
A BILL FOR AN ACT

RELATING TO AMENDING OR REPEALING HAWAII NET INCOME TAX LAWS FOR
THE PURPOSE OF DELETING OBSOLETE OR UNNECESSARY PROVISIONS.

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

1 SECTION 1. Section 235-12, Hawaii Revised Statutes, is
2 repealed.
3 [~~"§235-12 Energy conservation; income tax credit. (a)~~
4 ~~For taxable years ending before January 1, 1990, except in the~~
5 ~~case of ice storage systems for taxable years ending before~~
6 ~~January 1, 1991, each individual and corporate resident taxpayer~~
7 ~~who files an individual or corporate net income tax return for a~~
8 ~~taxable year, may claim a tax credit under this section against~~
9 ~~the Hawaii state individual or corporate net income tax. The~~
10 ~~tax credit may be claimed for any solar or wind energy device,~~
11 ~~heat pump, or ice storage system in an amount not to exceed ten~~
12 ~~per cent of the total cost of the device, heat pump, or ice~~
13 ~~storage system; provided that the tax credit shall apply only to~~
14 ~~the actual cost of the solar or wind energy device, the heat~~
15 ~~pump, or ice storage system, their accessories, and installation~~
16 ~~and shall not include the cost of consumer incentive premiums~~



1 ~~unrelated to the operation of the solar or wind energy device,~~
2 ~~the heat pump, or ice storage system offered with the sale of~~
3 ~~the solar or wind energy device, the heat pump, or ice storage~~
4 ~~system. The credit shall be claimed against net income tax~~
5 ~~liability for the year in which the solar or wind energy device,~~
6 ~~the heat pump, or ice storage system was purchased and placed in~~
7 ~~use; provided:~~

8 ~~(1) The tax credit shall be applicable only with respect~~
9 ~~to solar devices, which are erected and placed in~~
10 ~~service after December 31, 1974, but before January 1,~~
11 ~~1990;~~

12 ~~(2) In the case of wind energy devices and heat pumps, the~~
13 ~~tax credit shall be applicable only with respect to~~
14 ~~wind energy devices and heat pumps which are installed~~
15 ~~and placed in service after December 31, 1980, but~~
16 ~~before January 1, 1990; and~~

17 ~~(3) In the case of ice storage systems, the tax credit~~
18 ~~shall be applicable only with respect to ice storage~~
19 ~~systems which are installed and placed in service~~
20 ~~after December 31, 1985, but before January 1, 1990.~~



1 ~~Tax credits which exceed the taxpayer's income tax liability may~~
2 ~~be used as a credit against the taxpayer's income tax liability~~
3 ~~in subsequent years until exhausted. If federal energy tax~~
4 ~~credits are not extended beyond December 31, 1985, are not~~
5 ~~retroactively extended or reenacted, or federal energy tax~~
6 ~~credits the same as or less in amount than the credits in effect~~
7 ~~during the 1985 taxable year are not enacted during the taxable~~
8 ~~year 1986, then the state tax credit shall be increased to~~
9 ~~fifteen per cent of the total cost after December 31, 1985, but~~
10 ~~before January 1, 1990.~~

11 ~~As used in this subsection:~~

12 ~~"Solar or wind energy device" means any new identifiable~~
13 ~~facility, equipment, apparatus, or the like which makes use of~~
14 ~~solar or wind energy for heating, cooling, or reducing the use~~
15 ~~of other types of energy dependent upon fossil fuel for their~~
16 ~~generation.~~

17 ~~"Heat pump" means and refers to an electric powered~~
18 ~~compression heating system which extracts energy from warm~~
19 ~~ambient air or recovers waste heat to assist in the production~~
20 ~~of hot water.~~



1 ~~"Ice storage system" refers to ice banks or other cool~~
2 ~~energy storage tanks, containers, accessories, and controls that~~
3 ~~are specifically designed to store ice or chilled fluids for the~~
4 ~~express purpose of shifting the consumption of energy to off-~~
5 ~~peak periods.~~

6 ~~(b) For taxable years beginning after December 31, 1989,~~
7 ~~each individual or corporate resident taxpayer who files an~~
8 ~~individual or corporate net income tax return for a taxable~~
9 ~~year, may claim a tax credit under this section against the~~
10 ~~Hawaii state individual or corporate net income tax. The tax~~
11 ~~credit may be claimed as follows:~~

12 ~~(1) For wind energy systems that are installed and placed~~
13 ~~in service after December 31, 1989, but before July 1,~~
14 ~~2003, the credit shall be twenty per cent of the~~
15 ~~actual cost;~~

16 ~~(2) For solar energy systems that are installed and placed~~
17 ~~in service after December 31, 1989, but before July 1,~~
18 ~~2003, on new and existing single family residential~~
19 ~~buildings, the credit shall be in an amount not to~~
20 ~~exceed thirty five per cent or \$1,750, whichever is~~
21 ~~less, of the actual cost of the solar energy system;~~



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- 1 ~~(3) For solar energy systems that are installed and placed~~
2 ~~in service after December 31, 1989, but before July 1,~~
3 ~~2003, on new and existing multiunit buildings used~~
4 ~~primarily for residential purposes, the credit shall~~
5 ~~be in an amount not to exceed thirty five per cent or~~
6 ~~\$350 per building unit, whichever is less, of the~~
7 ~~actual cost of the solar energy system;~~
- 8 ~~(4) For solar energy systems that are installed and placed~~
9 ~~in service after December 31, 1989, but before July 1,~~
10 ~~2003, in new and existing hotel, commercial, and~~
11 ~~industrial facilities, the credit shall be in an~~
12 ~~amount not to exceed thirty five per cent of the~~
13 ~~actual cost of the solar energy system;~~
- 14 ~~(5) For heat pumps that are installed and placed in~~
15 ~~service after December 31, 1989, but before July 1,~~
16 ~~2003, in new and existing single family residential~~
17 ~~buildings, the credit shall be in an amount not to~~
18 ~~exceed twenty per cent or \$400, whichever is less, of~~
19 ~~the actual cost of the heat pump;~~
- 20 ~~(6) For heat pumps that are installed and placed in~~
21 ~~service after December 31, 1989, but before July 1,~~



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1 ~~2003, in new and existing multiunit buildings used~~
2 ~~primarily for residential purposes, the credit shall~~
3 ~~be in an amount not to exceed twenty per cent or \$200~~
4 ~~per building unit, whichever is less, of the actual~~
5 ~~cost of the heat pump, provided that a licensed~~
6 ~~professional engineer reviews the design of the system~~
7 ~~and provides a written opinion that the system, in~~
8 ~~accordance with recognized engineering practice, is~~
9 ~~designed to provide not less than ninety per cent of~~
10 ~~the daily annual average hot water needs of all of the~~
11 ~~occupants of the building;~~

12 ~~(7) For heat pumps that are installed and placed in~~
13 ~~service after December 31, 1989, but before July 1,~~
14 ~~2003, in new and existing hotel, commercial, and~~
15 ~~industrial facilities, the credit shall be in an~~
16 ~~amount not to exceed twenty per cent of the actual~~
17 ~~cost of the heat pump; and~~

18 ~~(8) For ice storage systems that are installed and placed~~
19 ~~in service after December 31, 1990, but before July 1,~~
20 ~~2003, the credit shall be in an amount not to exceed~~



1 ~~fifty per cent of the actual cost of the ice storage~~
2 ~~system.~~

3 ~~The per unit of actual cost of a solar energy system or heat~~
4 ~~pump referred to in subsection (b) (3) and (6) shall be~~
5 ~~determined by multiplying the actual cost of the solar energy~~
6 ~~system or heat pump installed and placed in service in the~~
7 ~~multiunit building by a fraction, the numerator being the total~~
8 ~~square feet of that unit in the multiunit building, and the~~
9 ~~denominator being the total square feet of all the units in the~~
10 ~~multiunit building.~~

11 ~~If federal energy tax credits similar to any of those~~
12 ~~provided in paragraphs (1) to (8) are established after June 30,~~
13 ~~1998, but before July 1, 2003, then the state tax credit~~
14 ~~provided in the respective paragraph or paragraphs shall be~~
15 ~~reduced by the amount of the applicable federal energy tax~~
16 ~~credit.~~

17 ~~(c) Tax credits shall apply only to the actual cost of the~~
18 ~~solar or wind energy system, heat pump, or ice storage system,~~
19 ~~including their accessories and installation, and shall not~~
20 ~~include the cost of consumer incentive premiums unrelated to the~~
21 ~~operation of the system or offered with the sale of the system~~



1 ~~or heat pump. The tax credit shall be claimed against net~~
2 ~~income tax liability for the year in which the solar or wind~~
3 ~~energy system, heat pump, or ice storage system was purchased~~
4 ~~and placed in use in Hawaii. Tax credits that exceed the~~
5 ~~taxpayer's income tax liability may be used as credit against~~
6 ~~the taxpayer's income tax liability in subsequent years until~~
7 ~~exhausted.~~

8 ~~(d) The director of taxation shall prepare such forms as~~
9 ~~may be necessary to claim a credit under this section. The~~
10 ~~director may also require the taxpayer to furnish reasonable~~
11 ~~information to ascertain the validity of the claim for credit~~
12 ~~made under this section and may adopt rules necessary to~~
13 ~~effectuate the purposes of this section pursuant to chapter 91.~~

14 ~~(e) As used in this section:~~

15 ~~"Solar or wind energy system" means any new identifiable~~
16 ~~facility, equipment, apparatus, or the like that converts solar~~
17 ~~insolation or wind energy to useful thermal or electrical energy~~
18 ~~for heating, cooling, or reducing the use of other types of~~
19 ~~energy dependent upon fossil fuel for their generation.~~



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1 ~~"Heat pump" means an electric powered compression heating~~
2 ~~system that extracts energy from warm ambient air or recovers~~
3 ~~waste heat to assist in the production of hot water.~~

4 ~~"Ice storage system" refers to ice banks or other cool~~
5 ~~energy storage tanks, containers, accessories, and controls that~~
6 ~~are specifically designed to store ice or chilled fluids for the~~
7 ~~express purpose of shifting the consumption of energy to off-~~
8 ~~peak periods."]~~

9 SECTION 2. Section 235-109.5, Hawaii Revised Statutes, is
10 repealed.

11 ~~["§235-109.5] Credits against income, claim limitation.~~

12 ~~(a) Notwithstanding any law to the contrary providing for a tax~~
13 ~~credit that may be claimed against a taxpayer's tax liability~~
14 ~~under section 235-110.51, 235-110.9, 241-4.8, or 431:7-209 for~~
15 ~~taxable years beginning on or after January 1, 2009, and ending~~
16 ~~before January 1, 2011, no claim for these tax credits shall~~
17 ~~exceed eighty per cent of the taxpayer's tax liability for the~~
18 ~~taxable year in which the credit is claimed, and any tax credits~~
19 ~~claimed shall not result in any credit carryovers.~~



1 ~~(b) This section shall apply to investments made,~~
2 ~~renovation costs incurred, or eligible depreciable tangible~~
3 ~~property placed in service on or after May 1, 2009."~~

4 SECTION 3. Section 235-110.46, Hawaii Revised Statutes, is
5 repealed.

6 ~~["§235-110.46] Attractions and educational facilities tax~~
7 ~~credit; Ko Olina Resort and Marina; Makaha Resort. (a) There~~
8 ~~shall be allowed to each qualified taxpayer subject to the taxes~~
9 ~~imposed by this chapter or chapter 237, 237D, 238, 239, 241, or~~
10 ~~431, a tax credit [that] may be claimed for taxable years~~
11 ~~beginning after December 31, 2004, for qualified costs in the~~
12 ~~development of facilities for attractions and educational~~
13 ~~purposes at Ko Olina Resort and Marina and at Makaha Resort.~~
14 ~~The tax credit shall be deductible from the taxpayer's net~~
15 ~~income tax liability, if any, imposed by this chapter and, at~~
16 ~~the election of the taxpayer, from the tax liability imposed by~~
17 ~~chapters 237, 237D, 238, 239, 241, and 431.~~

18 ~~(b) The tax credit earned shall be equal to the qualified~~
19 ~~costs incurred from June 1, 2003, through May 31, 2009, up to a~~
20 ~~maximum of \$75,000,000 of credits in the aggregate for all~~
21 ~~qualified taxpayers for all years; provided that notwithstanding~~



1 ~~the amount of tax credits earned in any year, a maximum of~~
2 ~~\$7,500,000 of tax credits in the aggregate for all qualified~~
3 ~~taxpayers may be used in any one taxable year. The credits over~~
4 ~~\$7,500,000 shall be used as provided in subsection (d). In the~~
5 ~~case of a partnership, limited liability company, S corporation,~~
6 ~~estate, trust, or association of apartment owners, the tax~~
7 ~~credit allowable is for qualified costs incurred by the entity.~~
8 ~~The costs upon which the tax credit is computed shall be~~
9 ~~determined at the entity level.~~

10 ~~(c) To qualify for the tax credit, a taxpayer shall:~~

11 ~~(1) Have expended qualified costs on and be developing a~~
12 ~~world class aquarium and marine science and mammal~~
13 ~~research facility at Ko Olina Resort and Marina; and~~

14 ~~(2) Dedicate one half of the net operating income of the~~
15 ~~world class aquarium to the State, beginning on the~~
16 ~~first day of the seventeenth year following the year~~
17 ~~in which the attractions and educational facilities~~
18 ~~credit was first taken; or~~

19 ~~(3) Acquire or own the Makaha Resort, and lease or sell a~~
20 ~~portion of the Makaha Resort for use as training and~~
21 ~~educational facilities for a period of not less than~~



1 ~~six years to a taxpayer meeting the requirements of~~
2 ~~subsection (c) (1).~~

3 ~~(d) If the tax credit under this section exceeds~~
4 ~~\$7,500,000 in the aggregate for all qualified taxpayers for any~~
5 ~~taxable year or exceeds the taxpayer's tax liability under this~~
6 ~~chapter or chapters 237, 237D, 238, 239, 241, and 431 for any~~
7 ~~year for which the credit is taken, the excess of the tax credit~~
8 ~~may be used as a credit against the taxpayer's tax liability for~~
9 ~~the taxes set forth in this section in subsequent years until~~
10 ~~exhausted; provided that the taxpayer may continue to claim the~~
11 ~~credit provided in this section if the qualified costs are~~
12 ~~incurred before June 1, 2009, subject to the monetary ceilings~~
13 ~~in subsection (b).~~

14 ~~(e) Every claim, including amended claims, for a tax~~
15 ~~credit under this section shall be filed on or before the end of~~
16 ~~the twelfth month following the close of the taxable year for~~
17 ~~which the credit may be claimed. Failure to comply with the~~
18 ~~foregoing provision shall constitute a waiver of the right to~~
19 ~~claim the credit.~~

20 ~~(f) If, at any time during the six year period in which~~
21 ~~tax credits are earned under this section, the costs incurred no~~



1 ~~longer meet the definition of qualified costs, the credits~~
2 ~~claimed under this section shall be recaptured. The recapture~~
3 ~~shall be equal to one hundred per cent of the total tax credits~~
4 ~~claimed under this section for the preceding taxable year,~~
5 ~~provided that the amount of the credits recaptured shall apply~~
6 ~~only to those costs that no longer meet the definition of~~
7 ~~qualified costs. The amount of the recaptured tax credits~~
8 ~~determined under this subsection shall be added to the~~
9 ~~taxpayer's tax liability for the taxable year in which the~~
10 ~~recapture occurs under this subsection.~~

11 ~~(g) If any credit is claimed under this section, then no~~
12 ~~taxpayer shall claim a credit under any chapter identified in~~
13 ~~this section for the same qualified costs for which a credit is~~
14 ~~claimed under this section.~~

15 ~~(h) The director of taxation shall prepare any forms that~~
16 ~~may be necessary to claim a credit under this section. The~~
17 ~~director may also require the taxpayer to furnish information to~~
18 ~~ascertain the validity of the claims for credits made under this~~
19 ~~section and may adopt rules necessary to effectuate the purposes~~
20 ~~of this section pursuant to chapter 91.~~



1 ~~Every qualified taxpayer, no later than March 31 of each~~
2 ~~year in which qualified costs were expended in the previous~~
3 ~~taxable year, shall submit a written, certified statement to the~~
4 ~~director of business, economic development, and tourism, in the~~
5 ~~form specified by the director of business, economic~~
6 ~~development, and tourism, identifying:~~

7 ~~(1) Qualified costs, if any, expended in the previous~~
8 ~~taxable year;~~

9 ~~(2) The amount of tax credits claimed pursuant to this~~
10 ~~section, if any, in the previous taxable year; and~~

11 ~~(3) The tax liability under this chapter and chapters 237,~~
12 ~~237D, 238, 239, 241, and 431 against which the tax~~
13 ~~credits are claimed.~~

14 ~~Any other law to the contrary notwithstanding, a statement~~
15 ~~submitted under this subsection shall be a public document.~~

16 ~~(i) The department of business, economic development, and~~
17 ~~tourism shall maintain records of the names of taxpayers~~
18 ~~eligible for the credits and the total amount of qualified costs~~
19 ~~incurred from June 1, 2003, through May 31, 2009. The~~
20 ~~department of business, economic development, and tourism shall~~



1 ~~verify all qualified costs and, upon each determination, shall~~
2 ~~issue a certificate to the taxpayer certifying:~~

3 ~~(1) The amount of the qualified costs; and~~

4 ~~(2) The amount of tax credit that the taxpayer is allowed~~
5 ~~to use for the taxable year.~~

6 ~~The department of business, economic development, and~~
7 ~~tourism shall certify no more than \$7,500,000 in credits in the~~
8 ~~aggregate for all taxpayers for each taxable year; provided that~~
9 ~~the department may verify qualified costs of no more than~~
10 ~~\$75,000,000 from June 1, 2003, through May 31, 2009. The~~
11 ~~taxpayer shall file the certificate with the taxpayer's return~~
12 ~~with the department of taxation.~~

13 ~~(j) As used in this section:~~

14 ~~"Ko Olina Resort and Marina" means the six hundred forty-~~
15 ~~two acres reclassified to urban district by Decision and Order~~
16 ~~entered on September 12, 1985, in Docket A83-562, by the land~~
17 ~~use commission.~~

18 ~~"Makaha Resort" means the three hundred thirty two acre~~
19 ~~property identified as tax map keys (1) 8-04-002 parcels 51, 52,~~
20 ~~53, 54, 55, and 67 and (1) 8-04-029-142.~~



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1 ~~"Qualified costs" means any costs for plans, design, and~~
2 ~~construction, costs for equipment that is permanently affixed to~~
3 ~~a building or structure, and acquisition of facilities for~~
4 ~~educational purposes, up to a total of \$75,000,000 in the~~
5 ~~aggregate, incurred after May 31, 2003, and before June 1, 2009,~~
6 ~~at either or both of:~~

7 ~~(1) Ko Olina Resort and Marina for the development of~~
8 ~~facilities for attractions and educational purposes,~~
9 ~~and for infrastructure within the Ko Olina Resort and~~
10 ~~Marina that is directly related to those facilities,~~
11 ~~including a world class aquarium, marine science and~~
12 ~~mammal research facilities, international sports~~
13 ~~training complex, a travel industry management intern~~
14 ~~campus, infrastructure for the transfer of ocean~~
15 ~~waters to the aquarium or marine mammal facilities, or~~
16 ~~both, seawater air conditioning, and other educational~~
17 ~~facilities developed or operated in cooperation with~~
18 ~~the University of Hawaii or other educational~~
19 ~~institutions; or~~



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1 ~~(2) Makaha Resort for the development of a training and~~
2 ~~educational facility within a working resort and~~
3 ~~hotel;~~

4 ~~provided that "qualified costs" shall not include land~~
5 ~~acquisition costs.~~

6 ~~"Qualified taxpayer" means a person who fulfills the~~
7 ~~requirements of subsection (c)."]~~

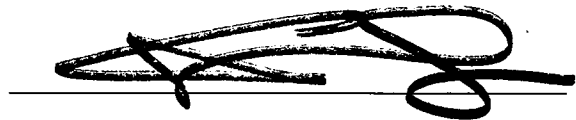
8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken.

10 SECTION 5. This Act shall not cause the expiration of any
11 tax credits legally claimed and carried forward in accordance
12 with law in effect prior to enactment of this Act.

13 SECTION 6. This Act shall take effect upon its approval.

14

INTRODUCED BY:



JAN 19 2017



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Report Title:

Net Income Tax; Tax Credit

Description:

Repeals various sections of Hawaii net income tax laws for the purpose of deleting obsolete and unnecessary provisions.

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