
A BILL FOR AN ACT

RELATING TO AGRICULTURAL TAXATION.

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, which sets out the
3 framework for state policies to promote agriculture and the
4 conservation of productive agricultural lands in the State.

5 Article XI, section 3, reads as follows:

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

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



1 To address the issue of important agricultural lands, Act
2 183, Session Laws of Hawaii 2005 (Act 183), was enacted. Act
3 183 establishes standards, criteria, and mechanisms to identify
4 important agricultural lands and implement the intent and
5 purpose of article XI, section 3, of the Hawaii State
6 Constitution.

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

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

17 Tax incentives are a critical component of the long-term
18 viability of agriculture on important agricultural lands in the
19 State. The legislature finds that it is in the public's
20 interest to assist agricultural businesses that hold a majority
21 of its lands within important agricultural lands by providing
22 incentives such as income tax credits.



1 The purpose of this Act is to further the implementation of
2 Act 183, Session Laws of Hawaii 2005, by establishing the
3 important agricultural land agricultural business tax credit to
4 assist agricultural businesses that own, hold, or use a majority
5 of their lands as important agricultural lands.

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

9 "§235- Important agricultural land agricultural business
10 tax credit. (a) There shall be allowed to each taxpayer
11 subject to the taxes imposed by this chapter an income tax
12 credit, which shall be deductible from the taxpayer's net income
13 tax credit liability, if any, imposed by this chapter for the
14 taxable year in which the credit is properly claimed.

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



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

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

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

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

19 No credit shall be allowed for those costs for which a
20 credit is claimed under this section.

21 (e) If the tax credit under this section exceeds the
22 taxpayer's income tax liability, the excess of credit over



1 liability may be used as a credit against the taxpayer's income
2 tax liability in subsequent years until exhausted.

3 All claims for a tax credit under this section, including
4 amended claims, shall be filed on or before the end of the
5 twelfth month following the close of the taxable year for which
6 the credit is claimed. Failure to comply with the foregoing
7 provision shall constitute a waiver of the right to claim the
8 credit.

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

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



1 written, certified statement to the agribusiness development
2 corporation.

3 Any taxpayer failing to submit information to the
4 agribusiness development corporation in the manner prescribed by
5 the agribusiness development corporation prior to the last day
6 of the taxable year following the close of the taxpayer's
7 taxable year in which qualified costs were expended shall not be
8 eligible to receive the tax credit, and any credit already
9 claimed for that taxable year shall be recaptured in total. The
10 amount of the recaptured tax credit shall be added to the
11 taxpayer's tax liability for the taxable year in which the
12 recapture occurs.

13 Notwithstanding any law to the contrary, a statement
14 submitted under this subsection shall be a public document.

15 (h) On an annual basis, the agribusiness development
16 corporation, in consultation with the department of taxation,
17 shall submit a report evaluating the effectiveness of the tax
18 credit. The report shall include but not be limited to findings
19 and recommendations to improve the effectiveness of the tax
20 credit to further encourage the development of agricultural
21 businesses that own, hold, or use important agricultural lands.



1 (i) The tax credit allowed under this section shall be
2 available for taxable years beginning after December 31, 2006.

3 (j) As used in this section:

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

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

11 (2) The planting, cultivating, harvesting, and processing
12 of crops; and

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

16 provided that it maintains its principal place of business in
17 the State and more than fifty per cent of the land the
18 agricultural business owns, leases, or uses, excluding land
19 classified as conservation land, in important agricultural land.

20 "Important agricultural lands" means lands identified and
21 designated as important agricultural lands pursuant to chapter
22 205, part III.



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

3 "Qualified agricultural costs" means expenditures for:

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

6 (A) Roads or utilities serving lands in the State
7 used by an agricultural business for agricultural
8 purposes;

9 (B) Agricultural processing facilities in the State
10 that process crops or livestock from an
11 agricultural business;

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

17 (D) Agricultural housing in the State specifically
18 for laborers of an agricultural business;

19 (2) Feasibility studies, regulatory processing, and legal
20 and accounting services related to the items under
21 paragraph (1); and



1 (3) Equipment used to cultivate, grow, harvest, or process
2 agricultural products by an agricultural business."

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

10 The sums appropriated shall be expended by the department
11 of taxation for the purposes of this Act.

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

19 The sums appropriated shall be expended by the agribusiness
20 development corporation for the purposes of this Act.

21 SECTION 5. New statutory material is underscored.



1 SECTION 6. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2006; provided that
3 sections 3 and 4 shall take effect on July 1, 2007.



Report Title:

Agricultural Business Tax Credit; Important Agricultural Lands

Description:

Establishes the important agricultural lands agricultural
business tax credit. (SD1)

