
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that Act 202, Session
2 Laws of Hawaii 2016, established a renewable fuels production
3 tax credit for the purpose of achieving greater energy security
4 for Hawaii. However, the tax credit was repealed on
5 December 31, 2021. Accordingly, the purpose of this Act is to
6 reinstate a renewable fuels production tax credit.

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

10 "§235- Renewable fuels production tax credit. (a) Each
11 year during the credit period, there shall be allowed to each
12 taxpayer subject to the taxes imposed by this chapter a
13 renewable fuels production tax credit that shall be applied to
14 the taxpayer's net income tax liability, if any, imposed by this
15 chapter for the taxable year in which the credit is properly
16 claimed.

17 For each taxpayer producing renewable fuels, the annual
18 dollar amount of the renewable fuels production tax credit



1 during the ten-year credit period shall be equal to 20 cents per
2 seventy-six thousand British thermal units of renewable fuels
3 using the lower heating value sold for distribution in the
4 State; provided that the taxpayer's production of renewable
5 fuels is not less than two billion five hundred million British
6 thermal units of renewable fuels per calendar year; provided
7 further that the amount of the tax credit claimed under this
8 section by a taxpayer shall not exceed \$3,500,000 per taxable
9 year; provided further that the tax credit shall only be claimed
10 for fuels with lifecycle emissions below that of fossil fuels.
11 No other tax credit may be claimed under this chapter for the
12 costs incurred to produce the renewable fuels that are used to
13 properly claim a tax credit under this section for the taxable
14 year.

15 Each taxpayer, together with all of its related entities as
16 determined under section 267(b) of the Internal Revenue Code and
17 all business entities under common control, as determined under
18 sections 414(b), 414(c), and 1563(a) of the Internal Revenue
19 Code, shall not be eligible for more than a single ten-year
20 credit period.



1 (b) In the case of a partnership, S corporation, estate,
2 or trust, distribution and share of the renewable fuels
3 production tax credit shall be determined pursuant to section
4 704(b) (with respect to a partner's distributive share) of the
5 Internal Revenue Code of 1986, as amended. For a fiscal year
6 taxpayer, the taxpayer shall report the credit in the taxable
7 year in which the calendar year end is included.

8 (c) No later than thirty days following the close of the
9 calendar year, every taxpayer claiming a credit under this
10 section shall complete and file an independent, third-party
11 certified statement, at the taxpayer's sole expense, with and in
12 the form prescribed by the Hawaii state energy office, providing
13 the following information:

14 (1) The type, quantity, and British thermal unit value,
15 using the lower heating value, of each qualified fuel,
16 broken down by the type of fuel, produced and sold
17 during the previous calendar year;

18 (2) The feedstock used for each type of qualified fuel;

19 (3) The proposed total amount of credit to which the
20 taxpayer is entitled for each calendar year and the



1 cumulative amount of the tax credit the taxpayer
2 received during the credit period;

3 (4) The number of full-time and number of part-time
4 employees of the facility and those employees' states
5 of residency, totaled per state;

6 (5) The number and location of all renewable fuel
7 production facilities within and outside of the State;
8 and

9 (6) The lifecycle greenhouse gas emissions per British
10 thermal units for each type of qualified fuel
11 produced.

12 (d) Within thirty calendar days after the due date of the
13 statement required under subsection (c), the Hawaii state energy
14 office shall:

15 (1) Acknowledge, in writing, receipt of the statement;

16 (2) Issue a certificate to the taxpayer reporting the
17 amount of renewable fuels produced and sold, the
18 amount of credit that the taxpayer is entitled to
19 claim for the previous calendar year, and the
20 cumulative amount of the tax credit during the credit
21 period; and



1 (3) Provide the taxpayer with a determination of whether
2 the lifecycle greenhouse gas emissions for each type
3 of qualified fuel produced is lower than that of
4 fossil fuels.

5 (e) The taxpayer shall file the certificate issued under
6 subsection (d) with the taxpayer's tax return with the
7 department of taxation. The director of taxation may audit and
8 adjust the certification to conform to the facts.

9 (f) The total amount of tax credits allowed under this
10 section shall not exceed \$20,000,000 for all eligible taxpayers
11 in any calendar year. In the event that the credit claims under
12 this section exceed \$20,000,000 for all eligible taxpayers in
13 any given calendar year, the \$20,000,000 shall be divided
14 between all eligible taxpayers for that year in proportion to
15 the total amount of renewable fuels produced by all eligible
16 taxpayers. Upon reaching \$20,000,000 in the aggregate, the
17 Hawaii state energy office shall immediately discontinue issuing
18 certificates and notify the department of taxation. In no
19 instance shall the total dollar amount of certificates issued
20 exceed \$20,000,000 per calendar year.



1 (g) Notwithstanding any other law to the contrary, the
2 information collected and compiled by the Hawaii state energy
3 office under subsections (c) and (d) for the purposes of the
4 renewable fuels production tax credit shall be available for
5 public inspection and dissemination, subject to chapter 92F.

6 (h) If the credit under this section exceeds the
7 taxpayer's net income tax liability, the excess of the credit
8 over liability may be used as a credit against the taxpayer's
9 net income tax liability in subsequent years until exhausted,
10 unless otherwise elected by the taxpayer pursuant to subsections
11 (i) or (j). All claims for a credit under this section shall be
12 properly filed on or before the end of the twelfth month
13 following the close of the taxable year for which the credit may
14 be claimed. Failure to comply with the foregoing provision or
15 to provide the certified statement required under subsection (c)
16 shall constitute a waiver of the right to claim the credit.

17 (i) A taxpayer may elect to reduce the eligible credit
18 amount by thirty per cent and if this reduced amount exceeds the
19 amount of income tax payment due from the taxpayer, the excess
20 of the credit amount over payments due shall be refunded to the
21 taxpayer; provided that tax credit amounts properly claimed by a



1 taxpayer who has no income tax liability shall be paid to the
2 taxpayer; provided further that no refund on account of the tax
3 credit allowed by this section shall be made for amounts less
4 than \$1.

5 The election required by this subsection shall be made in a
6 manner prescribed by the director on the taxpayer's return for
7 the taxable year in which the credit is claimed. An election
8 once made is irrevocable.

9 (j) Notwithstanding subsection (i), an individual taxpayer
10 may elect to have any excess of the credit over payments due
11 refunded to the taxpayer, if:

12 (1) All of the taxpayer's income is exempt from taxation
13 under section 235-7(a)(2) or (3); or

14 (2) The taxpayer's adjusted gross income is \$20,000 or
15 less (or \$40,000 or less if filing a tax return as
16 married filing jointly);

17 provided that tax credits properly claimed by a taxpayer who has
18 no income tax liability shall be paid to the taxpayer; provided
19 further that no refund on account of the tax credit allowed by
20 this section shall be made for amounts less than \$1.



1 A married couple who does not file a joint tax return shall
2 only be entitled to make this election to the extent that they
3 would have been entitled to make the election had they filed a
4 joint tax return.

5 The election required by this subsection shall be made in a
6 manner prescribed by the director on the taxpayer's return for
7 the taxable year in which the credit is claimed. An election
8 once made is irrevocable.

9 (k) Before the production of any renewable fuels for the
10 calendar year, the taxpayer shall provide written notice of the
11 taxpayer's intention to begin production of renewable fuels.
12 The written notice shall be provided to the department of
13 taxation and the Hawaii state energy office and shall include
14 information on the taxpayer, facility location, facility
15 production capacity, anticipated production start date, and the
16 taxpayer's contact information. Notwithstanding any other law
17 to the contrary, the written notice described in this
18 subsection, including taxpayer and facility information, shall
19 be available for public inspection and dissemination, subject to
20 chapter 92F.



1 (1) The taxpayer shall provide written notice to the
2 director of taxation and the chief energy officer of the Hawaii
3 state energy office within thirty days following the start of
4 production. The notice shall include the production start date
5 and expected renewable fuels production for the next twelve
6 months. Notwithstanding any other law to the contrary, the
7 written notice described in this subsection shall be available
8 for public inspection and dissemination, subject to chapter 92F.

9 (m) Following each calendar year in which a credit under
10 this section has been claimed, the chief energy officer of the
11 Hawaii state energy office shall submit a written report to the
12 governor and legislature regarding the production and sale of
13 renewable fuels. The report shall include:

14 (1) The number and location of renewable fuels production
15 facilities in the State and outside the State that
16 have claimed a credit under this section;

17 (2) The total number of British thermal units of renewable
18 fuels, itemized by type of fuel produced and sold
19 during the previous calendar year; and

20 (3) The projected number of British thermal units of
21 renewable fuels production for the succeeding year.



1 (n) The director of taxation:

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

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

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

9 (o) As used in this section:

10 "Credit period" means a maximum period of ten consecutive
11 years, beginning from the first taxable year in which a taxpayer
12 begins renewable fuels production at a level of at least two
13 billion five-hundred million British thermal units of renewable
14 fuels per calendar year.

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

17 "Renewable feedstocks" means:

18 (1) Biomass crops and other renewable organic material,
19 including but not limited to logs, wood chips, wood
20 pellets, and wood bark;

21 (2) Agricultural residue;



1 (3) Oil crops, including but not limited to algae, canola,
2 jatropha, palm, soybean, and sunflower;
3 (4) Sugar and starch crops, including but not limited to
4 sugar cane and cassava;
5 (5) Other agricultural crops;
6 (6) Grease and waste cooking oil;
7 (7) Food wastes;
8 (8) Municipal solid wastes and industrial wastes;
9 (9) Water, including wastewater; and
10 (10) Animal residues and wastes,
11 that can be used to generate energy.

12 "Renewable fuels" means fuels produced from renewable
13 feedstocks; provided that the fuel:

- 14 (1) Is sold as a fuel in the State; and
15 (2) Meets the relevant ASTM International specifications
16 or other industry specifications for the particular
17 fuel, including but not limited to:
18 (A) Methanol, ethanol, or other alcohols;
19 (B) Hydrogen;
20 (C) Biodiesel or renewable diesel;
21 (D) Biogas;



- 1 (E) Other biofuels;
2 (F) Renewable jet fuel or renewable gasoline; or
3 (G) Logs, wood chips, wood pellets, or wood bark."

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval
6 and shall apply to taxable years beginning after December 31,
7 2021.



Report Title:

Income Tax; Renewable Fuels Production Tax Credit

Description:

Reinstates a renewable fuels production tax credit. Applies to taxable years beginning after 12/31/2021. (CD1)

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

