

JAN 22 2016

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that, although the high
2 technology business investment tax credit was terminated on
3 December 31, 2010, credits approved, but unclaimed, may continue
4 to be claimed on a non-refundable basis until exhausted. In
5 Report No. 15-11, entitled "Credits Continue to Tax the State:
6 Follow-Up on Recommendations Made in Report No. 12-05, Audit of
7 the Department of Taxation's Administrative Oversight of High-
8 Technology Business Investment and Research Activities Tax
9 Credits", the state auditor notes that "nearly \$1 billion" in
10 high technology business investment tax credits remained
11 unclaimed in 2012. The unclaimed credits represent a liability
12 for the State, a potential drain on the general fund that may
13 diminish the legislature's ability to fund much-needed public
14 programs or provide tax relief for Hawaii's families and
15 individuals.

16 Consequently, the legislature finds that controlling the
17 tax expenditures resulting from future claims of the high



1 technology business investment tax credit is imperative. It is
2 the legislature's intent to impose this control while also
3 retaining the tax credit amounts to which taxpayers are
4 entitled.

5 The legislature intends that this Act shall not be
6 construed as re-authorizing the high technology business
7 investment tax credits of section 235-110.9, Hawaii Revised
8 Statutes, or permitting the department of taxation to re-
9 commence certifying tax credits. The legislature emphasizes
10 that no new high technology business investment tax credits
11 shall be earned or certified.

12 The purpose of this Act is to address taxation by placing a
13 maximum dollar amount on the certified, but yet unclaimed, high
14 technology business investment tax credits that may be claimed
15 annually. This Act shall apply to taxable years beginning after
16 December 31, 2017, by which time the department of taxation is
17 expected to have an operational information technology system
18 capable of implementing this Act.

19 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



1 "§235- Unclaimed certified high technology business
2 investment tax credit; maximum claimable. (a) For the purpose
3 of this section, "unclaimed certified high technology business
4 investment tax credit" means a high technology business
5 investment tax credit:

6 (1) Certified as claimable by the department of taxation
7 before section 235-110.9 became inapplicable pursuant
8 to section 235-110.9(k); and

9 (2) Unclaimed by the taxpayer as of January 1, 2016.

10 (b) The aggregate dollar amount of unclaimed certified
11 high technology business investment tax credits that may be
12 claimed during a taxable year shall not exceed \$40,000,000.

13 (c) During a taxable year, the department of taxation
14 shall allow taxpayers to claim unclaimed certified high
15 technology business investment tax credits until the aggregate
16 amount claimed totals \$40,000,000.

17 Once the amount claimed totals \$40,000,000, the department
18 shall not allow any taxpayer to claim any unclaimed certified
19 high technology business investment tax credit for the remainder
20 of the taxable year.



1 If, during a taxable year, a portion of a taxpayer's claim
2 of an unclaimed certified high technology business investment
3 tax credit causes the aggregate amount claimed to exceed the
4 \$40,000,000 maximum claimable for the taxable year, then the
5 department of taxation shall not allow the taxpayer to claim the
6 portion that causes the aggregate total to exceed \$40,000,000.
7 The department shall allow the taxpayer to claim only the
8 portion that does not cause the aggregate total to exceed the
9 \$40,000,000 maximum.

10 If the department does not allow a taxpayer to claim all or
11 a portion of the unclaimed certified high technology business
12 investment tax credit because the claim would exceed the maximum
13 claimable amount for the taxable year, the department may waive
14 any penalty or interest attributable to the disallowed claim.

15 (d) In order to claim an unclaimed certified high
16 technology business investment tax credit in any taxable year, a
17 taxpayer shall file with the department of business, economic
18 development, and tourism:

19 (1) A written, certified statement that includes the
20 following information:



1 (A) The qualified high technology business, the
2 investment for which the claim for an unclaimed
3 certified high technology business investment tax
4 credit is based;

5 (B) The investment amount and investment tax credit
6 allocation ratio; and

7 (C) The number of employees employed by the qualified
8 high technology business on the date the claim
9 for an unclaimed certified high technology
10 business investment tax credit is submitted,
11 including a list of the employees and the salary
12 of each employee; and

13 (2) Written consent that the information provided under
14 paragraph (1) shall be available for public inspection
15 and dissemination under chapter 92F.

16 The taxpayer shall file the statement and consent no later than
17 the filing of the claim for the unclaimed certified high
18 technology business investment tax credit with the department of
19 taxation.

20 The department of business, economic development, and
21 tourism shall annually aggregate the data received from



1 taxpayers for a tax year and submit a report to the legislature
2 with the data no later than twenty days prior to the convening
3 of each regular session.

4 The department of business, economic development, and
5 tourism shall not be required to monitor or require a taxpayer
6 to comply with this section. If, however, the department of
7 business, economic development, and tourism becomes aware that a
8 taxpayer has not complied with this section, the department of
9 business, economic development, and tourism shall notify the
10 department of taxation.

11 Upon receiving the notification, the department of taxation
12 shall deny the taxpayer's claim for an unclaimed certified high
13 technology business investment tax credit and impose any
14 applicable penalty and interest.

15 (e) A taxpayer who is precluded from claiming any
16 unclaimed certified high technology business investment tax
17 credits pursuant to subsections (b) and (c) may file a claim for
18 the credits in subsequent taxable years."

19 SECTION 3. New statutory material is underscored.



1 SECTION 4. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2017.
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INTRODUCED BY:

Theresa A....
Graine R. Frouse

Jin
DC. Fort...
R
J. K. ...
Rosalyn H. Baker
Clarence ...
Michelle Kidani
M...



S.B. NO. 2546

Report Title:

High Technology Business Investment Tax Credit; Maximum Claimable

Description:

Establishes a maximum aggregate dollar amount of the certified high technology business investment tax credits that may be claimed in a taxable year. Requires a taxpayer claiming the credit to provide certain information and consent to allow the information to be made public. Applies to taxable years beginning after 12/31/2017.

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

