
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Hawaii is vulnerable to soaring prices and
2 disruptions of its energy imports, which can hinder, cripple, or
3 even devastate the State's economy and the well-being of its
4 inhabitants. As the most isolated land mass on Earth, Hawaii
5 imports nearly ninety per cent of its energy and almost one
6 hundred per cent of its transportation resources. The
7 legislature finds that it is critical for Hawaii to ensure
8 greater energy security by becoming more self-sufficient in its
9 energy and food supply.

10 The legislature also finds that Act 202, Session Laws of
11 Hawaii 2016, established a renewable fuels production tax credit
12 for the purpose of achieving greater energy security for Hawaii.
13 However, the tax credit was repealed on December 31, 2021.

14 Accordingly, the purpose of this Act is to reinstate the
15 renewable fuels production tax credit.



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

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

For each taxpayer producing renewable fuels, the annual dollar amount of the renewable fuels production tax credit during the five-year credit period shall be equal to cents per seventy-six thousand British thermal units of renewable fuels using the lower heating value sold for distribution in Hawaii; provided that the taxpayer's production of renewable fuels is not less than two billion five hundred million British thermal units of renewable fuels per calendar year; provided further that the amount of the tax credit claimed under this section by a taxpayer shall not exceed \$ per taxable year. No other tax credit may be claimed under this chapter for



1 the costs incurred in producing the renewable fuels that are
2 used to properly claim a tax credit under this section for the
3 taxable year.

4 Each taxpayer, together with all of its related entities as
5 determined under Internal Revenue Code section 267(b) and all
6 business entities under common control, as determined under
7 Internal Revenue Code sections 414(b), 414(c), and 1563(a),
8 shall not be eligible for more than a single five-year credit
9 period.

10 (b) In the case of a partnership, S corporation, estate,
11 or trust, distribution and share of the renewable fuels
12 production tax credit shall be determined pursuant to section
13 704(b) (with respect to a partner's distributive share) of the
14 Internal Revenue Code of 1986, as amended. For a fiscal year
15 taxpayer, the taxpayer shall report the credit in the taxable
16 year in which the calendar year end is included.

17 (c) No later than thirty days following the close of the
18 calendar year, every taxpayer claiming a credit under this
19 section shall complete and file an independent, third-party
20 certified statement, at the taxpayer's sole expense, with and in



1 the form prescribed by the department of business, economic
2 development, and tourism, providing the following information:

3 (1) The type, quantity, and British thermal unit value,
4 using the lower heating value, of each qualified fuel,
5 broken down by the type of fuel, produced and sold
6 during the previous calendar year;

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

8 (3) The proposed total amount of credit to which the
9 taxpayer is entitled for each calendar year and the
10 cumulative amount of the tax credit the taxpayer
11 received during the credit period;

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

15 (5) The number and location of all renewable fuel
16 production facilities within and outside of the State.

17 (d) Within thirty calendar days after the due date of the
18 statement required under subsection (c), the department of
19 business, economic development, and tourism shall:

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



1 (2) Issue a certificate to the taxpayer reporting the
2 amount of renewable fuels produced and sold, the
3 amount of credit that the taxpayer is entitled to
4 claim for the previous calendar year, and the
5 cumulative amount of the tax credit during the credit
6 period.

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

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



1 amount of certificates issued exceed \$ per calendar
2 year.

3 (g) Notwithstanding any other law to the contrary, the
4 information collected and compiled by the department of
5 business, economic development, and tourism under subsections
6 (c) and (d) for the purposes of the renewable fuels production
7 tax credit shall be available for public inspection and
8 dissemination subject to chapter 92F.

9 (h) If the credit under this section exceeds the
10 taxpayer's net income tax liability, the excess of the credit
11 over liability may be used as a credit against the taxpayer's
12 net income tax liability in subsequent years until exhausted.
13 All claims for a credit under this section shall be properly
14 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 or to provide the
17 certified statement required under subsection (c) shall
18 constitute a waiver of the right to claim the credit.

19 (i) Before production of any renewable fuels for the
20 calendar year, the taxpayer shall provide written notice of the
21 taxpayer's intention to begin production of renewable fuels.



1 The written notice shall be provided to the department of
2 taxation and the department of business, economic development,
3 and tourism and shall include information on the taxpayer,
4 facility location, facility production capacity, anticipated
5 production start date, and the taxpayer's contact information.
6 Notwithstanding any other law to the contrary, the written
7 notice described in this subsection, including taxpayer and
8 facility information, shall be available for public inspection
9 and dissemination subject to chapter 92F.

10 (j) The taxpayer shall provide written notice to the
11 director of taxation and the director of business, economic
12 development, and tourism within thirty days following the start
13 of production. The notice shall include the production start
14 date and expected renewable fuels production for the next twelve
15 months. Notwithstanding any other law to the contrary, the
16 written notice described in this subsection shall be available
17 for public inspection and dissemination subject to chapter 92F.

18 (k) Following each calendar year in which a credit under
19 this section has been claimed, the director of business,
20 economic development, and tourism shall submit a written report



1 to the governor and legislature regarding the production and
2 sale of renewable fuels. The report shall include:

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

6 (2) The total number of British thermal units of renewable
7 fuels, broken down by type of fuel produced and sold
8 during the previous calendar year; and

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

11 (1) The director of taxation:

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

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

17 (3) May adopt rules under chapter 91 necessary to
18 effectuate the purposes of this section.

19 (m) As used in this section:

20 "Credit period" means a maximum period of five consecutive
21 years, beginning from the first taxable year in which a taxpayer



begins renewable fuels production at a level of at least two billion five-hundred million British thermal units of renewable fuels per calendar year.

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

"Renewable feedstocks" means:

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

(2) Agricultural residues;

(3) Oil crops, including but not limited to algae, canola, jatropha, palm, soybean, and sunflower;

(4) Sugar and starch crops, including but not limited to sugar cane and cassava;

(5) Other agricultural crops;

(6) Grease and waste cooking oil;

(7) Food wastes;

(8) Municipal solid wastes and industrial wastes;

(9) Water, including wastewater; and

(10) Animal residues and wastes,

that can be used to generate energy.



1 "Renewable fuels" means fuels produced from renewable
2 feedstocks, provided that the fuel:

3 (1) Is sold as a fuel in Hawaii; and

4 (2) Meets the relevant ASTM International specifications
5 or other industry specifications for the particular
6 fuel, including but not limited to:

7 (A) Methanol, ethanol, or other alcohols;

8 (B) Hydrogen;

9 (C) Biodiesel or renewable diesel;

10 (D) Biogas;

11 (E) Other biofuels;

12 (F) Renewable jet fuel or renewable gasoline; or

13 (G) Logs, wood chips, wood pellets, or wood bark."

14 SECTION 3. New statutory material is underscored.

15 SECTION 4. This Act, upon its approval, shall apply to
16 taxable years beginning after December 31, 2021.



Report Title:

Income Tax; Renewable Fuels Production Tax Credit

Description:

Reinstates the renewable fuels production tax credit. (SD1)

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

