
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 to read as follows:

3 "**§235-110.51 Technology infrastructure renovation tax**
4 **credit.** (a) There shall be allowed to each taxpayer subject to
5 the taxes imposed by this chapter[7] an income tax credit which
6 shall be deductible from the taxpayer's net income tax
7 liability, if any, imposed by this chapter for the taxable year
8 in which the credit is properly claimed[-]; provided that to
9 qualify for the tax credit after the effective date of this Act,
10 the taxpayer shall have increased its workforce by ten per cent
11 from what it was at the beginning of the tax year for two
12 consecutive years beginning after December 31, 2009.

13 (b) The amount of the credit shall be four per cent of the
14 renovation costs incurred during the taxable year for each
15 commercial building located in Hawaii.

16 (c) In the case of a partnership, S corporation, estate,
17 trust, or any developer of a commercial building, the tax credit
18 allowable is for renovation costs incurred by the entity for the



1 taxable year. The cost upon which the tax credit is computed
2 shall be determined at the entity level. Distribution and share
3 of credit shall be determined pursuant to section 235-110.7(a).

4 (d) If a deduction is taken under section 179 (with
5 respect to election to expense depreciable business assets) of
6 the Internal Revenue Code, no tax credit shall be allowed for
7 that portion of the renovation cost for which the deduction is
8 taken.

9 (e) The basis of eligible property for depreciation or
10 accelerated cost recovery system purposes for state income taxes
11 shall be reduced by the amount of credit allowable and claimed.
12 In the alternative, the taxpayer shall treat the amount of the
13 credit allowable and claimed as a taxable income item for the
14 taxable year in which it is properly recognized under the method
15 of accounting used to compute taxable income.

16 (f) The credit allowed under this section shall be claimed
17 against the net income tax liability for the taxable year.

18 (g) If the tax credit under this section exceeds the
19 taxpayer's income tax liability, the excess of credit over
20 liability may be carried forward until exhausted.

21 (h) If a business that received a technology
22 infrastructure renovation tax credit moves its research and



1 development, or manufacturing components out of Hawaii within
2 five years of receiving the tax credit, one hundred per cent of
3 the tax credit received under this section shall be recaptured.

4 ~~[(h)]~~ (i) The tax credit allowed under this section shall
5 not be available for taxable years beginning after December 31,
6 ~~[2010]~~ 2015.

7 ~~[(i)]~~ (j) As used in this section:

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

10 "Renovation costs" means costs incurred after December 31,
11 2000, to plan, design, install, construct, and purchase
12 technology-enabled infrastructure equipment to provide a
13 commercial building with technology-enabled infrastructure.

14 "Technology-enabled infrastructure" means:

15 (1) High speed telecommunications systems that provide
16 Internet access, direct satellite communications
17 access, and videoconferencing facilities;

18 (2) Physical security systems that identify and verify
19 valid entry to secure spaces, detect invalid entry or
20 entry attempts, and monitor activity in these spaces;



1 (3) Environmental systems to include heating, ventilation,
2 air conditioning, fire detection and suppression, and
3 other life safety systems; and

4 (4) Backup and emergency electric power systems.

5 (j) No taxpayer that claims a credit under this section
6 shall claim any other credit under this chapter."

7 SECTION 2. Section 235-110.9, Hawaii Revised Statutes, is
8 amended by amending subsection (i) to read as follows:

9 "(i) This section shall not apply to taxable years
10 beginning after December 31, [~~2010~~]2008."

11 SECTION 3. Section 235-110.91, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§235-110.91 Tax credit for research activities.** (a)
14 Section 41 (with respect to the credit for increasing research
15 activities) and [section] Section 280C(c) (with respect to
16 certain expenses for which the credit for increasing research
17 activities are allowable) of the Internal Revenue Code shall be
18 operative for the purposes of this chapter as provided in this
19 section; except that references to the base amount shall not
20 apply and credit for all qualified research expenses may be
21 taken without regard to the amount of expenses for previous
22 years. If [section] Section 41 of the Internal Revenue Code is



1 repealed or terminated prior to January 1, 2011, its provisions
2 shall remain in effect for purposes of the income tax law of the
3 State as modified by this section, as provided for in subsection
4 ~~[(j)-]~~ (k).

5 (b) All references to Internal Revenue Code sections
6 within [sections] Sections 41 and 280C(c) of the Internal
7 Revenue Code shall be operative for purposes of this section.

8 (c) There shall be allowed to each qualified high
9 technology business subject to the tax imposed by this chapter
10 an income tax credit for qualified research activities equal to
11 the credit for research activities provided by [section] Section
12 41 of the Internal Revenue Code and as modified by this section.
13 The credit shall be deductible from the taxpayer's net income
14 tax liability, if any, imposed by this chapter for the taxable
15 year in which the credit is properly claimed~~[-]~~; provided that
16 to qualify for the tax credit after the effective date of this
17 Act, the taxpayer shall have increased its workforce by ten per
18 cent from what it was at the beginning of the tax year for two
19 consecutive years beginning after December 31, 2009.

20 (d) Every qualified high technology business, before March
21 31 of each year in which qualified research and development
22 activity was conducted in the previous taxable year, shall



1 submit a written, certified statement to the director of
2 taxation identifying:

- 3 (1) Qualified expenditures, if any, expended in the
4 previous taxable year; and
- 5 (2) The amount of tax credits claimed pursuant to this
6 section, if any, in the previous taxable year.
- 7 (e) The department shall:
 - 8 (1) Maintain records of the names and addresses of the
9 taxpayers claiming the credits under this section and
10 the total amount of the qualified research and
11 development activity costs upon which the tax credit
12 is based;
 - 13 (2) Verify the nature and amount of the qualifying costs
14 or expenditures;
 - 15 (3) Total all qualifying and cumulative costs or
16 expenditures that the department certifies; and
 - 17 (4) Certify the amount of the tax credit for each taxable
18 year and cumulative amount of the tax credit.

19 Upon each determination made under this subsection, the
20 department shall issue a certificate to the taxpayer verifying
21 information submitted to the department, including the
22 qualifying costs or expenditure amounts, the credit amount



1 certified for each taxable year, and the cumulative amount of
2 the tax credit during the credit period. The taxpayer shall
3 file the certificate with the taxpayer's tax return with the
4 department.

5 The director of taxation may assess and collect a fee to
6 offset the costs of certifying tax credit claims under this
7 section. All fees collected under this section shall be
8 deposited into the tax administration special fund established
9 under section 235-20.5.

10 (f) As used in this section:

11 "Basic research" under [section] Section 41(e) of the
12 Internal Revenue Code shall not include research conducted
13 outside of the [State] state.

14 "Qualified high technology business" means the same as in
15 section 235-110.9.

16 "Qualified research" under section 41(d)(1) of the Internal
17 Revenue Code shall not include research conducted outside of the
18 State.

19 (g) If a business that received a tax credit for research
20 activities moves its research and development, or manufacturing
21 components out of the state within five years of receiving the



1 tax credit, one hundred per cent of the tax credit received
2 under this section shall be recaptured.

3 ~~[(g)]~~(h) If the tax credit for qualified research
4 activities claimed by a taxpayer exceeds the amount of income
5 tax payment due from the taxpayer, the excess of the tax credit
6 over payments due shall be refunded to the taxpayer; provided
7 that no refund on account of the tax credit allowed by this
8 section shall be made for amounts less than \$1.

9 ~~[(h)]~~(i) All claims for a tax credit under this section
10 shall be filed on or before the end of the twelfth month
11 following the close of the taxable year for which the credit may
12 be claimed. Failure to properly claim the credit shall
13 constitute a waiver of the right to claim the credit.

14 ~~[(i)]~~(j) The director of taxation may adopt any rules
15 under chapter 91 and forms necessary to carry out this section.

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

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

20 "SECTION 8. This Act shall take effect on July 1, 2007,
21 and shall apply to investments received by a qualified high
22 technology business after June 30, 2007; provided that this Act



1 shall be repealed on January 1, 2011, and [sections] section 235-
 2 20.5 [~~and 235-110.9(b)~~], Hawaii Revised Statutes, shall be
 3 reenacted in the form in which [~~they~~] it read on the day before
 4 the effective date of this Act."

SECTION 5. This Act shall take effect upon its approval.

5

INTRODUCED BY: _____

[Handwritten signatures and names follow]

[Signature]
[Signature]
[Signature]
[Signature]
 Barbara Mammoto
 John M. M...
[Signature]
 Della A. Belletti
 Karen Curran
[Signature]
 Hal Wood
 JAN 27 2009

Report Title:

High Technology Tax Credits; Extension; Recapture; Workforce

Description:

Extends the technology infrastructure renovation tax credit and the tax credit for research activities until 2015. Requires a ten per cent increase in workforce to continue claiming the research activated tax credit after two years. Provides for recapture of these tax credits if the business leaves Hawaii. Precludes claiming the high technology business investment tax credit for taxable years beginning after December 31, 2008.

