

JAN 24 2013

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# A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY TECHNOLOGIES INCOME TAX CREDIT.

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

1 SECTION 1. Section 235-12.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

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

13 (1) For ~~[each]~~ solar energy ~~[system:]~~ property, the  
14 primary purpose of which is to heat water for  
15 household use: [thirty-five] fifteen per cent of the  
16 ~~[actual cost the cap amount determined in subsection~~  
17 ~~(b), whichever is less;]~~ qualified renewable energy  
18 technology expenditure; or

1        (2) For all other solar energy property: fifteen per cent  
2        of the qualified renewable energy technology  
3        expenditure; or  
4        [~~(2)~~] (3) For [each wind-powered] wind energy [system:]  
5        property: [twenty] fifteen per cent of the [actual  
6        cost or the cap amount determined in subsection (b),  
7        whichever is less;] qualified renewable energy  
8        technology expenditure;  
9        provided that multiple owners of [~~a single system~~] renewable  
10       energy technology property shall be entitled to a single tax  
11       credit; and provided further that the tax credit shall be  
12       apportioned between the owners in proportion to their  
13       contribution to the [~~cost~~] qualified renewable energy technology  
14       expenditure of the [system.] renewable energy technology  
15       property.

16       In the case of a partnership, S corporation, estate, or  
17       trust, the tax credit allowable is for [~~every~~] eligible  
18       renewable energy technology [~~system~~] property that is installed  
19       and placed in service in the State by the entity. The [~~cost~~]  
20       qualified renewable energy technology expenditure upon which the  
21       tax credit is computed shall be determined at the entity level.  
22       Distribution and share of credit shall be determined pursuant to  
23       section 235-110.7(a).

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1           ~~[(b) The amount of credit allowed for each eligible~~  
2 ~~renewable energy technology system shall not exceed the~~  
3 ~~applicable cap amount, which is determined as follows:~~

4           ~~(1) If the primary purpose of the solar energy system is~~  
5           ~~to use energy from the sun to heat water for household~~  
6           ~~use, then the cap amounts shall be:~~

7           ~~(A) \$2,250 per system for single family residential~~  
8           ~~property;~~

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

11           ~~(C) \$250,000 per system for commercial property;~~

12           ~~(2) For all other solar energy systems, the cap amounts~~  
13           ~~shall be:~~

14           ~~(A) \$5,000 per system for single-family residential~~  
15           ~~property; provided that if all or a portion of the~~  
16           ~~system is used to fulfill the substitute renewable~~  
17           ~~energy technology requirement pursuant to section 196-~~  
18           ~~6.5(a)(3), the credit shall be reduced by thirty-five~~  
19           ~~per cent of the actual system cost or \$2,250,~~  
20           ~~whichever is less;~~

21           ~~(B) \$350 per unit per system for multi-family~~  
22           ~~residential property; and~~

23           ~~(C) \$500,000 per system for commercial property; and~~

1       ~~(3) For all wind-powered energy systems, the cap amounts~~  
2           ~~shall be:~~

3           ~~(A) \$1,500 per system for single-family residential~~  
4           ~~property; provided that if all or a portion of the~~  
5           ~~system is used to fulfill the substitute renewable~~  
6           ~~energy technology requirement pursuant to section 196-~~  
7           ~~6.5(a)(3), the credit shall be reduced by twenty per~~  
8           ~~cent of the actual system cost or \$1,500, whichever is~~  
9           ~~less;~~

10          ~~(B) \$200 per unit per system for multi-family~~  
11          ~~residential property; and~~

12          ~~(C) \$500,000 per system for commercial property.]~~

13        ~~[(e)]~~ (b) For the purposes of this section:

14        ~~["Actual cost"]~~ "Qualified renewable energy technology  
15        expenditure" means costs related to the renewable energy  
16        technology ~~[systems]~~ property under subsection (a), including  
17        accessories and installation, but ~~[not including]~~ does not  
18        include the cost of consumer incentive premiums unrelated to the  
19        operation of the ~~[system]~~ renewable energy technology property  
20        or offered with the sale of the ~~[system and]~~ renewable energy  
21        technology property, any and all costs associated with the  
22        storage of the electricity produced by the renewable energy  
23        technology property such as but not limited to back-up

1 batteries, and costs for which another credit is claimed under  
2 this chapter. Any cost incurred and paid for the repair,  
3 construction, or reconstruction of a structure in conjunction  
4 with the installation and placing in service of renewable energy  
5 technology property shall not constitute a part of the qualified  
6 renewable energy technology expenditure for the purpose of this  
7 section. Costs for installation or labor must be properly  
8 allocable to the onsite preparation, assembly, or original  
9 installation of renewable energy technology property.

10 "Household use" means any use to which heated water is  
11 commonly put in a residential setting, including commercial  
12 application of those uses.

13 "Installed and placed in service" means that the renewable  
14 energy technology property is ready and available for its  
15 specific use.

16 "Renewable energy technology [~~system~~] property" means a  
17 new system that captures and converts a renewable source of  
18 energy, such as solar or wind energy, into:

- 19 (1) A usable source of thermal or mechanical energy;  
20 (2) Electricity; or  
21 (3) Fuel.

22 "Solar or wind energy [~~system~~] property" means any  
23 identifiable facility, equipment, apparatus, or the like that

1 converts solar or wind energy to useful thermal or electrical  
2 energy for heating, cooling, or reducing the use of other types  
3 of energy that are dependent upon fossil fuel for their  
4 generation.

5 ~~[(d)]~~ (c) For taxable years beginning after December 31,  
6 2005, the dollar amount of any utility rebate shall be deducted  
7 from the cost of the qualifying ~~[system]~~ renewable energy  
8 technology property and its installation before applying the  
9 state tax credit.

10 ~~[(e)]~~ (d) The director of taxation shall prepare any  
11 forms that may be necessary to claim a tax credit under this  
12 section, including forms identifying the technology type of each  
13 tax credit claimed under this section, whether for solar or  
14 wind. The director may also require the taxpayer to furnish  
15 reasonable information to ascertain the validity of the claim  
16 for credit made under this section and may adopt rules necessary  
17 to effectuate the purposes of this section pursuant to chapter  
18 91.

19 ~~[(f)]~~ (e) If the tax credit under this section exceeds  
20 the taxpayer's income tax liability, the excess of the credit  
21 over liability may be used as a credit against the taxpayer's  
22 income tax liability in subsequent years until exhausted, unless  
23 otherwise elected by the taxpayer pursuant to subsection ~~[(g)]~~ ~~or~~

1 ~~(h)~~] (f). All claims for the tax credit under this section,  
2 including amended claims, shall be filed on or before the end of  
3 the twelfth month following the close of the taxable year for  
4 which the credit may be claimed. Failure to comply with this  
5 subsection shall constitute a waiver of the right to claim the  
6 credit.

7 ~~[(g) For solar energy systems, a taxpayer may elect to~~  
8 ~~reduce the eligible credit amount by thirty per cent and if this~~  
9 ~~reduced amount exceeds the amount of income tax payment due from~~  
10 ~~the taxpayer, the excess of the credit amount over payments due~~  
11 ~~shall be refunded to the taxpayer; provided that tax credit~~  
12 ~~amounts properly claimed by a taxpayer who has no income tax~~  
13 ~~liability shall be paid to the taxpayer; and provided further~~  
14 ~~that no refund on account of the tax credit allowed by this~~  
15 ~~section shall be made for amounts less than \$1.~~

16 ~~The election required by this subsection shall be made in a~~  
17 ~~manner prescribed by the director on the taxpayer's return for~~  
18 ~~the taxable year in which the system is installed and placed in~~  
19 ~~service. A separate election may be made for each separate~~  
20 ~~system that generates a credit. An election once made is~~  
21 ~~irrevocable.~~

22 ~~(h)]~~ (f) [~~Notwithstanding subsection (g), for~~] For any  
23 renewable energy technology [~~system,~~] property, an individual

1 taxpayer may elect to have any excess of the credit over  
2 payments due refunded to the taxpayer, if:

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

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

8 provided that tax credits properly claimed by a taxpayer who has  
9 no income tax liability shall be paid to the taxpayer; and  
10 provided further that no refund on account of the tax credit  
11 allowed by this section shall be made for amounts less than \$1.

12 A husband and wife who do not file a joint tax return shall  
13 only be entitled to make this election to the extent that they  
14 would have been entitled to make the election had they filed a  
15 joint tax return.

16 The election required by this subsection shall be made in a  
17 manner prescribed by the director on the taxpayer's return for  
18 the taxable year in which the [~~system~~] property is installed and  
19 placed in service. A separate election may be made for each  
20 separate [~~system~~] renewable energy technology property that  
21 generates a credit. An election once made is irrevocable.

22 [~~(i)~~] (g) No taxpayer shall be allowed a credit under this  
23 section for the portion of the renewable energy technology



1 ~~[system]~~ property required by section 196-6.5 that is installed  
2 and placed in service on any newly constructed single-family  
3 residential property authorized by a building permit issued on  
4 or after January 1, 2010.

5 ~~[(+)]~~ (h) To the extent feasible, using existing resources  
6 to assist the energy-efficiency policy review and evaluation,  
7 the department shall assist with data collection on the  
8 following for each taxable year:

9 (1) The number of renewable energy technology ~~[systems]~~  
10 properties that have qualified for a tax credit during  
11 the calendar year by:

12 (A) Technology type; and

13 (B) Taxpayer type (corporate and individual); and

14 (2) The total cost of the tax credit to the State during  
15 the taxable year by:

16 (A) Technology type; and

17 (B) Taxpayer type.

18 (i) If a credit is determined and claimed under this  
19 section, with respect to any renewable energy technology  
20 property installed and placed in service, the depreciation basis  
21 and cost basis of such property shall be reduced by fifty per  
22 cent of the amount of credit so determined.


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1            [~~(k)~~] (j) This section shall apply to eligible renewable  
2 energy technology [~~systems~~] properties that are installed and  
3 placed in service on or after July 1, 2009~~[-]~~ , and on or before  
4 December 31, 2016."

5            SECTION 2. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7            SECTION 3. This Act, upon its approval, shall apply to  
8 taxable years beginning after December 31, 2013.

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INTRODUCED BY: 

BY REQUEST

**Report Title:**

Renewable Energy Technologies Income Tax Credit

**Description:**

Clarifies the renewable energy technologies income tax credit.

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

JUSTIFICATION SHEET

DEPARTMENT: Taxation

TITLE: A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY TECHNOLOGIES INCOME TAX CREDIT.

PURPOSE: To amend the Renewable Energy Technology Income Tax Credit (RETITC).

MEANS: Amend section 235-12.5, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The RETITC under section 235-12.5, HRS, allows for an income credit of 35 percent for solar energy systems and 20 percent for wind energy systems with caps per system of different amounts depending on the type of real property on which it is installed. The caps have been ineffective as taxpayers have been claiming the RETITC for multiple tax credits. The term "system" was not quantified by statute and has cause much confusion and uncertainty for taxpayers and industry participants.

In addition, the ineffective caps have inadvertently created a fiscal scenario that the State cannot sustain. For a solar energy system, the RETITC rate is 35 percent which is approximately three times the highest state income tax rate and 5 percent greater than the IRS credit of similar nature.

Impact on the public: Allow for consistent understanding and application of the RETITC for taxpayers. Even the playing field for the industry (sellers, installers, etc.) because the amount of credit will no longer be dependent on individual interpretations of what constitutes a "system."

Impact on the department and other agencies:

The RETITC will be more manageable and easier for the department to administer.

GENERAL FUND: Pending.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Effective for taxable years beginning after  
December 31, 2013.