
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 PART I

2 SECTION 1. The purpose of this Act is to make various
3 amendments to tax laws.

4 Part II establishes an excise tax on direct broadcast
5 satellite service providers.

6 Part III modifies the renewable energy technologies income
7 tax credit by:

- 8 (1) Requiring a renewable energy technology system to be
9 placed in service prior to January 1, 2015, to be
10 eligible for the tax credit;
- 11 (2) Providing that tax credits claimed during the 2012
12 taxable year will be paid out beginning July 1, 2013;
13 and
- 14 (3) Requiring the department of business, economic
15 development, and tourism to complete an assessment by
16 October 1, 2013, on the efficacy and ongoing need for
17 the tax credit after December 31, 2014.



1 Part IV repeals the income tax exemption for income derived
2 from stock options or stocks from a qualified high technology
3 business.

4 PART II

5 SECTION 2. The purpose of this part is to establish an
6 excise tax on direct broadcast satellite service providers.

7 SECTION 3. The Hawaii Revised Statutes is amended by
8 adding a new chapter to be appropriately designated and to read
9 as follows:

10 **"CHAPTER**
11 **EXCISE TAX ON DIRECT BROADCAST SATELLITE SERVICE PROVIDERS**

12 **§ -1 Definitions.** For the purposes of this chapter:

13 "Department" means the department of taxation.

14 "Direct broadcast satellite service" means the distribution
15 or broadcasting of video programming or services by satellite
16 directly to a subscriber's or paying customer's receiving
17 equipment.

18 "Gross revenue":

19 (1) Means revenues derived from supplying of regular
20 subscriber direct broadcast satellite service and
21 includes installation fees, disconnect and reconnect



1 fees, and fees for regular direct broadcast satellite
2 service benefits;

3 (2) But does not include per-program or per-channel
4 charges, leased channel revenues, advertising
5 revenues, and other income not derived from the
6 supplying of regular subscriber direct broadcast
7 satellite service.

8 "Provider" means a provider of direct broadcast satellite
9 service.

10 § -2 **Imposition of tax.** (a) There is hereby levied and
11 shall be assessed and collected annually privilege taxes against
12 providers on account of their business and other activities in
13 the State measured by gross revenue derived from the sale of
14 direct broadcast satellite services, multiplied by four per
15 cent.

16 (b) The tax imposed by subsection (a) shall not apply to
17 internet access services, including services purchased, used, or
18 sold to provide direct broadcast satellite services.

19 § -3 **Remittance.** The tax imposed by this chapter is due
20 and payable to the department on or before the last day of the
21 first month following the end of each calendar quarter.



1 **§ -4 Report.** (a) A provider subject to the tax imposed
2 by this chapter shall file a report with the department on a
3 form prescribed by the department. The report is due on the
4 date the tax is due under section -3.

5 (b) The report shall include a statement of the gross
6 revenues received from the provision of direct broadcast
7 satellite services and tax due during the preceding quarterly
8 period and any other information required by the department.

9 **§ -5 Records.** (a) A provider subject to the tax
10 imposed by this chapter shall maintain the necessary records and
11 any other information required by the department to determine
12 the amounts of the tax that the provider is required to remit
13 and any credit that the provider is entitled to claim under this
14 chapter.

15 (b) The records shall be open at all times to inspection
16 by the department.

17 **§ -6 Information shown on subscriber bill.** A provider
18 may show, as a separate line item on each bill for each
19 subscriber, the amount of the total bill resulting from any tax
20 imposed under this chapter.

21 **§ -7 Rules.** The department may adopt rules under
22 chapter 91 necessary to enforce this chapter.



1 § -8 Allocation of revenue. The revenue from the tax
2 imposed by this chapter shall be deposited to the credit of the
3 general fund."

4 PART III

5 SECTION 4. The legislature supports the use of renewable
6 energy technologies and understands the need to encourage
7 greater use of renewable energy technology systems. In 2003, an
8 income tax credit was established to offset the cost of
9 installing and placing renewable energy technology systems into
10 service in Hawaii. The credit has been successful in helping
11 encourage the adoption of renewable technologies and in helping
12 establish an important new leg of the State's
13 economy. Nonetheless, as with all measures intended to help
14 support a nascent industry to achieve scale and become self-
15 sustaining, the legislature is concerned that the incentive
16 provided by section 235-12.5, Hawaii Revised Statutes, will
17 remain in place after the industries it supports no longer
18 require it for financial viability.

19 To send a clear signal to the industry about the State's
20 commitment to these industries and about the State's concern
21 over their longer-term need to be self-sustaining while also
22 addressing challenges facing the State during the current fiscal



1 biennium, this part establishes provisions to evaluate and
2 adjust these credits.

3 Accordingly, the purpose of this part is to:

- 4 (1) Require a renewable energy technology system to be
5 placed in service prior to January 1, 2015, to be
6 eligible for the tax credit;
- 7 (2) Provide that tax credits claimed during the 2012
8 taxable year shall be paid out beginning July 1, 2013;
9 and
- 10 (3) Conduct an evaluation of the effectiveness and ongoing
11 need for the credit beyond December 31, 2014.

12 SECTION 5. Section 235-12.5, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By amending subsection (a) to read:

15 "(a) When the requirements of subsection (d) are met, each
16 individual or corporate taxpayer that files an individual or
17 corporate net income tax return for a taxable year may claim a
18 tax credit under this section against the Hawaii state
19 individual or corporate net income tax. The tax credit may be
20 claimed for every eligible renewable energy technology system
21 that is installed and placed in service in the State by a



1 taxpayer during the taxable year. The tax credit may be claimed
2 as follows:

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

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

9 provided that refundable credits claimed during the 2012 taxable
10 year shall be paid beginning July 1, 2013; provided further that
11 multiple owners of a single system shall be entitled to a single
12 tax credit; and provided further that the tax credit shall be
13 apportioned between the owners in proportion to their
14 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 to
21 section 235-110.7(a)."

22 2. By amending subsection (j) to read:



1 "(j) To the extent feasible, using existing resources [~~to~~
2 ~~assist the energy efficiency policy review and evaluation~~], the
3 department of business, economic development, and tourism shall
4 [~~assist with data collection on the following for each taxable~~
5 ~~year:~~

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

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

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

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

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

14 ~~(B) Taxpayer type.]~~

15 complete an assessment, by October 1, 2013, of the impact of the
16 tax credit on the State's energy sector for the period 2003-2013
17 and of the continued need for the tax credit after December 31,
18 2014. In conducting the study, the department shall report on:

19 (1) The total number of systems claiming the tax credit by
20 year and technology;

21 (2) Total megawatts generated or offset by systems
22 claiming the tax credit by year and technology;



1 (3) Total reduction in barrels of oil imported as a result
2 of the deployment of renewable energy technology
3 systems claiming the tax credit by year and
4 technology;

5 (4) Dollar value of savings resulting from reduced oil
6 exports by year and technology;

7 (5) Trends in the cost of electricity provided by the
8 State's electric utilities, fuel oil, biofuels used in
9 the State for electricity production, and the
10 installed cost of renewable energy technology systems
11 that qualify for the tax credit; and

12 (6) Its recommendations regarding the continued need for
13 the tax credit in light of the costs and benefits it
14 brings to the State."

15 3. By amending subsection (k) to read:

16 "(k) This section shall apply to eligible renewable energy
17 technology systems that are installed and placed in service on
18 or after July 1, 2009[-], but before January 1, 2015."

19 PART IV

20 SECTION 6. The purpose of this part is to repeal the
21 income tax exemption for income derived from stock options or
22 stocks from a qualified high technology business.

1 The legislature finds that the State can no longer afford
2 the cost of this tax exemption.

3 SECTION 7. Section 235-9.5, Hawaii Revised Statutes, is
4 repealed.

5 [~~"§235-9.5 Stock options from qualified high technology~~
6 ~~businesses excluded from taxation.~~ (a) ~~Notwithstanding any law~~
7 ~~to the contrary, all income earned and proceeds derived from~~
8 ~~stock options or stock, including stock issued through the~~
9 ~~exercise of stock options or warrants, from a qualified high~~
10 ~~technology business or from a holding company of a qualified~~
11 ~~high technology business by an employee, officer, or director of~~
12 ~~the qualified high technology business, or investor who~~
13 ~~qualifies for the credit under section 235-110.9, that would~~
14 ~~otherwise be taxed as ordinary income or as capital gains to~~
15 ~~those persons shall be excluded from taxation under this~~
16 ~~chapter.~~

17 ~~Similar provisions shall apply to options to acquire equity~~
18 ~~interests and to equity interests themselves with regard to~~
19 ~~entities other than corporations.~~

20 ~~(b) For the purposes of this section:~~

21 ~~"Holding company of a qualified high technology business"~~
22 ~~means any business entity that possesses:~~



- 1 ~~(1) At least eighty per cent of the total voting power of~~
2 ~~the stock or other interest; and~~
- 3 ~~(2) At least eighty per cent of the total value of the~~
4 ~~stock or other interest;~~
- 5 ~~in the qualified high technology business.~~

6 ~~"Income earned and proceeds derived from stock options or~~
7 ~~stock" includes income from:~~

- 8 ~~(1) Dividends from stock or stock received through the~~
9 ~~exercise of stock options or warrants;~~
- 10 ~~(2) The receipt or the exercise of stock options or~~
11 ~~warrants; or~~
- 12 ~~(3) The sale of stock options or stock, including stock~~
13 ~~issued through the exercise of stock options or~~
14 ~~warrants.~~

15 ~~"Qualified high technology business" means the same as~~
16 ~~defined in section 235-7.3."]~~

17 PART V

18 SECTION 8. If any provision of this Act, or the
19 application thereof to any person or circumstance is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the Act, which can be given effect without the



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 9. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 10. This Act shall take effect on July 1, 2011;
6 provided that parts III and IV shall apply to taxable years
7 beginning after December 31, 2010.



Report Title:

Taxation; Omnibus

Description:

Establishes an excise tax on direct broadcast satellite service providers. Modifies the renewable energy technologies income tax credit. Repeals the income tax exemption for stocks and stock options from a qualified high technology business. (HD1 Proposed)

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