

JAN 24 2018

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 a new section to be appropriately designated
3 and to read as follows:

4 "§235- Tax credit for small business research
5 activities. (a) Section 41 (with respect to the credit for
6 increasing research activities) and section 280C(c) (with
7 respect to certain expenses for which the credit for increasing
8 research activities are allowable) of the Internal Revenue Code
9 shall be operative for the purposes of this chapter as provided
10 in this section and section 235-110.91.

11 (b) All references to Internal Revenue Code sections
12 within sections 41 and 280C(c) of the Internal Revenue Code
13 shall be operative for purposes of this section.

14 (c) There shall be allowed to each small business subject
15 to the tax imposed by this chapter an income tax credit for
16 qualified research activities equal to the credit for research
17 activities provided by section 41 of the Internal Revenue Code



1 and as modified by this section, up to a maximum of \$25,000 for
2 any taxable year; provided that, in addition to any other
3 requirements established in this section, in order to qualify
4 for the tax credit established in this section, the small
5 business shall also claim a federal tax credit for the same
6 qualified research activities under section 41 of the Internal
7 Revenue Code. The credit shall be deductible from the small
8 business's net income tax liability, if any, imposed by this
9 chapter for the taxable year in which the credit is properly
10 claimed.

11 A small business that claims a tax credit pursuant to this
12 section for a taxable year shall be ineligible to claim a tax
13 credit pursuant to section 235-110.91 for the same taxable year.

14 (d) A small business that intends to claim a tax credit
15 pursuant to this section, before March 31 of each year in which
16 qualified research activity was conducted in the previous
17 taxable year, shall submit a written, certified statement to the
18 director of taxation identifying:

19 (1) Qualified research expenses, if any, expended in the
20 previous taxable year; and



- 1 (2) The amount of tax credits claimed pursuant to this
2 section, if any, in the previous taxable year.
- 3 (e) The department shall:
- 4 (1) Maintain records of the names and addresses of the
5 taxpayers claiming the credits under this section and
6 the total amount of the qualified research costs upon
7 which the tax credit is based;
- 8 (2) Verify the nature of the qualified research activity
9 and the amount of the qualifying costs or
10 expenditures;
- 11 (3) Calculate the total amount of all qualifying and
12 cumulative costs or expenditures that the department
13 certifies; and
- 14 (4) Certify the amount of the tax credit for each taxable
15 year and cumulative amount of the tax credit.

16 Upon each determination made under this subsection, the
17 department shall issue a certificate to the taxpayer verifying
18 information submitted to the department, including the
19 qualifying costs or expenditure amounts, the credit amount
20 certified for each taxable year, and the cumulative amount of
21 the tax credit during the credit period. The taxpayer shall



1 file the certificate with the taxpayer's tax return with the
2 department.

3 The director of taxation may assess and collect a fee to
4 offset the costs of certifying tax credit claims under this
5 section. All fees collected under this section shall be
6 deposited into the tax administration special fund established
7 under section 235-20.5.

8 (f) If the tax credit for qualified research activities
9 claimed by a taxpayer exceeds the amount of income tax payment
10 due from the taxpayer, the excess of the tax credit over
11 payments due may be used as a credit against the taxpayer's
12 income tax liability in subsequent years until exhausted.

13 (g) All claims for a tax credit under this section shall
14 be filed on or before the end of the twelfth month following the
15 close of the taxable year for which the credit may be claimed.
16 Failure to comply with the foregoing provision shall constitute
17 a waiver of the right to claim the credit.

18 (h) As used in this section:

19 "Qualified research" shall have the same meaning as in
20 section 41(d) of the Internal Revenue Code.



1 "Qualified research expenses" shall have the same meaning
2 as in section 41(b) of the Internal Revenue Code; provided that
3 it shall not include research expenses incurred outside the
4 State.

5 "Small business" shall have the same meaning as in section
6 201M-1.

7 (i) The director of taxation may adopt any rules under
8 chapter 91 and forms necessary to carry out this section."

9 SECTION 2. Section 235-110.91, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending its title and subsection (a) to read:

12 "**§235-110.91 Tax credit for qualified high technology**
13 **business research activities.** (a) Section 41 (with respect to
14 the credit for increasing research activities) and section
15 280C(c) (with respect to certain expenses for which the credit
16 for increasing research activities are allowable) of the
17 Internal Revenue Code shall be operative for the purposes of
18 this chapter as provided in this section[+] and section 235-_____ ;
19 provided that the federal tax provisions in section 41 of the
20 Internal Revenue Code, as that section was enacted on
21 December 31, 2011, irrespective of any subsequent changes to



1 section 41 of the Internal Revenue Code, shall remain in effect
2 for purposes of determining the state income tax credit under
3 this section; provided further that the federal tax provisions
4 in section 41 of the Internal Revenue Code, as enacted on
5 December 31, 2011, irrespective of any subsequent amendments to
6 section 41 of the Internal Revenue Code, shall apply only to
7 expenses incurred for qualified research activities after
8 December 31, 2012."

9 2. By amending subsection (c) to read:

10 "(c) There shall be allowed to each qualified high
11 technology business subject to the tax imposed by this chapter
12 an income tax credit for qualified research activities equal to
13 the credit for research activities provided by section 41 of the
14 Internal Revenue Code and as modified by this section; provided
15 that, in addition to any other requirements established in this
16 section, in order to qualify for the tax credit established in
17 this section, the qualified high technology business shall also
18 claim a federal tax credit for the same qualified research
19 activities under section 41 of the Internal Revenue Code, as
20 enacted on December 31, 2011, irrespective of any subsequent
21 amendments to section 41 of the Internal Revenue Code. The



1 credit shall be deductible from the taxpayer's net income tax
2 liability, if any, imposed by this chapter for the taxable year
3 in which the credit is properly claimed.

4 A qualified high technology business that claims a tax
5 credit pursuant to this section for a taxable year shall be
6 ineligible to claim a tax credit pursuant to section 235- for
7 the same taxable year."

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act, upon its approval, shall apply to
11 taxable years beginning after December 31, 2017.

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S.B. NO. 3005

Report Title:

Taxation; Small Business; Research and Development; Tax Credit

Description:

Establishes a nonrefundable income tax credit for small business research and development activities within the State.

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