



Hawaii Income, General Excise, and Use Tax Exemptions/Exclusions, Deductions, and Tax Credits

**Senate Committee on Ways and Means
Informational Briefing**

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Overview

- Exemptions/Exclusions
- Division of Gross Receipts (GET Only)
- Deductions
- Constitutional Limitations on State Taxation
- Tax Credits
- Lower Rates, e.g., 0.5%, 0.15%, et al.



Persons or Business Exempt ~ Special Industries ~

Taxpayers in certain industries are generally subject to special taxes in lieu of the GET and Income Tax.

- Financial Institutions (Chapter 241, HRS)
- Utilities (Chapters 239 & 240, HRS)
- Intrastate Telecommunication Companies (Chapter 239, HRS)
- Insurance Companies (Chapter 431, HRS)



Persons or Business Exempt ~ Eligible Nonprofit Organizations ~

- Generally, nonprofit organizations are not taxable; however, they are subject to certain procedural requirements and are subject to tax on certain unrelated business income (UBTI) and activities where the primary purpose is to produce income (e.g., rents, fundraising, etc.).



Income Tax Exemptions/Exclusions

- Certain Pension Income (Employer-funded)
 - Estimated revenue impact: \$50 million
 - Pensions and annuities for TY 2004: \$2.2 billion
- Items taxed by Federal but not by Hawaii: \$2.9 billion
 - Examples: Certain Pensions, Social security
- Certain military reservist pay
- Sales by fee simple owner of condo unit to condo association



Income Tax Exemptions/Exclusions

- Persons engaged in the business of motion picture and television production
- Royalties from performing arts products
- Royalties from patents or copyrights held by qualified high tech businesses
- Dividends and gain from sale of stock in qualified high tech businesses



Estimated Cost of Hawaii General Excise/Use Tax Exemptions, Deductions and Exclusions



HRS Section	Description of Exemption or Special Provision	Estimated GET at 4% (\$ Million)
237-16.8	Certain convention, conference and trade show fees paid to non-profit organizations.	2.44
237-23(7)-(10)	Certain amounts received by cooperative associations, persons with Hansen's disease, nonprofit cemeteries and nonprofit shippers, and cooperative housing associations.	3.00
237-23.5	Related entities, common paymaster exemption	11.43
237-24(1)-(7)	Insurance proceeds, gifts, tort awards, wages, alimony, and certain taxes.	255.09
237-24(1)-(3),(5)	Certain insurance proceeds and compensatory damages are taxable.	2.00
237-24(8)	Fuel taxes	6.79
237-24(9)	Liquor taxes	1.84
237-24(10)	Tobacco taxes	4.46
237-24(11)	Federal excise taxes on manufacturers (includes fuel taxes)	3.49
237-24(12)	Federal excise taxes on sugar	0.00
237-24(13)	The first \$2,000 income of a disabled individual	0.28
237-24(14)	Certain amounts received by a producer of sugarcane	0.32
237-24(15)	Payments by the State to foster parents.	1.46



HRS Section	Description of Exemption or Special Provision	Estimated GET at 4% (\$ Million)
237-24.3(1)	Certain amounts received for loading and unloading agricultural commodities.	2.25
237-24.3(2)	Sales of liquor, tobacco products, and meat and fish products for out-of-state consumption.	Included in 237-29.5
237-24.3(3)	Amounts received by the manager from an association of homeowners in reimbursement of expenses.	13.93
237-24.3(4)	Amounts received from loading or unloading ships, tugboat services, certain transport of pilots or other government officials	2.44
237-24.3(5)	Pension plan gross receipts	305.97
237-24.3(5)	Amounts earned by nonprofit administrators of a pension plan.	0.02
237-24.3(6)	Food stamp purchases	0.00
237-24.3(7)	Prescription drugs.	22.50
237-24.3(8)	Taxes on Transient accommodations.	9.55
237-24.3(9)	Amounts reimbursed to an unincorporated merchants association for reimbursement for advertising.	negligible
237-24.3(10)	Amounts received by a labor organization for real property leases to certain entities.	0.01
237-24.3(11)	Certain amounts received from foreign diplomats.	0.23
237-24.3(12)	Gross receipts from rental or leasing of aircraft or aircraft engines used for interstate transport.	23.30



HRS Section	Description of Exemption or Special Provision	Estimated GET at 4% (\$ Million)
237-24.5	Certain amounts received by an exchange.	0.00
237-24.7(1)	Amounts received by an operator from a hotel owner or from a timeshare assoc. for reimbursement of wages and salaries.	5.00
237-24.7(2)	Gross receipts from operating a county transportation system.	5.80
237-24.7(3)	Surcharge taxes on motor vehicle rentals.	1.97
237-24.7(4)	Amounts received by an operator from an orchard owner as reimbursement of wages.	0.24
237-24.7(5)	Taxes on a nursing facility.	2.57
237-24.7(6)	Insurance receipts from loss of inventory in a disaster area.	0.01
237-24.7(7)	Compensation by a nonprofit under contract with election officer.	negligible
237-24.7(8)	Certain interest paid by a trust company to a person domiciled outside of the state.	0.01
237-24.7(9)	Amounts received by a management company of an interstate telecommunications carrier as reimbursement of wages.	0.10
237-24.7(10)	Amounts received as grants under section 206M-15 (high technology loans and grants).	0.01



HRS Section	Description of Exemption or Special Provision	Estimated GET at 4% (\$ Million)
237-24.75(1)-(3)	Beverage container deposits, Tourism Authority reimbursements to an operator of the Hawaii convention center, and professional employment organization reimbursements for wages.	1.37
237-24.9	Amounts received for aircraft service and maintenance.	7.21
237-25	Sales of liquor, tobacco and other TPP to the federal government.	40.99
237-26	Scientific contracts.	4.00
237-27	Petroleum refining.	0.24
237-27.5	Air pollution control facility	3.99
237-27.6	Solid waste processing disposal facility and electric generating facility.	0.21
237-28.1	Shipbuilding and ship repair business.	2.18
237-29	Certified or approved housing projects.	8.24
237-29.5	Tangible personal property shipped out of the State.	66.23
237-29.53	Contracting and services exported out of the State.	4.23
237-29.55	Tangible personal property for resale at wholesale.	7.31
237-29.8	Call centers	0.05
Total GET at 4%, All Provisions		834.78



GET Exemptions/Exclusions

Numerous. Examples of GET Exemptions:

- Death proceeds from an insurance contract;
- Life insurance proceeds;
- Gifts;
- Personal injury damages;
- Taxes on liquor, tobacco, federal excise taxes, fuel;
- Up to \$2,000 in income for disabled;
- Sale of securities;
- Sale of land in fee simple;
- Dividends;
- Scientific contracts with the United States



GET Exemptions/Exclusions

Examples of GET Exemptions (cont'd):

- Inter-island shipping of agricultural commodities;
- Sale of liquor or food to transportation companies for consumption out of state;
- AOAOs as reimbursement of common expenses;
- Shipbuilding and repair of surface vessels;
- Loading ships or barges in certain circumstances;
- Prescription drugs and prosthetic devices;
- Purchases with food stamps or WIC purchases;
- Sales of exported property, services, or contracting;



GET Exemptions/Exclusions

Examples of GET Exemptions (cont'd):

- Aircraft services maintenance facilities;
- Purchases by diplomats and consular officials;
- Aircraft and aircraft engine leasing;
- Beverage container deposits
- Amounts received by PEOs as client company disbursements of wages or benefits.
- Casual sales



Use Tax Exemptions/Exclusions

- The Use tax is a complementary tax to the general excise tax levied on gross income derived from business activity in Hawaii, and thereby to level the playing field for our local vendors. Use tax applies to goods (i.e., TPP), services, and contracting.
- HRS § 238-13 provides further complementary treatment by allowing the same exemptions provided under the GET law to be applicable under the Use Tax law so long as it doesn't conflict with any specific Use Tax provisions.



Use Tax Exemptions/Exclusions

Sales at the Retail Rate

- Sales that are exempt at the retail rate, generally are not exempt on the importation of the goods or services unless specifically exempted under the Use Tax Law.
 - Example:
 - When a business imports property and sells it to the federal government, the business is subject to the Use Tax at the wholesale rate of 0.5%.
 - This complements the wholesale transaction from a local wholesaler to a retailer that is taxable at 0.5% and not exempt under § 237-25.



Use Tax Exemptions/Exclusions

Use Tax Specific Exemptions

- Newspapers or Magazines
- Personal Goods aka Household Goods
- Temporary Use Property
- Trial Use Property
- Ship Stores



Division of Gross Receipts

- The GET is generally imposed at each step in the production process.
- By the time finished goods and services are sold to an ultimate consumer, the price of the goods and services may contain several layers of tax ("Pyramiding").
 - While pyramiding is still the general rule, a certain level of de-pyramiding was enacted in 1999 (Acts 70-71)
- Hawaii tax law expressly allows the division of gross receipts among the taxpayers in certain limited circumstances.



Division of Gross Receipts

Examples of the division of gross receipts in certain limited circumstances include:

- Coin operated devices HRS §237-18(a)
- Contractors & subcontractors HRS §237-13(3)(B)
- Non-employee Insurance Agents & Realtors HRS §237-18(e)
- Producers and Promoters HRS §237-18(b)
- Tour packagers and tourism related services HRS §237-18(f) and (g)
- Transportation of passengers or property through an arrangement between motor carriers HRS §237-18(h)



Income Tax Deductions

- Dividends Received Deduction for Corporations
- Net operating loss deduction
- Tax-exempt bond interest
- Uninsured disaster losses
- Political contributions



General Excise Tax Deductions

- Subcontract Deduction
- Sublease Deduction



Constitutional Limitations on State Taxation

Proceeds from interstate and foreign commerce are exempt from the Income, GET and Use Tax to the extent required by the U.S. Constitution and federal laws.



Constitutional Limitations on State Taxation

- Commerce Clause and Due Process Clause of U.S. Constitution
- No undue burden on interstate commerce
 - Nonresidents cannot be treated less favorably than residents
- No multiple taxation
 - Usually solved through apportionment or granting a credit for taxes paid to another state



Constitutional Limitations on State Taxation

■ Nexus Requirement

Taxpayer must have some connection to the taxing state



Hawaii Tax Credits



Hawaii Tax Credits

Two Main Categories

- **Social** tax credits
- **Economic incentive** tax credits



Refundable vs. Non-Refundable

Refundable Credit

- ❏ A taxpayer need **not** have any **tax liability** in the year the credit is claimed.
- ❏ The state will **refund** the amount of the credit that remains after the credit has been applied against any outstanding tax liability of the taxpayer.

Non-Refundable Credit

- ❏ A taxpayer **must** have a **tax liability** against which to apply the investment credit.
- ❏ If the taxpayer has no tax liability for the particular year, the credit amount claimed in that year may be **carried forward** to a future year in which the taxpayer does have a tax liability.



Figure 1. Number of Tax Credits Available (1970, 1996 - 2008)

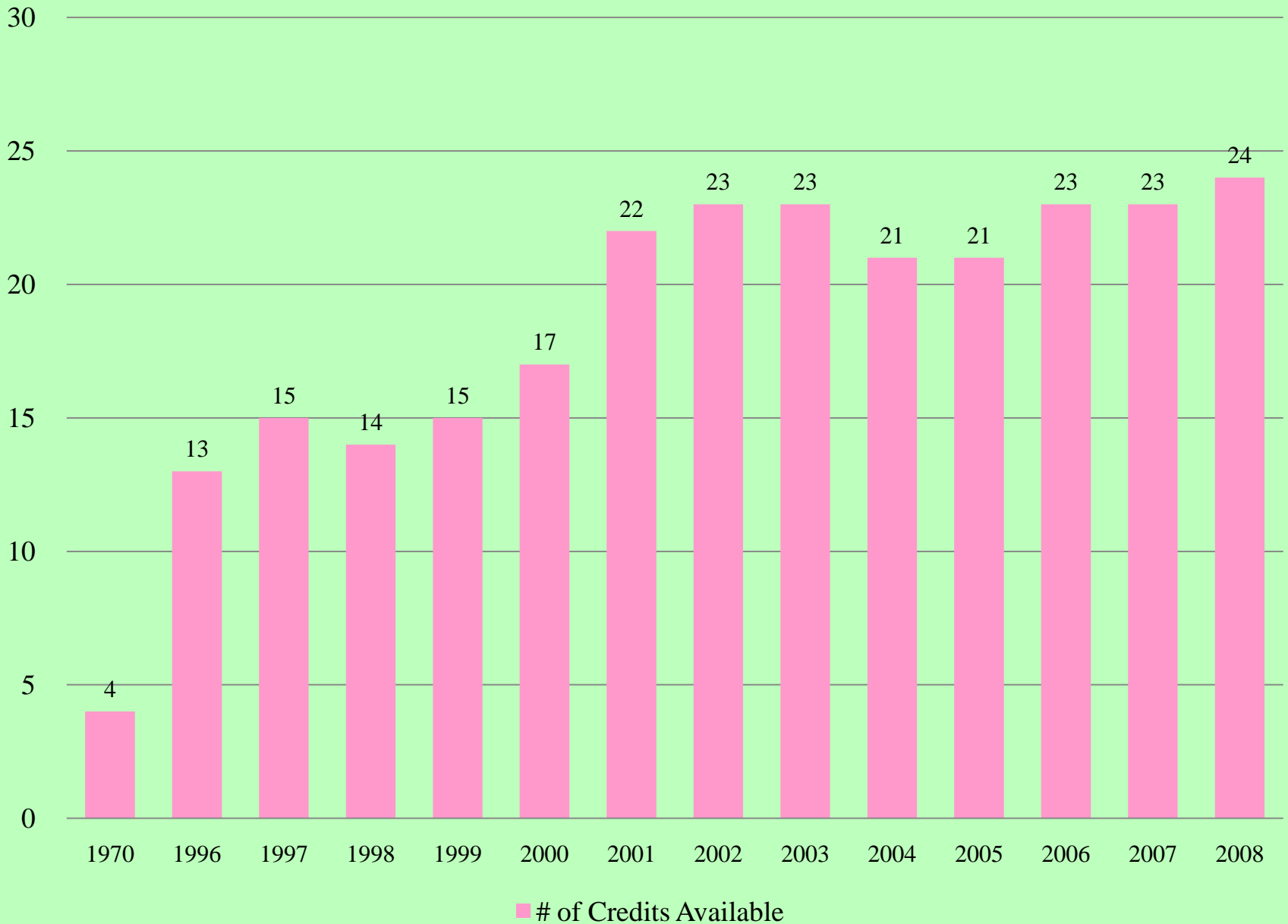
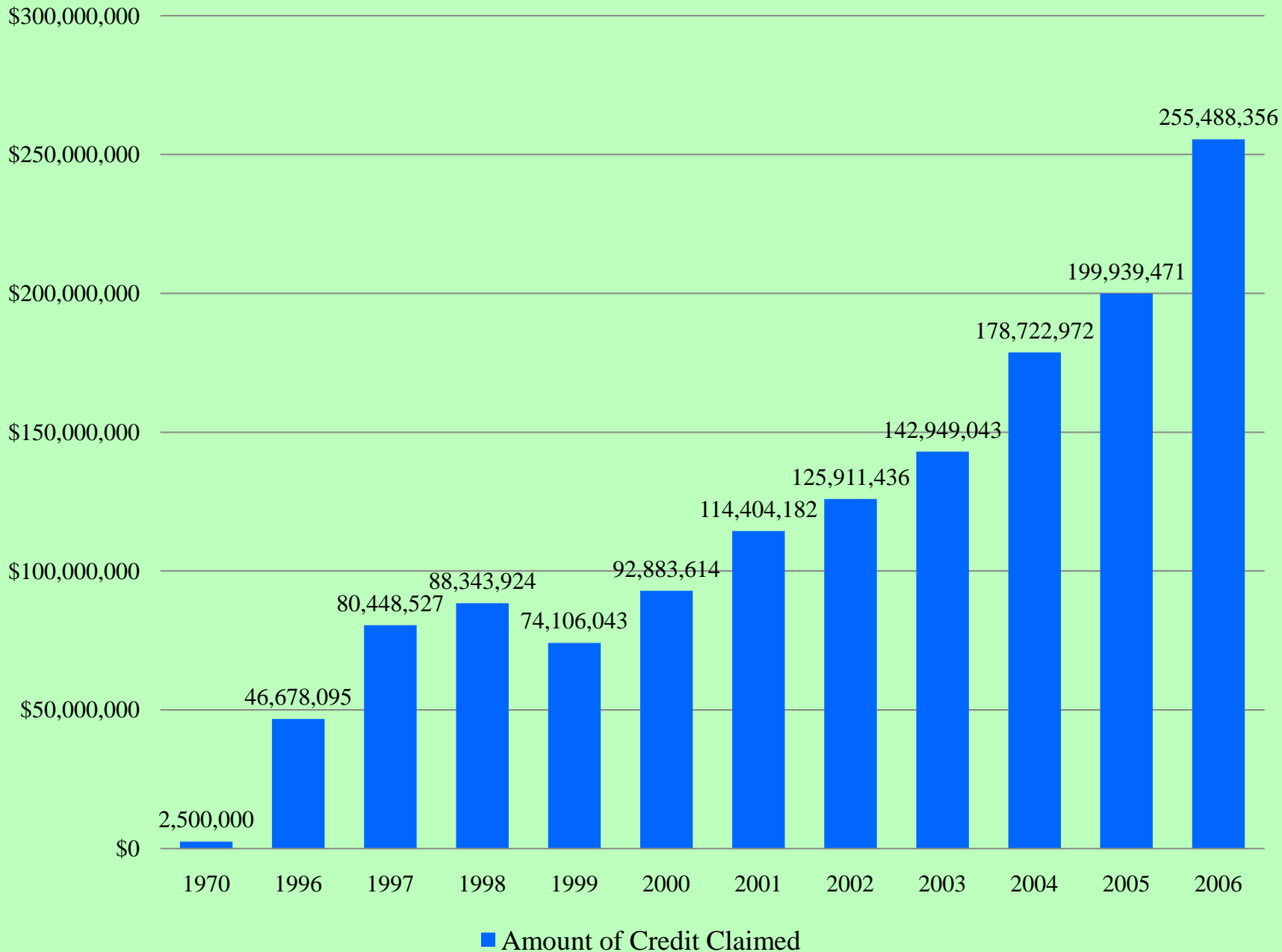




Figure 2. Amount of Tax Credits Claimed (1970, 1996 - 2006)





SOCIAL CREDITS

No.	Credit	Effective Date	Sunset Date	Tax Credits Claimed for TY 2004 (\$million)	Tax Credits Claimed for TY 2006 (\$million)
Non-Refundable Tax Credits					
1	Credit for Income Tax Paid to Another State or Foreign Country (Constitutionally required credit)	1957	n/a	\$28.25	\$44.35
2	Child Passenger Restraint System Tax Credit	1/1/1982	n/a	\$0.11	\$0.14
3	Lifeline Telephone Service Tax Credit	1/1/1986	n/a	\$0.14	\$0.11
4	Low-Income Housing Tax Credit	1/1/1988	n/a	\$2.19	\$6.51
5	Employment of Vocational Rehabilitation Referrals Tax Credit	1/1/1990	n/a	\$0.03	\$0.02
6	Individual Development Account Contribution Tax Credit	1/1/2000	12/31/2004	\$0.00	\$0.01
7	Credit for School Repair and Maintenance	1/1/2001	n/a	\$0.01	\$0.01
8	Flood Victims Tax Credits	Applicable to TYs beginning after 12/31/2003 and ending before 1/1/2007	12/31/2007	n/a	\$0.15
Subtotal				\$30.73	\$51.29



No.	Credit	Effective Date	Sunset Date	Tax Credits Claimed for TY 2004 (\$million)	Tax Credits Claimed for TY 2006 (\$million)
Refundable Tax Credits					
1	Low-Income Household Renter's Credit	1/1/1977	n/a	\$6.21	\$5.29
2	Child & Dependent Care Credit	1/1/1977	n/a	\$8.56	\$8.87
3	Low-Income Refundable	1/1/1999	Became refundable food/excise tax credit beginning with TYs after 12/31/2007	\$8.12	\$7.37
4	Food/Excise Tax Credit (Replaced Low-Income Refundable Credit)	1/1/2008	n/a	\$0.00	n/a
Subtotal				\$22.89	\$21.53
TOTAL SOCIAL CREDITS				\$53.62	\$72.82



No.	Credit	Effective Date	Sunset Date	Tax Credits Claimed for TY 2004 (\$million)	Tax Credits Claimed for TY 2006 (\$million)
Non-Refundable Tax Credits					
1	Energy Conservation Credit	1/1/1975	No systems qualify after 6/30/2003	\$11.52	\$0.41
2	Enterprise Zone Tax Credit	1986	n/a	\$1.16	\$1.53
3	High Technology Business Investment Tax Credit	1/1/1999	12/31/2010	\$50.54	\$105.41
4	Hotel Remodeling Credit (10% Nonrefundable)	2001 (but only for costs incurred after 11/02/2001 and before 7/1/2003)	n/a	\$5.68	\$0.49
5	Residential Remodeling Credit	Costs incurred from 1/1/2001 - 6/30/2003	6/30/2003	\$5.05	\$7.87
6	Technology Infrastructure Renovation Tax Credit	1/1/2001	12/31/2010	\$0.31	\$0.03
7	Renewable Energy Technologies Income Tax Credit	Available for systems installed and placed in service after 6/30/2003	n/a	\$2.22	\$6.18
8	Ko Olina Resort & Marina Attractions and Educational Facilities Tax Credit	1/1/2005	No costs incurred after 5/31/2009 qualify	\$0.00	\$3.45
Subtotal				\$76.48	\$125.37



No.	Credit	Effective Date	Sunset Date	Tax Credits Claimed for TY 2004 (\$million)	Tax Credits Claimed for TY 2006 (\$million)
Refundable Tax Credits					
1	Fuel Tax Credit for Commercial Fishers	1/1/1981	n/a	\$0.06	\$0.06
2	Capital Goods Excise Tax Credit	1/1/1988	n/a	\$27.84	\$34.33
3	Hotel Remodeling Credit (4% Refundable)	1/1/1999	12/31/2005	\$7.06	\$0.11
4	Motion Picture & Television Film Production Tax Credit	1/1/1997	Act 88, SLH 2006 shall be repealed on 1/1/2016. Revert back to HRS §235-17 prior to Act 88	\$0.75	\$7.28
5	Tax Credit for Research Activities	1/1/2000	12/31/2010	\$12.20	\$14.38
6	Ethanol Facilities Tax Credit	1/1/2002	n/a	\$0.00	\$0.00
7	Important Agricultural Land	TYs beginning after Ko'Olina tax credit is repealed, exhausted, or expired	No credits will be certified after the 4th TY following the TY which credits are 1st claimed	n/a	n/a
8	Other Refundable Credits	7/1/2008	n/a	\$0.70	\$1.12
Subtotal				\$48.61	\$57.28
TOTAL ECONOMIC INCENTIVE CREDITS				\$125.09	\$182.65
TOTAL CREDITS				\$178.71	\$255.47



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