
A BILL FOR AN ACT

RELATING TO DIGITAL MEDIA INFRASTRUCTURE.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
4 "§235- Media infrastructure project tax credit. (a) In
5 addition to the credits described in section 235-17, beginning
6 on or after July 1, 2013, and ending prior to January 1, 2016,
7 there shall be allowed to each taxpayer subject to the taxes
8 imposed by this chapter, a media infrastructure project tax
9 credit that shall be deductible from the taxpayer's net income
10 tax liability, if any, imposed by this chapter for the taxable
11 year in which the credit is properly claimed. The amount of the
12 credit shall be equal to per cent of the qualified costs
13 incurred for qualified media infrastructure projects situated in
14 West Oahu or on the most populous island in a county with a
15 population between one hundred thousand and one hundred seventy-
16 five thousand.



1 For the purposes of this section, "net income tax
2 liability" means net income tax liability reduced by all other
3 credits allowed under this chapter.

4 In the case of a partnership, S corporation, estate, or
5 trust, the tax credit allowable is for qualified production
6 costs incurred by the entity for the taxable year. The cost
7 upon which the tax credit is computed shall be determined at the
8 entity level. Distribution and share of credit shall be
9 determined by rule.

10 The basis for eligible property for depreciation of
11 accelerated cost recovery system purposes for state income taxes
12 shall be reduced by the amount of credit allowable and claimed.

13 (b) The following shall apply to the qualified media
14 infrastructure project tax credit described in subsection (a):

15 (1) The base investment for a qualified media
16 infrastructure project shall be in excess of
17 \$ _____;

18 (2) The qualified media infrastructure project tax credit
19 shall be nonrefundable. The portion of the tax credit
20 that exceeds the tax liability of the taxpayer for the
21 tax year in which the credit was earned may be carried
22 forward to offset net income tax liability in



1 subsequent tax years for a period not to exceed ten
2 taxable years or until exhausted, whichever occurs
3 first. The director of taxation may require the tax
4 credit to be taken in the tax period in which the
5 credit is earned or may structure the tax credit to
6 provide that only a portion of the tax credit be taken
7 over the course of two or more years;

8 (3) The total qualified media infrastructure project tax
9 credit allowed for any state-certified infrastructure
10 project shall not exceed \$ _____ ;

11 (4) If all or a portion of an infrastructure project is a
12 facility that may be used for other purposes unrelated
13 to production or post-production activities, then the
14 project shall be approved only if a determination is
15 made that the multiple-use facility will support and
16 will be necessary to secure production or post-
17 production activity for the production and post-
18 production facility and the applicant provides
19 sufficient contractual assurances that the facility
20 will be used as a state-of-the-art production or post-
21 production facility, or as a support and component
22 thereof, for the useful life of the facility; provided



1 that no tax credits described in subsection (a) shall
2 be earned on a multiple-use facility until the
3 production or post-production facility is complete;

4 (5) Tax credits for qualified media infrastructure
5 projects shall be earned only as follows:

6 (A) Construction of the infrastructure project shall
7 begin within six months of the initial
8 certification and shall be per cent complete
9 within a -year time frame;

10 (B) Expenditures shall be certified by the department
11 of business, economic development, and tourism,
12 and credits shall not be earned until that
13 certification is made; and

14 (C) For purposes of allowing tax credits against
15 state income tax liability, the tax credits shall
16 be deemed earned at the time the expenditures are
17 made; provided that all requirements of this
18 subsection have been met and the tax credits have
19 been certified;

20 (6) For state-certified infrastructure projects, an
21 application for a qualified media infrastructure
22 project tax credit shall be submitted to the



1 department of business, economic development, and
2 tourism, which shall include:

3 (A) A detailed description of the infrastructure
4 project;

5 (B) A preliminary budget;

6 (C) A complete detailed business plan and market
7 analysis;

8 (D) Estimated start and completion dates;

9 (E) A letter issued by the mayor and council of the
10 county in which the infrastructure project is to
11 be located indicating that the project has been
12 approved; and

13 (F) If the application is incomplete, additional
14 information may be requested prior to further
15 action by the department of business, economic
16 development, and tourism;

17 (7) An application fee shall be submitted with the
18 application for a qualified media infrastructure
19 project tax credit. The amount of the fee shall be
20 equal to _____ per cent of the estimated total incentive
21 tax credits; provided that the minimum application fee



1 shall be \$ _____ and the maximum application fee
2 shall be \$ _____ ; and

3 (8) Prior to any final certification of a tax credit for a
4 state-certified media infrastructure project, the
5 applicant for the qualified media infrastructure
6 project tax credit shall submit to the department of
7 business, economic development, and tourism an audit
8 of the expenditures that is performed and certified by
9 an independent certified public accountant pursuant to
10 rule. Upon approval of the audit, the department of
11 business, economic development, and tourism shall
12 issue a final tax credit certification letter
13 indicating the amount of the tax credit certified for
14 the state-certified infrastructure project to the
15 taxpayer and investors. Bank loan finance fees
16 applicable to the qualified media infrastructure
17 project expenditures, as certified by the department
18 of business, economic development, and tourism, and
19 any general excise taxes that have been paid on the
20 bank loan finance fees and remitted to the State shall
21 be considered as a qualifying expense for the purpose
22 of the tax credit. The taxpayer for each qualified

1 media infrastructure project shall file the letter
2 with the taxpayer's tax return for the qualified media
3 infrastructure project to the department of taxation.
4 Notwithstanding the authority of the department of
5 business, economic development, and tourism under this
6 section, the director of taxation may audit and adjust
7 the tax credit amount to conform to the information
8 filed by the taxpayer.

9 (c) Any taxpayer eligible to claim a tax credit under
10 subsection (a) shall:

11 (1) File an annual progress report with the department of
12 business, economic development, and tourism on a
13 calendar basis, which shall include the following
14 information:

15 (A) Percentage of completion of each qualified media
16 infrastructure project;

17 (B) Amount of moneys expended on, and amount
18 remaining to complete, each qualified media
19 infrastructure project; and

20 (C) Tax and labor clearances;

21 (2) Deliver to the department of business, economic
22 development, and tourism a performance bond, in a form



1 prescribed by the department of business, economic
2 development, and tourism by rule, executed by a surety
3 company authorized to do business in this State or
4 otherwise secured in a manner satisfactory to the
5 department of business, economic development, and
6 tourism, in an amount equal to _____ per cent of total
7 projected expenditures determined upon initial
8 certification; and

9 (3) Provide either of the following:

10 (A) Pledge of a lien on the qualified media
11 infrastructure project in favor of the State in
12 the amount of \$ _____ ; provided that the lien
13 shall expire five years after completion of the
14 project; or

15 (B) Collateral security in the amount of \$ _____ ;
16 provided that the collateral security shall be
17 released five years after completion of the
18 qualified media infrastructure project.

19 (d) Any taxpayer eligible to claim a qualified media
20 infrastructure project tax credit under subsection (a) shall
21 file with the department of business, economic development, and
22 tourism an annual report no later than March 1 following each



1 taxable year for which the credit is claimed. The report shall
2 include the following information:

- 3 (1) The amount of general excise tax paid under chapter
4 237;
- 5 (2) The amount of transient accommodations tax paid under
6 chapter 237D;
- 7 (3) The amount of tax credits claimed under this section;
- 8 (4) Gross proceeds of each project;
- 9 (5) Number of full-time employees employed on each
10 qualified media infrastructure project;
- 11 (6) Number of part-time employees employed on each
12 qualified media infrastructure project;
- 13 (7) Number of independent contractors contracted to work
14 on each qualified media infrastructure project;
- 15 (8) Amount disbursed as payroll in the State on each
16 qualified media infrastructure project; and
- 17 (9) List of job classifications with average wage level.

18 (e) For purposes of this section:

19 "Production" and "post-production" shall have the same
20 meaning as in section 235-17.

21 "Qualified media infrastructure project" means the
22 development, construction, renovation, or operation of a film,



1 video, television, or media production or post-production
2 facility and the immovable property and equipment related
3 thereto, or any other facility that supports and is a necessary
4 component of the proposed infrastructure project, that is
5 located in the State; provided that the facility may include a
6 movie theater or other commercial exhibition facility to assist
7 in offsetting operating costs of the production or post-
8 production facility, but shall not include a facility used to
9 produce pornographic matter or a pornographic performance.

10 (f) A taxpayer shall not be prohibited from claiming the
11 media infrastructure project tax credit for qualifying
12 investments made prior to the reenactment of section 235-17
13 pursuant to section 4 of Act 88, Session Laws of Hawaii 2006.

14 A taxpayer may claim the media infrastructure project tax
15 credit for investments made on a qualified media infrastructure
16 project prior to January 1, 2016; provided that:

17 (1) Construction of the media infrastructure project shall
18 commence prior to January 1, 2016; and

19 (2) The claim for the media infrastructure project tax
20 credit shall be properly filed on or before the end of
21 the twelfth month following the close of the taxable
22 year for which the tax credit may be claimed.



1 Failure to comply with either of the foregoing provisions shall
2 constitute a waiver of the right to claim the tax credit.

3 (g) If at the close of any taxable year:

4 (1) The qualified media infrastructure project no longer
5 qualifies for the tax credit established under this
6 section;

7 (2) The qualified media infrastructure project or an
8 interest in the qualified media infrastructure project
9 has been sold by the taxpayer making a base investment
10 in the qualified media infrastructure project; or

11 (3) The taxpayer has withdrawn the taxpayer's base
12 investment wholly or partially from the qualified
13 media infrastructure project,

14 the tax credit claimed under this section shall be recaptured.

15 The recapture shall be equal to per cent of the amount
16 of the total tax credit claimed under this section in the
17 preceding five taxable years. The amount of the tax credit
18 recaptured shall apply only to the investment in the particular
19 qualified media infrastructure project that meets the conditions
20 of paragraph (1), (2), or (3). The amount of the recaptured tax
21 credit determined under this subsection shall be added to the



1 taxpayer's tax liability for the taxable year in which the
2 recapture occurs under this subsection.

3 (h) Failure to complete a qualified media infrastructure
4 project for which a tax credit is claimed under subsection (a)
5 within five years of initial certification shall result in
6 ineligibility to claim the tax credit."

7 SECTION 2. The department of taxation shall submit an
8 annual report to the legislature twenty days prior to each
9 regular session beginning with the 2014 regular session. The
10 report shall contain a cost benefit analysis of the tax credit
11 established in this Act.

12 The department of taxation shall report the data collected
13 under this section along with a cumulative total of tax credits
14 granted for each qualified media infrastructure project.

15 SECTION 3. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on January 20, 2050,
17 and apply to taxable years beginning after December 31, 2012.



Report Title:

Media Infrastructure Project Tax Credit

Description:

Establishes a media infrastructure project tax credit for qualified media infrastructure projects in West Oahu or on the most populous island in a county with a population between 100,000 and 175,000. Provides for recapture of the media infrastructure project tax credit in certain circumstances. Requires annual report to Legislature. Effective January 20, 2050. (SB750 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

