

JAN 25 2010

A BILL FOR AN ACT

RELATING TO TAX CREDITS.

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

1 SECTION 1. The purpose of this measure is ensure the
2 efficient administration of Hawaii tax credits, as well as to
3 ensure budgeting certainty. This measure clarifies the ordering
4 of credit claims relative to the use of refundable and
5 nonrefundable credits. Currently, there is no statutory
6 framework for the overall use of the differing credit types.
7 Administratively, credits are claimed based upon when in time
8 the credit became law. This measure clarifies that refundable
9 credits must be used first, followed by nonrefundable credits.

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

13 "§235- Income tax credits; ordering of credit claims.
14 Notwithstanding any other law to the contrary providing for the
15 use of an income tax credit under this chapter, in the
16 offsetting of a taxpayer's income tax liability, tax credits
17 that may be refunded or paid to the taxpayer who has no income
18 tax liability shall be used first, followed by nonrefundable tax

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1 credits that may be used as credit against taxes in subsequent
2 years until exhausted."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect upon its approval
5 and apply to taxable years beginning on or after January 1,
6 2010.

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INTRODUCED BY:



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BY REQUEST

Report Title:

Income Tax Credits; Ordering of Credit Claims

Description:

Provides for the statutory ordering of income tax credits, which requires the claiming of refundable credits first, followed by nonrefundable credits.

JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO TAX CREDITS.

PURPOSE: To clarify the ordering of credit claims used to offset tax liability.

MEANS: Add a new section to chapter 235, Hawaii Revised Statutes.

JUSTIFICATION: The purpose of this measure is to ensure efficient administration of Hawaii tax credits, as well as to ensure budgeting certainty. Currently, there is no statutory ordering of the overall use of tax credits to offset tax liability. This measure will provide relief to the general fund, as well as additional certainty in terms of financial impact by requiring that refundable income tax credits must be used first to offset tax liability; followed by nonrefundable income tax credits. Though nonrefundable income tax credits may be carried forward indefinitely, the likelihood that the general fund must payout additional revenues to taxpayers in any given year beyond reducing tax liability to zero is substantially reduced.

Impact on the public: Taxpayers must use refundable credits first to offset tax liability; followed by nonrefundable credits. Credits that may be carried forward are allowed to be carried forward indefinitely. Taxpayers that have additional refundable tax credits beyond tax liability will still receive a refund. The only situation where a taxpayer will be impacted is where a taxpayer has more tax liability than refundable credit, in addition to nonrefundable credits, and must use the refundable credit first and carry forward additional nonrefundable credit indefinitely.

Impact on the department and other agencies:

The Department of Taxation will be responsible for administering the credit claims as provided in this bill. It is anticipated that the Department of Accounting and General Services will pay fewer refunds.

GENERAL FUND: Revenue gain of \$17,000,000 per year for at least two years.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: TAX-100.

OTHER AFFECTED AGENCIES: Department of Accounting and General Services; Department of Budget and Finance

EFFECTIVE DATE: Upon approval, applying to taxable years beginning on or after January 1, 2010.