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## A BILL FOR AN ACT

RELATING TO TAXATION OF LOCALLY PRODUCED, ORGANIC FOOD.

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

1           SECTION 1. The legislature finds that Hawaii is the most  
2 isolated, populated land mass on earth and currently relies on  
3 imports for over ninety per cent of its food supply. Such  
4 reliance is not only costly, but also poses a significant risk  
5 of famine in the event of a natural disaster, economic  
6 disruption, or other external factors beyond the State's  
7 control.

8           The legislature further finds that through the adoption of  
9 the Aloha+ Challenge, Hawaii is committed to doubling local food  
10 production for local consumption by 2030, and that organic  
11 farmers face additional hardships to achieve and maintain a  
12 rigorous "USDA Organic" certification status.

13           The purpose of this Act is to help Hawaii achieve its local  
14 food production goals by:

15           (1) Providing a tax credit for locally produced, organic  
16           food; and



1 (2) Exempting locally produced, organic food from the  
2 general excise tax.

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

6 "§235- Tax credit for locally produced, organic food.

7 (a) As used in this section:

8 "Agricultural product" has the same meaning as defined in  
9 title 7 United States Code section 6502.

10 "Credit period" means a maximum period of five consecutive  
11 years, beginning from the first taxable year in which a  
12 qualified taxpayer begins producing agricultural products or  
13 livestock in the State.

14 "Livestock" has the same meaning as defined in title 7  
15 United States Code section 6502.

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

18 "Qualified taxpayer" means a certified organic farm, as  
19 that term is defined in title 7 United States Code section 6502,  
20 that produces agricultural products or livestock in the State.



1        (b) Each year during the credit period, there shall be  
2 allowed to each qualified taxpayer subject to the tax imposed  
3 under this chapter, an income tax credit that shall be  
4 deductible from the qualified taxpayer's net income tax  
5 liability, if any, imposed by this chapter for the taxable year  
6 in which the credit is properly claimed.

7        (c) The amount of the credit shall be twenty-five per cent  
8 of the qualified taxpayer's taxable income for the taxable year;  
9 provided that the amount of the tax credit claimed under this  
10 section by a qualified taxpayer shall not exceed \$            per  
11 taxable year.

12        (d) In the case of a partnership, S corporation, estate,  
13 or trust, the tax credit allowable is for twenty-five per cent  
14 of its taxable income for the taxable year. The taxable income  
15 upon which the tax credit is computed shall be determined at the  
16 entity level. Distribution and share of the credit shall be  
17 determined pursuant to section 704(b) (with respect to partner's  
18 distributive share) of the Internal Revenue Code.

19        (e) If a deduction is taken under section 179 (with  
20 respect to election to expense depreciable business assets) of  
21 the Internal Revenue Code, no tax credit shall be allowed for



1 that portion of the taxable income for which the deduction is  
2 taken.

3 (f) The basis of eligible property for depreciation or  
4 accelerated cost recovery system purposes for state income taxes  
5 shall be reduced by the amount of credit allowable and claimed.

6 In the alternative, the qualified taxpayer shall treat the  
7 amount of the credit allowable and claimed as a taxable income  
8 item for the taxable year in which it is properly recognized  
9 under the method of accounting used to compute taxable income.

10 (g) If the tax credit claimed by the qualified taxpayer  
11 under this section exceeds the amount of the income tax payments  
12 due from the qualified taxpayer, the excess of credit over  
13 payments due shall be refunded to the qualified taxpayer;  
14 provided that the tax credit properly claimed by a qualified  
15 taxpayer who has no income tax liability shall be paid to the  
16 qualified taxpayer; provided further that no refunds or payments  
17 on account of the tax credit allowed by this section shall be  
18 made for amounts less than \$1.

19 (h) The director of taxation shall prepare such forms as  
20 may be necessary to claim a credit under this section, may



1 require proof of the claim for the tax credit, and may adopt  
2 rules pursuant to chapter 91.

3 (i) All of the provisions relating to assessments and  
4 refunds under this chapter and under section 231-23(c)(1) shall  
5 apply to the tax credit under this section.

6 (j) Claims for the tax credit under this section,  
7 including any amended claims, shall be filed on or before the  
8 end of the twelfth month following the taxable year for which  
9 the credit may be claimed."

10 SECTION 3. Section 237-24.3, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "§237-24.3 **Additional amounts not taxable.** In addition to  
13 the amounts not taxable under section 237-24, this chapter shall  
14 not apply to:

15 (1) Amounts received from the loading, transportation, and  
16 unloading of agricultural commodities shipped for a  
17 producer or produce dealer on one island of this State  
18 to a person, firm, or organization on another island  
19 of this State. The terms "agricultural commodity",  
20 "producer", and "produce dealer" shall be defined in  
21 the same manner as they are defined in section 147-1;



1           ~~[provided that agricultural commodities need not have~~  
2           ~~been produced in the State,]~~

3           (2) Amounts received by the manager, submanager, or board  
4           of directors of:

5           (A) An association of a condominium property regime  
6           established in accordance with chapter 514B or  
7           any predecessor thereto; or

8           (B) A nonprofit homeowners or community association  
9           incorporated in accordance with chapter 414D or  
10          any predecessor thereto and existing pursuant to  
11          covenants running with the land,

12          in reimbursement of sums paid for common expenses;

13          (3) Amounts received or accrued from:

14          (A) The loading or unloading of cargo from ships,  
15          barges, vessels, or aircraft, whether or not the  
16          ships, barges, vessels, or aircraft travel  
17          between the State and other states or countries  
18          or between the islands of the State;

19          (B) Tugboat services including pilotage fees  
20          performed within the State, and the towage of



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1           ships, barges, or vessels in and out of state  
2           harbors, or from one pier to another; and  
3           (C) The transportation of pilots or governmental  
4           officials to ships, barges, or vessels offshore;  
5           rigging gear; checking freight and similar  
6           services; standby charges; and use of moorings  
7           and running mooring lines;  
8           (4) Amounts received by an employee benefit plan by way of  
9           contributions, dividends, interest, and other income;  
10          and amounts received by a nonprofit organization or  
11          office, as payments for costs and expenses incurred  
12          for the administration of an employee benefit plan;  
13          provided that this exemption shall not apply to any  
14          gross rental income or gross rental proceeds received  
15          after June 30, 1994, as income from investments in  
16          real property in this State; and provided further that  
17          gross rental income or gross rental proceeds from  
18          investments in real property received by an employee  
19          benefit plan after June 30, 1994, under written  
20          contracts executed prior to July 1, 1994, shall not be  
21          taxed until the contracts are renegotiated, renewed,



1 or extended, or until after December 31, 1998,  
2 whichever is earlier. For the purposes of this  
3 paragraph, "employee benefit plan" means any plan as  
4 defined in title 29 United States Code section  
5 1002(3), as amended;

6 (5) Amounts received for purchases made with United States  
7 Department of Agriculture food coupons under the  
8 federal food stamp program, and amounts received for  
9 purchases made with United States Department of  
10 Agriculture food vouchers under the Special  
11 Supplemental Foods Program for Women, Infants and  
12 Children;

13 (6) Amounts received by a hospital, infirmary, medical  
14 clinic, health care facility, pharmacy, or a  
15 practitioner licensed to administer the drug to an  
16 individual for selling prescription drugs or  
17 prosthetic devices to an individual; provided that  
18 this paragraph shall not apply to any amounts received  
19 for services provided in selling prescription drugs or  
20 prosthetic devices. As used in this paragraph:





1 "Prescription drugs" are those drugs defined  
2 under section 328-1 and dispensed by filling or  
3 refilling a written or oral prescription by a  
4 practitioner licensed under law to administer the drug  
5 and sold by a licensed pharmacist under section 328-16  
6 or practitioners licensed to administer drugs;  
7 provided that "prescription drugs" shall not include  
8 cannabis or manufactured cannabis products authorized  
9 pursuant to chapters 329 and 329D; and

10 "Prosthetic device" means any artificial device  
11 or appliance, instrument, apparatus, or contrivance,  
12 including their components, parts, accessories, and  
13 replacements thereof, used to replace a missing or  
14 surgically removed part of the human body, which is  
15 prescribed by a licensed practitioner of medicine,  
16 osteopathy, or podiatry and that is sold by the  
17 practitioner or that is dispensed and sold by a dealer  
18 of prosthetic devices; provided that "prosthetic  
19 device" shall not mean any auditory, ophthalmic,  
20 dental, or ocular device or appliance, instrument,  
21 apparatus, or contrivance;



- 1           (7) Taxes on transient accommodations imposed by chapter
- 2                   237D and passed on and collected by operators holding
- 3                   certificates of registration under that chapter;
- 4           (8) Amounts received as dues by an unincorporated
- 5                   merchants association from its membership for
- 6                   advertising media, promotional, and advertising costs
- 7                   for the promotion of the association for the benefit
- 8                   of its members as a whole and not for the benefit of
- 9                   an individual member or group of members less than the
- 10                  entire membership;
- 11          (9) Amounts received by a labor organization for real
- 12                  property leased to:
- 13                  (A) A labor organization; or
- 14                  (B) A trust fund established by a labor organization
- 15                          for the benefit of its members, families, and
- 16                          dependents for medical or hospital care, pensions
- 17                          on retirement or death of employees,
- 18                          apprenticeship and training, and other membership
- 19                          service programs.
- 20                  As used in this paragraph, "labor organization" means
- 21                  a labor organization exempt from federal income tax



- 1 under section 501(c)(5) of the Internal Revenue Code,  
2 as amended;
- 3 (10) Amounts received from foreign diplomats and consular  
4 officials who are holding cards issued or authorized  
5 by the United States Department of State granting them  
6 an exemption from state taxes; ~~and~~
- 7 (11) Amounts received as rent for the rental or leasing of  
8 aircraft or aircraft engines used by the lessees or  
9 renters for interstate air transportation of  
10 passengers and goods. For purposes of this paragraph,  
11 payments made pursuant to a lease shall be considered  
12 rent regardless of whether the lease is an operating  
13 lease or a financing lease. The definition of  
14 "interstate air transportation" is the same as in 49  
15 U.S.C. section 40102[-]; and
- 16 (12) Amounts received by a certified organic farm that  
17 produces agricultural products or livestock in the  
18 State. For the purposes of this paragraph,  
19 "agricultural products", "certified organic farm", and  
20 "livestock" have the same meaning as defined in title  
21 7 United States Code section 6502."



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

3 SECTION 5. If any provision of this Act, or the  
4 application thereof to any person or circumstance, is held  
5 invalid, the invalidity does not affect other provisions or  
6 applications of the Act that can be given effect without the  
7 invalid provision or application, and to this end the provisions  
8 of this Act are severable.

9 SECTION 6. This Act shall take effect on July 1, 2020;  
10 provided that section 2 shall apply to taxable years beginning  
11 after December 31, 2020.  
12

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JAN 21 2020



# H.B. NO. 2156

**Report Title:**

Locally Produced, Organic Food; Tax Credit; General Excise Tax; Exemption

**Description:**

Establishes an income tax credit for locally produced, organic food. Exempts locally produced, organic food from the general excise tax.

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