
A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

1 SECTION 1. Section 235-16.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[\+]§235-16.5[\+] Cesspool upgrade, conversion, or
4 connection; income tax credit. (a) There shall be allowed to
5 each taxpayer subject to the tax imposed under this chapter, a
6 cesspool upgrade, conversion, or connection income tax credit
7 that shall be deductible from the taxpayer's net income tax
8 liability, if any, imposed by this chapter for the taxable year
9 in which the credit is properly claimed.

10 (b) In the case of a partnership, S corporation, estate,
11 or trust, the tax credit allowable is for qualified expenses
12 incurred by the entity for the taxable year. The expenses upon
13 which the tax credit is computed shall be determined at the
14 entity level. Distribution and share of credit shall be
15 determined by rule.

16 (c) The cesspool upgrade, conversion, or connection income
17 tax credit shall be equal to the qualified expenses of the
18 taxpayer, up to a maximum of \$10,000; provided that, in the case



1 of a qualified cesspool that is a residential large capacity
2 cesspool, the amount of the credit shall be equal to the
3 qualified expenses of the taxpayer, up to a maximum of \$10,000
4 per residential dwelling connected to the cesspool, as certified
5 by the department of health pursuant to subsection (e). There
6 shall be allowed a maximum of one cesspool upgrade, conversion,
7 or connection income tax credit per qualified cesspool. The
8 cesspool upgrade, conversion, or connection income tax credit
9 shall be available only for the taxable year in which the
10 taxpayer's qualified expenses are certified by the appropriate
11 government agency.

12 (d) The total amount of tax credits allowed under this
13 section shall not exceed \$5,000,000 for all taxpayers in any
14 taxable year; provided that any taxpayer who is not eligible to
15 claim the credit in a taxable year due to the \$5,000,000 cap
16 having been exceeded for that taxable year shall be eligible to
17 claim the credit in the subsequent taxable year.

18 (e) The department of health shall:

19 (1) Certify all qualified cesspools for the purposes of
20 this section; provided that, as a pilot program, the
21 department of health, in its discretion, may certify



- 1 no more than two residential large capacity cesspools
2 as qualified cesspools;
- 3 (2) Collect and maintain a record of all qualified
4 expenses certified by an appropriate government agency
5 for the taxable year; and
- 6 (3) Certify to each taxpayer the amount of credit the
7 taxpayer may claim; provided that if, in any year, the
8 annual amount of certified credits reaches \$5,000,000
9 in the aggregate, the department of health shall
10 immediately discontinue certifying credits and notify
11 the department of taxation.
- 12 The director of health may adopt rules under chapter 91 as
13 necessary to implement the certification requirements under this
14 section.
- 15 (f) The director of taxation:
- 16 (1) Shall prepare any forms that may be necessary to claim
17 a tax credit under this section;
- 18 (2) May require the taxpayer to furnish reasonable
19 information to ascertain the validity of the claim for
20 the tax credit made under this section; and



1 (3) May adopt rules under chapter 91 necessary to
2 effectuate the purposes of this section.

3 (g) If the tax credit under this section exceeds the
4 taxpayer's income tax liability, the excess of the credit over
5 liability may be used as a credit against the taxpayer's income
6 tax liability in subsequent years until exhausted. All claims
7 for the tax credit under this section, including amended claims,
8 shall be filed on or before the end of the twelfth month
9 following the close of the taxable year for which the credit may
10 be claimed. Failure to comply with the foregoing provision
11 shall constitute a waiver of the right to claim the credit.

12 (h) This section shall not apply to taxable years beginning
13 after December 31, 2020.

14 (i) The tax credit under this section shall not be
15 available to the following:

16 (1) A taxpayer filing a single return or a married person
17 filing separately with a federal adjusted gross income
18 of \$100,000 or more;

19 (2) A taxpayer filing as a head of household with a
20 federal adjusted gross income of \$150,000 or more; or



1 (3) A taxpayer filing a joint return or as a surviving
2 spouse with a federal adjusted gross income of
3 \$200,000 or more.

4 ~~(i)~~ (j) As used in this section:

5 "Aerobic treatment unit system" means an individual
6 wastewater system that consists of an aerobic treatment unit
7 tank, aeration device, piping, and a discharge method that is in
8 accordance with rules adopted by the department of health
9 relating to household aerobic units.

10 "Cesspool" means an individual wastewater system consisting
11 of an excavation in the ground whose depth is greater than its
12 widest surface dimension, which receives untreated wastewater,
13 and retains or is designed to retain the organic matter and
14 solids discharged into it, but permits the liquid to seep
15 through its bottom or sides to gain access to the underground
16 geographic formation.

17 "Qualified cesspool" means a cesspool that is certified by
18 the department of health as being:

19 (1) Located within:

20 (A) Two hundred feet of a shoreline, perennial
21 stream, or wetland; or



1 (B) A source water assessment program area (two year
2 time of travel from a cesspool to a public
3 drinking water source); or

4 (2) A residential large capacity cesspool.

5 "Qualified expenses" means costs that are necessary and
6 directly incurred by the taxpayer for upgrading or converting a
7 qualified cesspool into a septic system or an aerobic treatment
8 unit system, or connecting a qualified cesspool to a sewer
9 system, and that are certified as such by the appropriate
10 government agency.

11 "Residential large capacity cesspool" means a cesspool that
12 is connected to more than one residential dwelling.

13 "Septic system" means an individual wastewater system that
14 typically consists of a septic tank, piping, and a drainage
15 field where there is natural biological decontamination as
16 wastewater discharged into the system is filtered through soil.

17 "Sewer system" means a system of piping, with
18 appurtenances, for collecting and conveying wastewater from
19 source to discharge following treatment.



1 "Wastewater" means any liquid waste, whether or not treated
2 and whether animal, mineral, or vegetable, including
3 agricultural, industrial, and thermal wastes."

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

6 SECTION 3. This Act shall take effect on January 1, 2050,
7 and shall apply to taxable years beginning after December 31,
8 2015.



Report Title:

Income Tax Credit; Cesspool Upgrade, Conversion, or Connection

Description:

Disallows the tax credit for cesspool upgrade, conversion, or connection for taxpayers whose federal adjusted gross income exceeds certain amounts. Effective 1/1/2050. (SD1)

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

