
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235-2.4, Hawaii Revised Statutes, is
2 amended by amending subsection (n) to read as follows:
3 "(n) Section 469 (with respect to passive [~~activities~~]
4 activity losses and credits limited) of the Internal Revenue
5 Code shall be operative for the purposes of this chapter[~~-~~];
6 provided that section 469(d)(1) shall not include any deduction
7 provided by section 167(a) (with respect to depreciation) of the
8 Internal Revenue Code as operative for this chapter. Passive
9 activity credit as used in section 469 as operative for this
10 chapter shall include only those credits which fall under the
11 subparts specified in section 469(d)(2)(A) (with respect to
12 business related credits and other credits) of the Internal
13 Revenue Code and which have specifically been made operative for
14 purposes of this chapter. For the purpose of computing the
15 offset for rental real estate activities for state income tax
16 purposes, adjusted gross income as used in section 469 as
17 operative for this chapter means federal adjusted gross income."

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

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

7 (1) Allocations of the high technology business investment
8 tax credit allowed by section 235-110.9;

9 (2) Allocations of net operating loss pursuant to section
10 235-111.5;

11 (3) Allocations of the attractions and educational
12 facilities tax credit allowed by section 235-110.46;
13 [~~or~~]

14 (4) Allocations of low-income housing tax credits among
15 partners under section 235-110.8~~[or]~~; or

16 (5) Allocations of the renewable energy technologies
17 income tax credit allowed under section 235-12.5."

18 SECTION 3. Section 235-12.5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§235-12.5 Renewable energy technologies; income tax**

21 **credit.** (a) When the requirements of subsection [~~(e)~~] (d) are
22 met, each individual or corporate taxpayer that files an

1 individual or corporate net income tax return for a taxable year
2 may claim a tax credit under this section against the Hawaii
3 state individual or corporate net income tax. The tax credit
4 may be claimed for every eligible renewable energy technology
5 system that is installed and placed in service in the State by a
6 taxpayer during the taxable year. This credit shall be
7 available for systems installed and placed in service in the
8 State after June 30, 2003~~[-]~~; provided that no taxpayer who
9 claims the credit under this section shall claim any other tax
10 credit under this chapter for the same actual costs for which a
11 tax credit is claimed under this section; provided further that
12 any taxpayer claiming this credit shall not qualify as a high
13 technology business under sections 235-7.3, 235-110.9, or 235-
14 110.91. The tax credit may be claimed as follows:

- 15 ~~[-(1) Solar thermal energy systems for:~~
- 16 ~~-(A) Single-family residential property for which a~~
17 ~~building permit was issued prior to January 1,~~
18 ~~2010; thirty-five per cent of the actual cost or~~
19 ~~\$2,250, whichever is less;~~
- 20 ~~-(B) Multi-family residential property: thirty-five~~
21 ~~per cent of the actual cost or \$350 per unit,~~
22 ~~whichever is less; and~~

- 1 ~~(C) Commercial property: thirty-five per cent of the~~
- 2 ~~actual cost or \$250,000, whichever is less;~~
- 3 ~~(2) Wind-powered energy systems for:~~
- 4 ~~(A) Single-family residential property: twenty per~~
- 5 ~~cent of the actual cost or \$1,500, whichever is~~
- 6 ~~less;~~
- 7 ~~(B) Multi-family residential property: twenty per~~
- 8 ~~cent of the actual cost or \$200 per unit,~~
- 9 ~~whichever is less; and~~
- 10 ~~(C) Commercial property: twenty per cent of the~~
- 11 ~~actual cost or \$500,000, whichever is less; and~~
- 12 ~~(3) Photovoltaic energy systems for:~~
- 13 ~~(A) Single-family residential property: thirty-five~~
- 14 ~~per cent of the actual cost or \$5,000, whichever~~
- 15 ~~is less;~~
- 16 ~~(B) Multi-family residential property: thirty-five~~
- 17 ~~per cent of the actual cost or \$350 per unit,~~
- 18 ~~whichever is less; and~~
- 19 ~~(C) Commercial property: thirty-five per cent of the~~
- 20 ~~actual cost or \$500,000, whichever is less;]~~

1 (1) For each solar energy system, the credit is thirty-
2 five per cent of the actual cost or the cap amount
3 determined in subsection (b), whichever is less;

4 (2) For each wind-powered energy system, the credit is
5 twenty per cent of the actual cost or the cap amount
6 determined in subsection (b), whichever is less; and

7 (3) For each solar electric energy system, the credit is
8 thirty-five per cent of the actual cost or the cap
9 amount determined in subsection (b), whichever is
10 less.

11 provided that multiple owners of a single system shall be
12 entitled to a single tax credit; and provided further that the
13 tax credit shall be apportioned between the owners in proportion
14 to their contribution to the cost of the system.

15 In the case of a partnership, S corporation, estate, or
16 trust, the tax credit allowable is for every eligible renewable
17 energy technology system that is installed and placed in service
18 in the State by the entity. The cost upon which the tax credit
19 is computed shall be determined at the entity level.

20 ~~[Distribution and share of credit shall be determined pursuant~~
21 ~~to section 235-110.7(a).]~~

1 (b) The amount of credit allowed for each eligible
2 renewable energy technology system shall not exceed the
3 applicable cap amount, which is determined as follows:

4 (1) For each solar energy system, the cap amount shall be:

5 (A) \$2,250 per system for single-family residential
6 property;

7 (B) \$350 per unit per system for multi-family
8 residential property; and

9 (C) \$250,000 per system for commercial property.

10 (2) For each wind-powered energy system, the cap amount
11 shall be:

12 (A) \$1,500 per system for single-family residential
13 property;

14 (B) \$200 per unit per system for multi-family
15 residential property; and

16 (C) \$500,000 per system for commercial property.

17 (3) For each solar electric energy system, the cap amount
18 shall be:

19 (A) \$5,000 per system for single-family residential
20 property;

21 (B) \$350 per unit per system for multi-family
22 residential property; and

1 (C) \$500,000 per system for commercial property.

2 [~~(b)~~] (c) For the purposes of this section:

3 "Actual cost" means costs related to the renewable energy
4 technology systems under subsection (a), including accessories
5 and installation, but not including the cost of consumer
6 incentive premiums unrelated to the operation of the system or
7 offered with the sale of the system and costs for which another
8 credit is claimed under this chapter.

9 "Household use" means any use of heated water that is a
10 common use in a residential setting, including when those common
11 uses are applied in a commercial context.

12 "Renewable energy technology system" means a new system
13 that captures and converts a renewable source of energy, such as
14 [~~wind, heat (solar thermal), or light (photovoltaic) from the~~]
15 sun or wind energy, into:

16 (1) A usable source of thermal or mechanical energy;

17 (2) Electricity; or

18 (3) Fuel.

19 "Solar electric energy system" means a renewable energy
20 technology system that generates electricity from the sun's
21 energy.

1 "Solar energy system" means a renewable energy technology
2 system where the primary purpose of the system is to use energy
3 from the sun to exclusively heat water for household use.

4 [~~"Solar or wind energy system" means any identifiable~~
5 ~~facility, equipment, apparatus, or the like that converts~~
6 ~~insolation or wind energy to useful thermal or electrical energy~~
7 ~~for heating, cooling, or reducing the use of other types of~~
8 ~~energy that are dependent upon fossil fuel for their generation.~~

9 ~~(e)]~~ (d) For taxable years beginning after December 31,
10 2005, the dollar amount of any utility rebate shall be deducted
11 from the cost of the qualifying system and its installation
12 before applying the state tax credit.

13 [~~(d)]~~ (e) The director of taxation shall prepare any forms
14 that may be necessary to claim a tax credit under this section,
15 including forms identifying the technology type of each tax
16 credit claimed under this section, whether for [~~solar thermal,~~
17 ~~photovoltaic from the sun,~~] sun or wind[~~or~~] energy. The director
18 may also require the taxpayer to furnish reasonable information
19 to ascertain the validity of the claim for credit made under
20 this section and may adopt rules necessary to effectuate the
21 purposes of this section pursuant to chapter 91.

1 ~~[(e)]~~ (f) If the tax credit under this section exceeds the
2 taxpayer's income tax liability, the excess of the credit over
3 liability may be used as a credit against the taxpayer's income
4 tax liability in subsequent years until exhausted. All claims
5 for the tax credit under this section, including amended claims,
6 shall be filed on or before the end of the twelfth month
7 following the close of the taxable year for which the credit may
8 be claimed. Failure to comply with this subsection shall
9 constitute a waiver of the right to claim the credit.

10 ~~[(f) By or before December, 2005, to the extent feasible,~~
11 ~~using existing resources to assist the energy efficiency policy~~
12 ~~review and evaluation, the department shall assist with data~~
13 ~~collection on the following:~~

14 ~~(1) The number of renewable energy technology systems that~~
15 ~~have qualified for a tax credit during the past year~~
16 ~~by:~~

17 ~~(A) Technology type (solar thermal, photovoltaic from~~
18 ~~the sun, and wind); and~~

19 ~~(B) Taxpayer type (corporate and individual); and~~

20 ~~(2) The total cost of the tax credit to the State during~~
21 ~~the past year by:~~

22 ~~(A) Technology type; and~~

1 ~~(B) Taxpayer type.~~

2 ~~(g) For systems installed and placed in service in 2009,~~
3 ~~no residential home developer shall be entitled to claim the~~
4 ~~credit under subsections (a) (1) (A), (a) (2) (A), and (a) (3) (A). A~~
5 ~~residential home developer is defined as a person who holds more~~
6 ~~than one residential dwelling for sale as inventory.]~~

7 (g) No taxpayer shall be allowed a credit under this
8 section for a solar water heater system required by section
9 196-6.5 that is installed and placed in service on any newly
10 constructed residence authorized by a building permit issued on
11 or after January 1, 2010."

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect on January 1, 2090,
15 and shall apply to taxable years beginning after December 31,
16 2090.

Report Title:

Renewable Energy Technologies Income Tax Credit

Description:

Amends the renewable energy technologies income tax credit to allow special allocations of the credit in certain cases, and prevents passive activity losses from including a depreciation deduction. Provides that a taxpayer who claims the renewable energy technologies income tax credit cannot claim any other tax credit for the same actual costs for which a tax credit is claimed under the renewable energy technologies income tax credit or qualify as a qualified high technology business. Effective 01/01/90. (SD2)