
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§235-A Income tax credit allocation; temporary treatment
5 for pass-through entities. Notwithstanding any other law to the
6 contrary, for taxable years beginning January 1, 2009, and
7 ending before January 1, 2011, allocation of tax credits under
8 this chapter shall be made in accordance with subchapter K,
9 subchapter J, or subchapter S of the Internal Revenue Code.

10 §235-B Credits against income; claim limitation. (a)
11 Notwithstanding any law to the contrary providing for a tax
12 credit that may be claimed against a taxpayer's net income tax
13 liability under section 235-110.51, 235-110.9, 241-4.8, or
14 431:7-209 for taxable years beginning on or after January 1,
15 2009, and ending before January 1, 2011, no claim for these tax
16 credits, including carryover tax credits from prior taxable

1 years, shall exceed ninety per cent of the taxpayer's tax
2 liability for the taxable year in which the credit is claimed.

3 (b) Any tax credits under section 235-110.51, 235-110.9,
4 241-4.8, or 431:7-209, generated between January 1, 2009, and
5 December 31, 2010, shall be subject to the credit claim
6 limitation provided in subsection (a) and shall not result in a
7 credit carryover in subsequent taxable years.

8 (c) Any tax credits generated under section 235-110.51,
9 235-110.9, 241-4.8, or 431:7-209, in taxable years beginning
10 before January 1, 2009, that resulted in a credit carryover
11 shall be subject to the credit claim limitation provided in
12 subsection (a); provided that notwithstanding any provision
13 creating a waiver of a tax credit by failing to make a claim
14 within a specified period of time for any tax credit, a tax
15 credit carryover generated under section 235-110.51, 235-110.9,
16 241-4.8, or 431:7-209, that is applicable to a taxable year
17 beginning before January 1, 2009, may be used against tax
18 liability in taxable years beginning on or after January 1,
19 2011, until exhausted.

20 (d) Tax credits generated under section 235-110.51,
21 235-110.9, 241-4.8, or 431:7-209, during taxable years beginning
22 on or after January 1, 2009, and ending before January 1, 2011,

1 shall be claimed first, and tax credits generated in taxable
2 years beginning prior to January 1, 2009, shall be claimed
3 thereafter; provided that, with regard to any tax credit under
4 section 235-110.51, 235-110.9, 241-4.8, or 431:7-209, that is
5 properly claimed for a taxable year beginning before January 1,
6 2009, the specified period of time established to exhaust the
7 tax credit shall be tolled until such time that the tax credits
8 accrued for the period beginning January 1, 2009, and ending
9 January 1, 2011, have been exhausted."

10 SECTION 2. Section 235-2.45, Hawaii Revised Statutes, is
11 amended by amending subsection (d) to read as follows:

12 "(d) Section 704 of the Internal Revenue Code (with
13 respect to a partner's distributive share) shall be operative
14 for purposes of this chapter; except that section 704(b) (2)
15 shall not apply to:

16 [~~(1)~~ ~~Allocations of the high technology business investment~~
17 ~~tax credit allowed by section 235-110.9;~~]

18 [~~(2)~~] (1) Allocations of net operating loss pursuant to
19 section 235-111.5;

20 [~~(3)~~] (2) Allocations of the attractions and educational
21 facilities tax credit allowed by section 235-110.46;

22 or

1 [~~(4)~~] (3) Allocations of low-income housing tax credits
2 among partners under section 235-110.8."

3 SECTION 3. Section 235-110.7, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) There shall be allowed to each taxpayer subject to
6 the tax imposed by this chapter a capital goods excise tax
7 credit which shall be deductible from the taxpayer's net income
8 tax liability, if any, imposed by this chapter for the taxable
9 year in which the credit is properly claimed.

10 The amount of the tax credit shall be determined by the
11 application of the following rates against the cost of the
12 eligible depreciable tangible personal property used by the
13 taxpayer in a trade or business and placed in service within
14 Hawaii after December 31, 1987. For calendar years beginning
15 after:

16 (1) December 31, 1987, the applicable rate shall be three
17 per cent;

18 (2) December 31, 1988, [~~and thereafter,~~] the applicable
19 rate shall be four per cent [~~;~~];

20 (3) December 31, 2008, the applicable rate shall be zero
21 per cent; and

1 (4) December 31, 2009, and thereafter, the applicable rate
2 shall be four per cent.

3 For taxpayers with fiscal taxable years, the applicable
4 rate shall be the rate for the calendar year in which the
5 eligible depreciable tangible personal property used in the
6 trade or business is placed in service within Hawaii.

7 In the case of a partnership, S corporation, estate, or
8 trust, the tax credit allowable is for eligible depreciable
9 tangible personal property which is placed in service by the
10 entity. The cost upon which the tax credit is computed shall be
11 determined at the entity level. Distribution and share of
12 credit shall be determined by rules.

13 In the case of eligible depreciable tangible personal
14 property for which a credit for sales or use taxes paid to
15 another state is allowable under section 238-3(i), the amount of
16 the tax credit allowed under this section shall not exceed the
17 amount of use tax actually paid under chapter 238 relating to
18 such tangible personal property.

19 If a deduction is taken under section 179 (with respect to
20 election to expense certain depreciable business assets) of the
21 Internal Revenue Code of 1954, as amended, no tax credit shall

1 be allowed for that portion of the cost of property for which
2 the deduction was taken."

3 SECTION 4. Section 241-4.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§~~**241-4.5**~~§~~ **Capital goods excise tax credit.** The
6 capital goods excise tax credit provided under section 235-110.7
7 shall be operative for this chapter after December 31, 1987~~[-]~~;
8 provided that the capital goods excise tax credit shall be
9 inoperative after December 31, 2008, and before January 1,
10 2010."

11 SECTION 5. Section 241-4.8, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~§~~**241-4.8**~~§~~ **High technology business investment tax**
14 **credit.** The high technology business investment tax credit
15 provided under section 235-110.9 shall be operative for this
16 chapter on July 1, 1999~~[-]~~; provided that this section shall be
17 subject to section 235-B."

18 SECTION 6. Section 431:7-209, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "~~§~~**431:7-209**~~§~~ **High technology business investment tax**
21 **credit.** The high technology business investment tax credit
22 provided under section 235-110.9 shall be operative for this

1 chapter on July 1, 1999[~~-~~]; provided that this section shall be
2 subject to section 235-B."

3 SECTION 7. In codifying the new sections added by section
4 1 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

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

9 SECTION 9. This Act shall take effect upon its approval
10 and shall apply to taxable years beginning on or after
11 January 1, 2009; provided that this Act shall be repealed on
12 January 1, 2012, and sections 235-2.45, 235-110.7, 241-4.5, 241-
13 4.8, and 431:7-209, Hawaii Revised Statutes, shall be reenacted
14 in the forms in which they read on the day before the effective
15 date of this Act.

Report Title:

Tax Credits; Partner's Distributive Share

Description:

Provides temporary treatment for pass-through entities, for income tax credit allocation purposes. Establishes a temporary 90% tax credit cap and restricts any carryover credits for the high technology business investment tax credit and the technology infrastructure renovation tax credit. Temporarily removes the partner distributive share tax incentive for the high technology business investment tax credit. Temporarily suspends the capital goods excise tax credit for one year.

(SB199 CD1)