds the
19 taxpayer's net income tax liability, any excess of the tax
20 credit may be used as a credit against the taxpayer's income tax
21 liability for the taxable year the credit is claimed; provided
22 that tax credits properly claimed by a taxpayer shall be



1 refunded to the taxpayer after being credited against the
2 taxpayer's income tax liability for the taxable year, if the
3 taxpayer qualifies under one of the following tests:

4 (1) All of the taxpayer's income is exempt from taxation
5 under section 235-7(a)(2) or section 235-7(a)(3); or

6 (2) The taxpayer's adjusted gross income is \$20,000 or
7 less.

8 (g) In the case of a partnership, S corporation, estate,
9 trust, or association of apartment owners, the tax credit
10 allowable is for expenses incurred and paid for by the entity
11 for the taxable year. The cost upon which the tax credit is
12 computed shall be determined at the entity level.

13 (h) If a deduction is taken under section 179 (with
14 respect to election to expense certain depreciable business
15 assets) of the Internal Revenue Code of 1986, as amended, no tax
16 credit shall be allowed for that portion of the expenses for
17 which the deduction is taken.

18 The basis of property shall not be increased by any amount
19 for which the credit is allowable and claimed. In the
20 alternative, the taxpayer shall treat the amount of the credit
21 allowable and claimed as a taxable income item for the taxable



1 year in which it is properly recognized under the method of
2 accounting used to compute taxable income.

3 (i) No taxpayer who claims the tax credit under this
4 section shall claim any other credit or deduction for the same
5 losses or other expenses or costs.

6 (j) Every claim, including amended claims, for the tax
7 credit under this section shall be filed on or before
8 December 31, 2008. Failure to meet the filing requirements of
9 this subsection shall constitute a waiver of the right to claim
10 the tax credit.

11 (k) If at any time after claiming the tax credit, the
12 taxpayer no longer qualifies for the credit because of
13 subsequent recovery for expenses utilized to calculate the
14 credit, the credits claimed shall be recaptured. The recapture
15 shall be equal to one hundred per cent of the tax credits that
16 were subsequently ineligible as a result of later recovery. The
17 amount of the recaptured tax credits shall be added to the
18 taxpayer's tax liability for the taxable year in which the
19 recapture occurs.

20 (l) In the case of fraud, making of a false statement, or
21 willful disregard for the facts, associated with making a return
22 or otherwise claiming the tax credit, there shall be added to



1 the amount wrongfully claimed on a return a penalty of fifty per
2 cent of the amount of such credit claimed.

3 (m) The director of taxation shall prepare any forms as
4 may be necessary to claim a tax credit under this section, may
5 require proof of the claim for the tax credit, and may adopt
6 rules without regard to chapter 91 to effectuate the purposes of
7 this section.

8 SECTION 2. This Act shall take effect upon its approval
9 and shall apply to the taxable year beginning after December 31,
10 2005, and before January 1, 2007.

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INTRODUCED BY:

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Report Title:

Disaster Relief; Tax Credit for Earthquake Victims

Description:

Creates a one-time tax credit for victims of the October 15, 2006, earthquakes.

