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# 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, Hawaii Revised  
9 Statutes.

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

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



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

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

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

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

12          (d) If the tax credit under this section exceeds the  
13          taxpayer's net income tax liability, any excess of the tax  
14          credit may be used as a credit against the taxpayer's income tax  
15          liability in subsequent taxable years until exhausted; provided  
16          that tax credits properly claimed by a taxpayer shall be  
17          refunded to the taxpayer after being credited against the  
18          taxpayer's income tax liability for the taxable year, if the  
19          taxpayer qualifies under one of the following tests:

20          (1) All of the taxpayer's income is exempt from taxation  
21               under section 235-7(a)(2) or 235-7(a)(3), Hawaii  
22               Revised Statutes; or



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

3           (e) In the case of a partnership, S corporation, estate,  
4 trust, or association of apartment owners, the tax credit  
5 allowable is for expenses incurred and paid for by the entity  
6 for the taxable year. The cost upon which the tax credit is  
7 computed shall be determined at the entity level.

8           (f) If a deduction is taken under section 179 (with  
9 respect to election to expense certain depreciable business  
10 assets) of the Internal Revenue Code of 1986, as amended, no tax  
11 credit shall be allowed for that portion of the expenses for  
12 which the deduction is taken.

13           The basis of property shall not be increased by any amount  
14 for which the credit is allowable and claimed. In the  
15 alternative, the taxpayer shall treat the amount of the credit  
16 allowable and claimed as a taxable income item for the taxable  
17 year in which it is properly recognized under the method of  
18 accounting used to compute taxable income.

19           (g) No taxpayer who claims the tax credit under this  
20 section shall claim any other credit or deduction for the same  
21 losses or other expenses or costs.



1 (h) Every claim, including amended claims, for the tax  
2 credit under this section shall be filed on or before  
3 December 31, 2008. Failure to meet the filing requirements of  
4 this subsection shall constitute a waiver of the right to claim  
5 the tax credit.

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

15 (j) In the case of fraud, making of a false statement, or  
16 wilful disregard for the facts, associated with making a return  
17 or otherwise claiming the tax credit, there shall be added to  
18 the amount wrongfully claimed on a return a penalty of fifty per  
19 cent of the amount of such credit claimed.

20 (k) The director of taxation shall prepare any forms that  
21 may be necessary to claim a tax credit under this section, may  
22 require proof of the claim for the tax credit, and may adopt



1 rules without regard to chapter 91, Hawaii Revised Statutes, to  
2 effectuate the purposes of this section.

3 SECTION 2. This Act shall take effect January 1, 2035 and  
4 shall apply to the taxable year beginning after December 31,  
5 2034, and before January 1, 2036.



**Report Title:**

Disaster Relief; Tax Credit for Earthquake Victims

**Description:**

Creates a one-time tax credit for victims of the October 15, 2006 earthquakes. (SD2)

