

JAN 23 2009

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 vehicle credits) of the
13 Internal Revenue Code and which have specifically been made
14 operative for purposes of this chapter. For the purpose of
15 computing the offset for rental real estate activities for state
16 income tax purposes, adjusted gross income as used in section



1 469 as operative for this chapter means federal adjusted gross
2 income."

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

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

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

11 (2) Allocations of net operating loss pursuant to section
12 235-111.5;

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

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

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

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



1 "§235-12.5 Renewable energy technologies; income tax
2 credit. (a) When the requirements of subsection [~~(e)~~] (d) are
3 met, each individual or corporate taxpayer that files an
4 individual or corporate net income tax return for a taxable year
5 may claim a tax credit under this section against the Hawaii
6 state individual or corporate net income tax. The tax credit
7 may be claimed for every eligible renewable energy technology
8 system that is installed and placed in service in the State by a
9 taxpayer during the taxable year. [~~This credit shall be~~
10 ~~available for systems installed and placed in service in the~~
11 ~~State after June 30, 2003.~~] The tax credit may be claimed as
12 follows:

- 13 ~~(1) Solar thermal energy systems for:~~
- 14 ~~(A) Single family residential property for which a~~
15 ~~building permit was issued prior to January 1,~~
16 ~~2010: thirty five per cent of the actual cost or~~
17 ~~\$2,250, whichever is less;~~
- 18 ~~(B) Multi family residential property: thirty five~~
19 ~~per cent of the actual cost or \$350 per unit,~~
20 ~~whichever is less; and~~
- 21 ~~(C) Commercial property: thirty five per cent of the~~
22 ~~actual cost or \$250,000, whichever is less;~~



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



1 (2) For each wind-powered energy system, the credit is
2 twenty per cent of the actual cost or the cap amount
3 determined in subsection (b), whichever is less;
4 provided that multiple owners of a single system shall be
5 entitled to a single tax credit; and provided further that the
6 tax credit shall be apportioned between the owners in proportion
7 to their contribution to the cost of the system.

8 In the case of a partnership, S corporation, estate, or
9 trust, the tax credit allowable is for every eligible renewable
10 energy technology system that is installed and placed in service
11 in the State by the entity. The cost upon which the tax credit
12 is computed shall be determined at the entity level.
13 Distribution and share of credit shall be determined pursuant to
14 section 235-110.7(a).

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

18 (1) If the primary purpose of the solar energy system is
19 to use energy from the sun to heat water for household
20 use, then the cap amounts shall be:

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



1 (B) \$350 per system for multi-family residential
2 property; and

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

4 (2) For all other solar energy systems, the cap amounts
5 shall be:

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

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

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

11 (3) For all wind-power energy systems, the cap amounts
12 shall be:

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

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

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

18 ~~(b)~~ (c) For the purposes of this section:

19 "Actual cost" means costs related to the renewable energy
20 technology systems under subsection (a), including accessories
21 and installation, but not including the cost of consumer
22 incentive premiums unrelated to the operation of the system or

1 offered with the sale of the system and costs for which another
2 credit is claimed under this chapter.

3 "Household use" means any use that heated water is commonly
4 put to in a residential setting, including commercial
5 application of those uses.

6 "Net income tax" means a net income tax liability arising
7 under chapter 235, chapter 241, or article 7 of chapter 431.

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

- 12 (1) A usable source of thermal or mechanical energy;
13 (2) Electricity; or
14 (3) Fuel.

15 "Solar or wind energy system" means any identifiable
16 facility, equipment, apparatus, or the like that converts
17 [~~insolation~~] sun or wind energy to useful thermal or electrical
18 energy for heating, cooling, or reducing the use of other types
19 of energy that are dependent upon fossil fuel for their
20 generation.

21 [-e)] (d) For taxable years beginning after December 31,
22 2005, the dollar amount of any utility rebate shall be deducted



1 from the cost of the qualifying system and its installation
2 before applying the state tax credit.

3 ~~[(d)]~~ (e) The director of taxation shall prepare any forms
4 that may be necessary to claim a tax credit under this section,
5 including forms identifying the technology type of each tax
6 credit claimed under this section, whether for ~~[solar thermal,~~
7 ~~photovoltaic from the sun,]~~ solar or wind. The director may
8 also require the taxpayer to furnish reasonable information to
9 ascertain the validity of the claim for credit made under this
10 section and may adopt rules necessary to effectuate the purposes
11 of this section pursuant to chapter 91.

12 ~~[(e)]~~ (f) If the tax credit under this section exceeds the
13 taxpayer's income tax liability, the excess of the credit over
14 liability may be used as a credit against the taxpayer's income
15 tax liability in subsequent years until exhausted~~[-]~~, unless
16 otherwise elected by the taxpayer pursuant to subsection (g) or
17 (h). All claims for the tax credit under this section,
18 including amended claims, shall be filed on or before the end of
19 the twelfth month following the close of the taxable year for
20 which the credit may be claimed. Failure to comply with this
21 subsection shall constitute a waiver of the right to claim the
22 credit.



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

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

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

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

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

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

14 ~~(B) Taxpayer type.~~

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

20 (g) For solar energy systems, a taxpayer may elect to
21 reduce the eligible credit amount by thirty per cent and if this
22 reduced tax credit exceeds the amount of income tax payment due

1 from the taxpayer, the excess of the credit over payments due
2 shall be refunded to the taxpayer; provided that tax credits
3 properly claimed by a taxpayer who has no income tax liability
4 shall be paid to the taxpayer; and provided further that no
5 refund on account of the tax credit allowed by this section
6 shall be made for amounts less than \$1.

7 The election required by this subsection shall be made in a
8 manner prescribed by the director on the taxpayer's return for
9 the taxable year in which the system is installed and placed in
10 service. A separate election may be made for each separate
11 system that generates a credit. An election once made is
12 irrevocable.

13 (h) For any renewable energy technology system, an
14 individual taxpayer may elect to have the excess of the credit
15 over payments due refunded to the taxpayer, if:

16 (1) All of the taxpayer's income is exempt from taxation
17 under section 235-7(a)(2), or (3); or

18 (2) The taxpayer's adjusted gross income is \$20,000 or
19 less (or \$40,000 or less if filing a tax return as
20 married filing jointly);

21 provided that tax credits properly claimed by a taxpayer who has
22 no income tax liability shall be paid to the taxpayer; and



1 provided further that no refund on account of the tax credit
2 allowed by this section shall be made for amounts less than \$1.
3 A husband and wife who do not file a joint tax return shall only
4 be entitled to make this election to the extent that they would
5 have been entitled to make the election had they filed a joint
6 tax return.

7 The election required by this subsection shall be made in a
8 manner prescribed by the director on the taxpayer's return for
9 the taxable year in which the system is installed and placed in
10 service. A separate election may be made for each separate
11 system that generates a credit. An election once made is
12 irrevocable.

13 (i) No taxpayer shall be allowed a credit under this
14 section for a solar water heater system required by section
15 196-6.5 that is installed and placed in service on any newly
16 constructed residence authorized by a building permit issued on
17 or after January 1, 2010."

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 5. This Act, upon its approval, shall apply to
21



1 taxable years beginning after December 31, 2008.

2

INTRODUCED BY: 



Report Title:

Renewable Energy Technologies Income Tax Credit

Description:

Amends the renewable energy technologies income tax credit to make the credit refundable for certain taxpayers; prohibits special allocations of the credit by pass-through entities; and prevents passive activity losses from including a depreciation deduction.

