
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235-110.51, Hawaii Revised Statutes, is
2 amended by amending subsection (h) to read as follows:

3 "(h) The tax credit allowed under this section shall not
4 be available for taxable years beginning after December 31,
5 [~~2010-~~] 2015."

6 SECTION 2. Section 235-110.9, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending subsection (a) to read:

9 "(a) There shall be allowed to each taxpayer subject to
10 the taxes imposed by this chapter a high technology business
11 investment tax credit that shall be deductible from the
12 taxpayer's net income tax liability, if any, imposed by this
13 chapter for the taxable year in which the investment was made
14 and the following four years provided the credit is properly
15 claimed. The tax credit shall be as follows:

16 (1) In the year the investment was made, thirty-five per
17 cent;



1 (2) In the first year following the year in which the
2 investment was made, twenty-five per cent;

3 (3) In the second year following the investment, twenty
4 per cent;

5 (4) In the third year following the investment, ten per
6 cent; and

7 (5) In the fourth year following the investment, ten per
8 cent;

9 of the investment made by the taxpayer in each qualified high
10 technology business, up to a maximum allowed credit in the year
11 the investment was made, \$700,000; in the first year following
12 the year in which the investment was made, \$500,000; in the
13 second year following the year in which the investment was made,
14 \$400,000; in the third year following the year in which the
15 investment was made, \$200,000; and in the fourth year following
16 the year in which the investment was made, \$200,000. The
17 aggregate of the credits claimed by taxpayers for investments in
18 any single qualified high technology business in a taxable year
19 shall not exceed \$10,000,000. The aggregate of the credits
20 claimed by all taxpayers for investments in qualified high
21 technology business in a taxable year shall not exceed
22 \$ _____ ."



1 2. By amending subsection (i) to read:

2 "(i) This section shall not apply to taxable years
3 beginning after December 31, [~~2010.~~] 2015."

4 SECTION 3. Section 235-110.91, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsection (a) to read:

7 "(a) Section 41 (with respect to the credit for increasing
8 research activities) and [~~section~~] Section 280C(c) (with respect
9 to certain expenses for which the credit for increasing research
10 activities are allowable) of the Internal Revenue Code shall be
11 operative for the purposes of this chapter as provided in this
12 section; except that references to the base amount shall not
13 apply and credit for all qualified research expenses may be
14 taken without regard to the amount of expenses for previous
15 years. If [~~section~~] Section 41 of the Internal Revenue Code is
16 repealed or terminated prior to January 1, [~~2011,~~] 2015, its
17 provisions shall remain in effect for purposes of the income tax
18 law of the State as modified by this section, as provided for in
19 subsection (j)."

20 2. By amending subsection (d) to read as follows:

21 "(d) Every [~~qualified high technology business~~] taxpayer,
22 before March 31 of each year in which an investment in a



1 qualified [~~research and development activity was conducted~~] high
2 technology business was made in the previous taxable year, shall
3 submit a written, certified statement to the director of
4 taxation identifying:

- 5 (1) Qualified investments, if any, expended in the
- 6 previous taxable year; [~~and~~]
- 7 (2) Whether any qualified investment expended in the
- 8 previous taxable year was made in a qualified high
- 9 technology business that is a wholly-owned subsidiary;
- 10 and

11 [~~2~~] (3) The amount of tax credits claimed pursuant to
12 this section, if any, in the previous taxable year."

13 3. By amending subsection (j) to read:

14 "(j) This section shall not apply to taxable years
15 beginning after December 31, [~~2010~~] 2015."

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

18 "SECTION 8. This Act shall take effect on July 1, 2007,
19 and shall apply to investments received by a qualified high
20 technology business after June 30, 2007; provided that this Act
21 shall be repealed on January 1, 2011, and [~~sections~~] section
22 235-20.5 [~~and 235-110.9(b)~~], Hawaii Revised Statutes, shall be



1 reenacted in the form in which [~~they~~] it read on the day before
2 the effective date of this Act."

3 SECTION 5. (a) There is established the high technology
4 business investment tax credit review board within the
5 department of taxation for administrative purposes only. The
6 review board shall be comprised of the following seven members:

- 7 (1) The director of taxation or the director's designee;
8 (2) Two members representing qualified high technology
9 businesses other than performing arts businesses, one
10 of whom shall be appointed by the president of the
11 senate and one of whom shall be appointed by the
12 speaker of the house of representatives from a list of
13 nominees submitted by the Hawaii Science and
14 Technology Council;
15 (3) Two members representing venture capital and financing
16 companies, one of whom shall be appointed by the
17 president of the senate and one of whom shall be
18 appointed by the speaker of the house of
19 representatives from a list of nominees submitted by
20 the Hawaii Science and Technology Council; and
21 (4) Two members representing performing arts businesses,
22 one of whom shall be appointed by the president of the



1 senate and one of whom shall be appointed by the
2 speaker of the house of representatives.

3 (b) The members of the review board shall serve without
4 compensation but shall be reimbursed for expenses, including
5 travel expenses, necessary for the performance of their duties.

6 (c) The review board shall select a chairperson by a
7 majority vote of its members. A majority of the review board
8 shall constitute quorum to do business. The concurrence of a
9 majority of all the members to which the review board is
10 entitled shall be necessary to make any action of the review
11 board valid.

12 (d) The review board shall be exempt from chapter 92,
13 Hawaii Revised Statutes; provided that the review board shall
14 make a good faith effort to make its proceedings and work
15 products accessible and available to the general public in a
16 manner consistent with the intent of chapter 92, Hawaii Revised
17 Statutes. Information and data concerning a qualified high
18 technology business or taxpayer investor that is proprietary in
19 nature or qualifies as commercially sensitive information shall
20 be treated and protected as confidential by the review board.

21 (e) Any applicant for certification under section 235-
22 110.9(e), Hawaii Revised Statutes, of an investment made in a



1 wholly-owned subsidiary, whose application for certification of
2 the credit is rejected by the department of taxation may appeal
3 the rejection to the high technology business investment tax
4 credit review board. The review board shall review the claim
5 and reject or accept the application within thirty days of the
6 filing of the appeal. The decision of the review board shall be
7 final for the purposes of certifying the claim.

8 (f) The department of taxation may consult with the review
9 board before certifying credits under section 235-110.9(e),
10 Hawaii Revised Statutes.

11 (g) The high technology business investment tax credit
12 review board shall submit a report to the legislature no later
13 than twenty days prior to the convening of the regular session
14 of 2010, and annually thereafter, containing recommendations
15 for legislation or other means of increasing fairness and
16 accountability in the administration of the high technology
17 business investment tax credit.

18 (h) The high technology business investment tax credit
19 review board shall cease to exist on July 1, 2021

20 SECTION 6. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 7. This Act shall take effect on December 31,
2 2009.



Report Title:

High Technology Tax Credits; Extension; Recapture; Workforce

Description:

Extends the high technology business investment, research, and technology infrastructure renovation tax credits to 12/31/2015. Caps aggregate investment credits for a year to \$. Caps aggregate credits in a year for investments in a single qualified business to \$10,000,000. Establishes review board to decide appeals of Department of Taxation denials of certification of credits claimed for investments in wholly-owned subsidiaries. (HB1451 HD1)

