
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding two new sections to part I to be appropriately
3 designated and to read as follows:

4 "§235- Photovoltaic storage battery development and
5 manufacturing tax credit. (a) There shall be allowed to each
6 taxpayer subject to the tax imposed by this chapter, a
7 photovoltaic storage battery development and manufacturing
8 income tax credit, which shall be deductible from the taxpayer's
9 net income tax liability, if any, imposed by this chapter for
10 the taxable year in which the credit is properly claimed.

11 (b) The amount of the credit shall be _____ per cent of
12 the qualified development and manufacturing costs incurred
13 during the taxable year; provided that the total credit claimed
14 per taxpayer shall not exceed \$ _____.

15 In the case of a partnership, S corporation, estate, or
16 trust, the tax credit allowable is for qualified manufacturing
17 costs incurred by the entity for the taxable year. The cost



1 upon which the tax credit is computed shall be determined at the
2 entity level. Distribution and share of credit shall be
3 determined by section 704 of the Internal Revenue Code.

4 If a deduction is taken under section 179 (with respect to
5 election to expense certain depreciable business assets) of the
6 Internal Revenue Code, no tax credit shall be allowed for those
7 costs for which the deduction is taken.

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

11 (c) If the tax credit under this section exceeds the
12 taxpayer's income tax liability, the excess of credits over
13 liability shall be refunded to the taxpayer; provided that no
14 refunds or payment on account of the tax credits allowed by this
15 section shall be made for amounts less than \$1. Every claim,
16 including amended claims, for a tax credit under this section
17 shall be filed on or before the end of the twelfth month
18 following the close of the taxable year for which the credit may
19 be claimed. Failure to comply with the foregoing provision
20 shall constitute a waiver of the right to claim the credit.

21 (d) The director of taxation:



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1 (1) Shall prepare any forms that may be necessary to claim
2 a credit under this section;

3 (2) May require the taxpayer to furnish information to
4 ascertain the validity of the claim for credit made
5 under this section; and

6 (3) May adopt rules pursuant to chapter 91 to effectuate
7 the purposes of this section.

8 (e) The department of business, economic development, and
9 tourism shall:

10 (1) Maintain records of the total amount of qualified
11 development and manufacturing costs for each taxpayer
12 claiming a credit;

13 (2) Verify the amount of the qualified development and
14 manufacturing costs claimed;

15 (3) Total all qualified development and manufacturing
16 costs claimed; and

17 (4) Certify the total amount of the tax credit for each
18 taxable year.

19 Upon each determination, the department of business,
20 economic development, and tourism shall issue a certificate to
21 the taxpayer verifying the qualified development and



1 manufacturing costs and the credit amount certified for each
2 taxable year.

3 The taxpayer shall file the certificate with the taxpayer's
4 tax return with the department of taxation. Notwithstanding the
5 department of business, economic development, and tourism's
6 certification authority under this section, the director of
7 taxation may audit and adjust certification to conform to the
8 facts.

9 (f) The tax credit allowed under this section shall be
10 available for taxable years beginning after December 31, 2015,
11 and shall not be available for taxable years beginning after
12 December 31, 2025.

13 (g) As used in this section:

14 "Net income tax liability" means income tax liability
15 reduced by all other credits allowed under this chapter.

16 "Photovoltaic storage battery" means a battery used to
17 store electrical energy generated by a solar energy system, as
18 defined in section 235-12.5, for use during times when no solar
19 resources are available to generate power.

20 "Qualified development and manufacturing costs" means
21 expenditures for:



- 1 (1) Costs incurred to purchase equipment to be used in the
2 development and manufacturing of photovoltaic storage
3 batteries in the State;
- 4 (2) Costs incurred to purchase supplies to be used in the
5 development and manufacturing of photovoltaic storage
6 batteries in the State; and
- 7 (3) Costs incurred to train employees to manufacture
8 photovoltaic storage batteries in the State;
- 9 provided that "qualified development and manufacturing costs"
10 does not include any costs for which another credit is claimed
11 under this chapter.

12 §235- Electric vehicle storage battery development and
13 manufacturing tax credit. (a) There shall be allowed to each
14 taxpayer subject to the tax imposed by this chapter, an electric
15 vehicle storage battery development and manufacturing income tax
16 credit, which shall be deductible from the taxpayer's net income
17 tax liability, if any, imposed by this chapter for the taxable
18 year in which the credit is properly claimed.

19 (b) The amount of the credit shall be per cent of
20 the qualified development and manufacturing costs incurred



1 during the taxable year; provided that the total credit claimed
2 per taxpayer shall not exceed \$.

3 In the case of a partnership, S corporation, estate, or
4 trust, the tax credit allowable is for qualified manufacturing
5 costs incurred by the entity for the taxable year. The cost
6 upon which the tax credit is computed shall be determined at the
7 entity level. Distribution and share of credit shall be
8 determined by section 704 of the Internal Revenue Code.

9 If a deduction is taken under section 179 (with respect to
10 election to expense certain depreciable business assets) of the
11 Internal Revenue Code, no tax credit shall be allowed for those
12 costs for which the deduction is taken.

13 The basis of eligible property for depreciation or
14 accelerated cost recovery system purposes for state income taxes
15 shall be reduced by the amount of credit allowable and claimed.

16 (c) If the tax credit under this section exceeds the
17 taxpayer's income tax liability, the excess of credits over
18 liability shall be refunded to the taxpayer; provided that no
19 refunds or payment on account of the tax credits allowed by this
20 section shall be made for amounts less than \$1. Every claim,
21 including amended claims, for a tax credit under this section



1 shall be filed on or before the end of the twelfth month
2 following the close of the taxable year for which the credit may
3 be claimed. Failure to comply with the foregoing provision
4 shall constitute a waiver of the right to claim the credit.

5 (d) The director of taxation:

6 (1) Shall prepare any forms that may be necessary to claim
7 a credit under this section;

8 (2) May require the taxpayer to furnish information to
9 ascertain the validity of the claim for credit made
10 under this section; and

11 (3) May adopt rules pursuant to chapter 91 to effectuate
12 the purposes of this section.

13 (e) The department of business, economic development, and
14 tourism shall:

15 (1) Maintain records of the total amount of qualified
16 development and manufacturing costs for each taxpayer
17 claiming a credit;

18 (2) Verify the amount of the qualified development and
19 manufacturing costs claimed;

20 (3) Total all qualified development and manufacturing
21 costs claimed; and



1 (4) Certify the total amount of the tax credit for each
2 taxable year.

3 Upon each determination, the department of business,
4 economic development, and tourism shall issue a certificate to
5 the taxpayer verifying the qualified development and
6 manufacturing costs and the credit amount certified for each
7 taxable year.

8 The taxpayer shall file the certificate with the taxpayer's
9 tax return with the department of taxation. Notwithstanding the
10 department of business, economic development, and tourism's
11 certification authority under this section, the director of
12 taxation may audit and adjust certification to conform to the
13 facts.

14 (f) The tax credit allowed under this section shall be
15 available for taxable years beginning after December 31, 2015,
16 and shall not be available for taxable years beginning after
17 December 31, 2025.

18 (g) As used in this section:

19 "Electric vehicle storage battery" means a battery that:

20 (1) Provides propulsion energy to a vehicle with four or
21 more wheels;



- 1 (2) Has an energy storage capacity of at least four
- 2 kilowatt hours; and
- 3 (3) Can be recharged from a source of electricity that is
- 4 external to the vehicle.

5 "Net income tax liability" means income tax liability
6 reduced by all other credits allowed under this chapter.

7 "Qualified development and manufacturing costs" means
8 expenditures for:

- 9 (1) Costs incurred to purchase equipment to be used in the
- 10 development and manufacturing of electric vehicle
- 11 storage batteries in the State;
- 12 (2) Costs incurred to purchase supplies to be used in the
- 13 development and manufacturing of electric vehicle
- 14 storage batteries in the State; and
- 15 (3) Costs incurred to train employees to manufacture
- 16 electric vehicle storage batteries in the State;
- 17 provided that "qualified development and manufacturing costs"
- 18 does not include any costs for which another credit is claimed
- 19 under this chapter."

20 SECTION 2. New statutory material is underscored.



1 SECTION 3. This Act, upon its approval, shall apply to
 2 taxable years beginning after December 31, 2015, but shall not
 3 be available for taxable years beginning after December 31,
 4 2025.
 5

INTRODUCED BY:

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JAN 26 2016



H.B. NO. 2507

Report Title:

Income Tax Credits; Photovoltaic Storage Batteries; Electric Vehicle Storage Batteries

Description:

Establishes refundable income tax credits for the development and manufacturing of photovoltaic storage batteries and electric vehicle storage batteries.

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





DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
LUIS P. SALAVERIA
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Friday, February 5, 2016
9:01 a.m.
State Capitol, Conference Room 312

in consideration of
HB 2507
RELATING TO TAXATION.

Chair Kawakami, Vice Chair Kong, and Members of the Committee.

The Department of Business, Economic Development & Tourism (DBEDT) offers comments on HB 2507, which establishes refundable income tax credits for the development and manufacturing of photovoltaic storage batteries and electric vehicle storage batteries.

DBEDT believes that storage is an important enabler of achieving higher levels of renewable energy and electric vehicle deployment in the State of Hawaii. However, we have the following concerns with this measure:

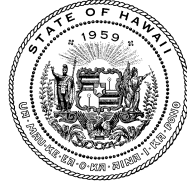
- We are not aware of storage companies willing and ready to develop and manufacture storage in Hawaii. Hence, we would regret setting aside valuable tax payer money that may not be utilized.
- DBEDT lacks the expertise and staffing to execute the verification of the qualified development and manufacturing costs claimed (lines 13-14, page 3 and lines 18-19, page 7).
- DBEDT lacks and will require the necessary funding and budget allocation to execute the responsibilities under the Bill.

We defer to the Department of Budget and Finance on the impact on the State budget from this measure.

Thank you for the opportunity to offer comments regarding HB 2507.

DAVID Y. IGE
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MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

JOSEPH K. KIM
DEPUTY DIRECTOR

To: The Honorable Derek S.K. Kawakami
and Members of the House Committee on Economic Development and Business

Date: February 5, 2016
Time: 9:01 A.M.
Place: Conference Room 312, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 2507, Relating to Taxation.

The Department of Taxation (Department) appreciates the intent of H.B.2507, and offers the following comments for your consideration.

H.B. 2507 creates two new tax credits for the development and manufacturing of photovoltaic storage batteries and electric vehicle storage batteries. The tax credits are: (1) certified by the Department of Business, Economic Development, and Tourism (DBEDT); (2) are refundable; and (3) are capped at an unspecified amount per taxpayer. H.B. 2507 is effective upon approval, and applies to taxable years beginning after December 31, 2015, with a sunset date of December 31, 2025.

The Department defers to DBEDT regarding its ability to certify these tax credits. Based on the technical nature of the subject matter, the Department believes that certification by another State agency will be helpful in the administration of this tax credit.

The Department suggests that the first paragraph in the definition of “qualified development and manufacturing costs” be limited to equipment first placed in service in Hawaii. This will limit any potential for abuse of this category of qualifying costs.

As a general matter, the Department notes that non-refundable tax credits are much less problematic to administer and promote compliance. The Department, therefore, recommends that both tax credits be made non-refundable.

Finally, the Department notes that this tax credit applies to years beginning after December 31, 2015. The Department requests that the effective date be changed to December 31, 2016, to allow time for the necessary changes to forms, instructions, and the Department’s computer systems.

Thank you for the opportunity to provide comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Tax Credit for Photovoltaic or Electric Vehicle Storage Batteries

BILL NUMBER: HB 2507

INTRODUCED BY: WOODSON, BELATTI, BROWER, CACHOLA, CREAGAN, CULLEN, DECOITE, EVANS, HASHEM, ICHiyAMA, ING, KAWAKAMI, KOBAYASHI, C. LEE, LOPRESTI, LOWEN, MIZUNO, MORIKAWA, NAKASHIMA, NISHIMOTO, OHNO, RHOADS, SAIKI, SAN BUENAVENTURA, SAY, TAKAYAMA, TAKUMI

EXECUTIVE SUMMARY: This bill would allow taxpayers a tax credit for development and manufacturing of photovoltaic batteries or electric vehicle storage batteries. The adoption of this credit would result in a subsidy of state funds. Lawmakers should consider the criteria established by the 2001-2003 Tax Review Commission (discussed below) before enacting this or any other new business incentive that operates through the tax system.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers to claim a tax credit for photovoltaic storage battery development and manufacturing. The credit would be ___% of the qualified development and manufacturing costs, up to a maximum of \$_____ per taxpayer. Defines "qualified development and manufacturing costs" as expenditures for: (1) costs incurred to purchase equipment to be used in the development and manufacturing of photovoltaic storage batteries in the State; (2) costs incurred to purchase supplies to be used in the development and manufacturing of photovoltaic storage batteries in the State; and (3) costs incurred to train employees to manufacture photovoltaic storage batteries in the State; provided that "qualified development and manufacturing costs" does not include any costs for which another credit is claimed under this chapter. Defines "photovoltaic storage battery" as a battery used to store electrical energy generated by a solar energy system, as defined in section 235-12.5, for use during times when no solar resources are available to generate power.

The tax credit is refundable. Every claim for this credit, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

Requires the taxpayer to obtain certification from the department of business, economic development and tourism (DBEDT) verifying the qualified development and manufacturing costs and the credit amount certified for each taxable year. Notwithstanding the department of business, economic development, and tourism's certification authority under this section, the director of taxation may audit and adjust certification to conform to the facts.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for qualified manufacturing costs incurred by the entity for the taxable year. The cost upon which the tax

credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to section 704, IRC.

If a deduction is taken under section 179 (with respect to election to expense certain depreciable business assets) of the Internal Revenue Code, no tax credit shall be allowed for those costs for which the deduction is taken. The basis of eligible property for depreciation or accelerated cost recovery system purposes for state income taxes shall be reduced by the amount of credit allowable and claimed.

The director of taxation is to prepare any forms that may be necessary to claim a tax credit under this section, including forms identifying the property type of each tax credit claimed under this section. The director may also require the taxpayer to furnish reasonable information to ascertain the validity of the claim for credit made under this section and may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

Adds a new section to HRS chapter 235 to allow taxpayers to claim a tax credit for electric vehicle storage battery development and manufacturing. The credit would be ___% of the qualified development and manufacturing costs, up to a maximum of \$_____ per taxpayer. Defines "qualified development and manufacturing costs" as expenditures for: (1) costs incurred to purchase equipment to be used in the development and manufacturing of electric vehicle storage batteries in the State; (2) costs incurred to purchase supplies to be used in the development and manufacturing of electric vehicle storage batteries in the State; and (3) costs incurred to train employees to manufacture electric vehicle storage batteries in the State; provided that "qualified development and manufacturing costs" does not include any costs for which another credit is claimed under this chapter. Defines "electric vehicle storage battery" as a battery that: (1) provides propulsion energy to a vehicle with four or more wheels; (2) has an energy storage capacity of at least four kilowatt hours; and (3) can be recharged from a source of electricity that is external to the vehicle.

Rules similar to those for the photovoltaic battery credit apply to this credit as well.

EFFECTIVE DATE: Shall apply to taxable years beginning after December 31, 2015, but shall not be available for taxable years beginning after December 31, 2025

STAFF COMMENTS: It appears that this measure is intended to provide an incentive in the form of an income tax credit to encourage manufacturing of particular items in the state. It should be noted that tax credits generally are designed to reduce the tax burdens of certain groups by refunding a portion of taxes paid on purchases of essential items and services. This credit of ___% of qualified manufacturing costs amounts to nothing more than a subsidy of state funds as there is no obvious undue burden of taxes.

It should be remembered that the 2001-2003 Tax Review Commission set forth recommended requirements for new tax incentives such as this one:

- (i) *Cost-benefit studies.* Cost-benefit studies should be required prior to inaugurating new or revised tax credit programs. Policy makers should use only those programs with

quantifiable and demonstrable benefits over costs. Such costs and benefits should not only look at fiscal and economic effects, but should examine social ones as well.

(ii) *Periodic evaluations* of all tax incentive programs should be required.

(iii) *Truth and disclosure reporting* separate and apart from a taxpayer's tax returns should generally be required of all taxpayers benefitting from tax incentive programs, making public all aspects of these subsidies for private investment.

(iv) *Strategic planning*. Embed tax incentives in strategic plans, leveraging as much of the State's scarce resources as possible. Rather than promoting diverse incentives in search of a cohesive strategy, the State should employ only incentives that make strategic sense.

(v) *Public participation*. Encourage public participation in and comment on tax incentive use to foster public accountability. There should at least be as much public discussion over generous multi-million dollar business incentive tax credits as there is over \$50,000 renovations to school libraries.

(vi) *Sunset provisions* should be required to ensure that the above processes will be implemented before an incentive can be extended. It should be demonstrated to the Legislature that the targeted benefit to the State was in fact received, what the tax cost of that benefit was, and whether the continuation of the tax incentive is appropriate and necessary.

(vii) *Enforcement*. Given the magnitude and the complexity of these business incentive tax credits, the small chance of audit, ambiguous statutory requirements as to what can be claimed as a credit, there must be legislative oversight of these credits. In addition, the Department of Taxation must be given sufficient resources to police these credits.

If lawmakers are inclined to enact this credit, amendments should be considered addressing the criteria set forth above.