

JAN 23 2020

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



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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;



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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



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:



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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



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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."



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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

INTRODUCED BY: 

By Request



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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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