

HB2464

Testimony

Clarifies the amount of the important agricultural
land qualified agricultural cost tax credit.



State of Hawaii
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE
BEFORE THE SENATE COMMITTEE ON AGRICULTURE

TUESDAY, MARCH 11, 2014, 2:45 P.M.
Room 229
HOUSE BILL NO. 2464, HOUSE DRAFT 1
RELATING TO TAX CREDITS

Chairperson Nishihara and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2464, House Draft 1. This bill seeks to clarify the amount of the Important Agricultural Lands (IAL) qualified agricultural cost tax credit and to allow taxpayers who have already filed their tax credit claims to claim the additional tax credits as authorized by this measure. The Department of Agriculture supports the intent of this measure but defers to the Department of Taxation for the appropriate wording.

This tax credit was enacted in 2008 as part of the incentives package designed to sustain and establish viable agricultural businesses on designated IAL lands. To date, over 101,000 acres have been designated IAL throughout the state.

This tax credit encompasses a broad range of costs that are related to agricultural activities on IAL such as the planning, construction, repair and maintenance for roadways, processing facilities, irrigation water infrastructure, and agricultural housing. It also captures costs for agricultural equipment, regulatory processing, feasibility studies, and regulatory processing and legal services related to obtaining or retaining sufficient irrigation.

Thank you for the opportunity to present our testimony.



NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



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FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

To: The Honorable Clarence K. Nishihara, Chair
and Members of the Senate Committee on Agriculture

Date: Tuesday, March 11, 2014
Time: 2:45 P.M.
Place: Conference Room 229, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. 2464, H.D. 1, Relating to Tax Credits

The Department of Taxation (Department) appreciates the intent of H.B. 2464, H.D. 1, and provides the following comments for your consideration.

H.B. 2464, H.D. 1, amends the Important Agricultural Land Qualified Agricultural Cost Tax Credit (IAL credit) to clarify that the maximum credit amounts are \$625,000, \$250,000, and \$125,000 in the first, second, and third years respectively. The language of the IAL credit as it exists today sets the maximum credit as 25% of \$625,000, 15% of \$250,000, and 10% of \$125,000 in the first, second, and third years respectively. The measure, if approved, would apply to taxable years beginning after July 1, 2008. H.D. 1, has a defective effective date of July 1, 2030.

The Department does not take a position on the increase in the credit amount, but notes that the intent of Act 233, Session Laws of Hawaii 2008, may have been to cap the credit in the manner that this measure proposes. While the Department would be able to administer an increase in the proposed credit amount, the Department is not be able to issue updated tax forms earlier than January 2015.

The Department further notes that Section 2 of this measure provides for the retroactive application of these amendments. Any taxpayer who may have already claimed the credit will have to file an amended return in order to claim the increased credit amount provided under this measure, and may have to receive a recertification of qualified costs from the Department of Agriculture. The Department defers to the Department of Agriculture regarding the recertification.

Thank you for the opportunity to provide comments.

TAXBILLSERVICE

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SUBJECT: INCOME, Important agricultural land tax credit

BILL NUMBER: HB 2464, HD-1

INTRODUCED BY: House Committee on Finance

EXECUTIVE SUMMARY: “Clarifies” the allowable amount of the important agricultural land qualified agricultural cost tax credit. The measure makes the “clarification” retroactive to 2008, which would result in refund claims for multiple years based on the increased limits. This measure looks like a giveaway of tax dollars to this industry.

BRIEF SUMMARY: Amends HRS section 235-110.93 to provide that the important agricultural land qualified agricultural cost tax credit shall be:

- (1) In the first year in which the credit is claimed, the **lesser** of the following:
 - (A) 25% of the qualified agricultural costs incurred by the taxpayer after July 1, 2008; or
 - (B) \$625,000;
- (2) In the second year in which the credit is claimed, the **lesser** of the following:
 - (A) 15% of the qualified agricultural costs incurred by the taxpayer after July 1, 2008; or
 - (B) \$250,000; and
- (3) In the third year in which the credit is claimed, the **lesser** of the following:
 - (A) 10% of the qualified agricultural costs incurred by the taxpayer after July 1, 2008; or
 - (B) \$125,000.

Allows taxpayers who have filed important agricultural land qualified agricultural cost tax credit claims prior to January 1, 2014 to be entitled to the additional tax credits authorized by this act.

EFFECTIVE DATE: Tax years beginning after July 1, 2030

STAFF COMMENTS: The legislature by Act 233, SLH 2008, enacted the important agricultural land qualified agricultural cost tax credit.

As enacted, the amount of the credit is based on 25% of the lesser of the following: (A) the qualified agricultural costs incurred by the taxpayer after July 1, 2008; or (B) \$625,000 for the first year in which the credit is claimed. The proposed measure would provide that the credit is the **lesser** of the following: (A) 25% of the qualified agricultural costs incurred by the taxpayer after July 1, 2008; or (B) \$625,000. Under the proposed measure, if the \$625,000 amount is the lesser, then the taxpayer will receive \$625,000 in the first year of the credit as compared to \$156,250 (\$625,000 times 25%) under the current law. Because the bill is retroactive to the original effective date of the credit from Act 233, SLH 2008, it appears that the bill is being sold as a clarification of the act’s original intent. However, one would think

that if this really were the original intent of the credit, this bill would have been introduced and passed several years ago, not five or six years after the fact. Instead, this bill looks like a pure giveaway of taxpayer money (because it's based on costs incurred since 2008).

Furthermore, there is no sunset date of the credit which has been available since 2008. It is questionable whether the credit is still necessary.

Digested 3/10/14

**HB 2464 HD1
RELATING TO TAX CREDITS**

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

MARCH 11, 2014

Chair Nishihara and Members of the Senate Committee on Agriculture:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) and its agricultural company Hawaiian Commercial & Sugar Company on HB 2464 HD1, “A BILL FOR AN ACT RELATING TO TAX CREDITS.” We support this bill.

After over twenty five years of debate, negotiation, and compromise, the IAL Law and process was finally enacted in July 2008. After years of pursuing a land-use approach to this constitutional mandate, the IAL Law that was successfully passed (Act 183 (2005) and Act 233 (2008)) was premised on the principle that the best way to preserve agricultural lands is to preserve agricultural businesses and agricultural viability. As such, the IAL Law not only provides the standards, criteria, and processes to identify and designate important agricultural lands to fulfill the intent and purpose of Article XI, Section 3 of the Hawaii State Constitution, it also provides for a package of incentives designated to support and encourage sustained, viable agricultural activity on IAL. With the enactment of this comprehensive package of IAL incentives, the long awaited IAL identification and designation process was finally started in July 2008.

The IAL Law authorizes the identification and designation of IAL in one of two ways --- by voluntary petition to the State Land Use Commission by the landowner or

farmer; or subsequently by the Counties filing a petition to designate lands as IAL pursuant to a County identification and mapping process. The IAL Law further provides incentives to the landowner and/or farmer to conduct agricultural activities on IAL lands. In either case, the LUC determines whether the petitioned lands qualify for IAL designation pursuant to the standards, criteria, objectives, and policies set forth in the IAL Law.

To date, the IAL Law has resulted in the designation of over 100,000 acres of agricultural lands as IAL from voluntary petitions by four entities: Parker Ranch, Castle & Cooke, Grove Farm, and Alexander & Baldwin.

This bill clarifies provisions in the present IAL Qualified Agricultural Cost Tax Credit Law for IAL agricultural businesses. Major infrastructure requirements such as irrigation systems, roads and utilities, and agricultural processing facilities play a critical role in the survival of many agricultural businesses, and this tax credit is intended to provide important financial support for IAL related farming operations and will help Hawaii's agricultural businesses compete on a national and international level. This tax credit serves as a stimulus to encourage IAL based entities to expand their operations or to enhance their operating efficiencies through the installation of new agricultural infrastructure, equipment, and other related improvements to service their farming operations. We believe that this bill will greatly enhance the viability and sustainability of present and future IAL based agricultural operations.

Based on the aforementioned, we respectfully request your favorable consideration on this bill. Thank you for the opportunity to testify.



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the Senate Committee on Agriculture
Tuesday, March 11, 2014 at 2:45 P.M.
Conference Room 229, State Capitol**

RE: HOUSE BILL 2464 HD1 RELATING TO TAX CREDITS

Chair Nishihara, Vice Chair Kouchi, and Members of the Committee:

The Chamber of Commerce of Hawaii ("The Chamber") **supports** HB 2464 HD1, which clarifies the amount of the important agricultural land qualified agricultural cost tax credit.

The Chamber is the largest business organization in Hawaii, representing over 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

This bill is critical in supporting agriculture in Hawaii. The Important Agricultural Lands are a key component in helping keep high grade lands in agriculture. The Chamber supports changes effecting laws to the original intent. This bill clarifies provisions in the present IAL Qualified Agricultural Cost Tax Credit Law for IAL agricultural businesses. It provides important financial support for IAL related farming operations and will help Hawaii's agricultural businesses compete on a national and international level.

The Chamber supports the HB 2464 HD1 as is and respectfully asks the committee to move the bill forward. Thank you for the opportunity to testify.



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March 11, 2014

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE

TESTIMONY ON HB 2464HD1
RELATING TO TAX CREDITS
Room 229
2:45 PM

Aloha Chair Nishihara, Vice Chair Kouchi and Members of the Committee:

I am Christopher Manfredi, President of the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is comprised of 1,832 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

HFBF is in strong support of HB2464 HD1 that clarifies the tax credits associated with the designation of Important Agricultural Lands (IAL).

HFBF was part of a multiyear process that, after nearly 30 years, developed the standards and criteria associated with IAL. It was an extensive process including a broad range of stakeholders. The IAL law was carefully crafted to be an incentive driven process; encouraging farmers to farm, keeping lands viable and incentivizing landowners to dedicate their lands to agricultural use. The IAL incentive process is important to the people of the state of Hawaii in terms of food security, environmental, social and economic sustainability and preservation of open vistas that help support tourism-a staple of the economy.

HB2464 represents an important clarification of tax credits that will further incentivize landowners by reducing some of the ambiguity surrounding the existing tax incentives. With more than 100,000 acres already designated as IAL, this is a solid investment for Hawaii's future.

We respectfully request your **STRONG support towards the passage of HB246 HD1, restoring the effective date to the passage of this measure.**

Thank you.