

JAN 26 2022

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# A BILL FOR AN ACT

RELATING TO TAX EXPENDITURE ACCOUNTABILITY.

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

SECTION 1. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"§231- Tax expenditures. (a) All laws that enact, modify, or extend the availability of a tax expenditure shall include the following:

(1) An explanation of the intent in enacting each tax expenditure, including the expected economic and employment benefit to the State;

(2) An analysis of whether the economic or employment benefit to the State provided by the tax expenditure, if any, outweighs its cost;

(3) A repeal date that makes the tax expenditure available for no more than thirty-six months;

(4) A static revenue estimate of the tax expenditure for each of the fiscal years in the State's financial plan;

(5) For tax expenditures that are modified or extended:

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1        (A) The total cost of the tax expenditure over the  
2        previous three fiscal years;

3        (B) A static revenue estimate for each of the fiscal  
4        years in the State's financial plan if the tax  
5        expenditure were repealed;

6        (C) An analysis describing the extent to which the  
7        tax expenditure is fulfilling its desired  
8        purpose, including whether the State has realized  
9        the anticipated economic benefit and increase in  
10       tax revenue. The analysis should also include  
11       the number of jobs created in the State and  
12       whether the cost of the tax expenditure is  
13       outweighed by its benefits.

14       (b) The director shall prescribe such rules as may be  
15       necessary or appropriate to carry out the purposes of this  
16       section.

17       (c) For the purposes of this section:

18       (1) "State financial plan" refers to the financial plan  
19       required under section 37-69;

20       (2) "Static revenue estimate" means a revenue estimate  
21       that assumes that the gross domestic product will  
22       remain unchanged by the legislative proposal. A

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1        "static revenue estimate" may take into account  
2        taxpayers' likely behavioral responses to proposed  
3        changes in tax law. Behavioral effects can be broadly  
4        characterized as shifts in the timing of transactions  
5        and income recognition, shifts between business  
6        sectors and entity form, shifts in portfolio holdings,  
7        shifts in consumption, and tax planning and avoidance  
8        strategies.

9        (3) "Tax expenditure" means any credit, deduction,  
10       exclusion, exemption, or any other tax benefit that  
11       provides a preferential rate of tax or deferral of tax  
12       liability, authorized under title 14 for the purpose  
13       of incentivizing economic activity. The term "tax  
14       expenditure" does not include tax measures enacted as  
15       a result of conformity with the Internal Revenue Code,  
16       nor any modifications to tax measures required by the  
17       United States or state constitutions."

18       SECTION 2. Chapter 231, Hawaii Revised Statutes, is  
19       amended by adding a new section to read as follows:

20       "§231-       Lawful disclosure of certain tax expenditure  
21       information. (a) Notwithstanding any law to the contrary, for  
22       tax expenditures that encourage certain economic activities, the

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1 claimant taxpayer's identity and the amount of tax expenditure  
2 claimed shall be subject to public disclosure under chapter 92F.  
3 The identity of any taxpayer to which a tax expenditure subject  
4 to this section flows through shall not be subject to public  
5 disclosure. For the purposes of this section, the definition of  
6 "tax expenditure" is the same as the term is defined in section  
7 231-\_\_.

8 (b) For the purpose of this section, the tax expenditures  
9 that encourage certain industries or economic activities  
10 include:

- 11 (1) Exemption from general excise tax for eligible  
12 business activities in an enterprise zone under  
13 section 209E-11;  
14 (2) Renewable energy technologies income tax credit under  
15 section 235-12.5(b)(1)(C), (2)(C), and (3)(C);  
16 (3) Motion picture, digital media, and film production  
17 income tax credit under section 235-17;  
18 (4) Renewable fuels production tax credit under section  
19 235-110.31;  
20 (5) Fuel tax credit for commercial fishers under section  
21 235-110.6;

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- 1        (6) Ship repair industry tax credit under section 235-  
2            110.65;
- 3        (7) Tax credit for research activities under section 235-  
4            110.91;
- 5        (8) Important agricultural land qualified agricultural  
6            cost tax credit under section 235-110.93;
- 7        (9) Organic foods production tax credit under section 235-  
8            110.94;
- 9        (10) Exemption from general excise tax for certain  
10           convention, conference, and trade show fees under  
11           section 237-16.8;
- 12       (11) Exemption from general excise tax for services related  
13           to ships and aircraft under section 237-24.3(3);
- 14       (12) Exemption from general excise tax for labor  
15           organizations under section 237-24.3(9);
- 16       (13) Exemption from general excise tax for aircraft leasing  
17           under sections 237-24.3(11) and 238-1(6);
- 18       (14) Exemption from general excise tax for aircraft service  
19           and maintenance facilities under sections 237-24.9 and  
20           238-1(8);
- 21       (15) Exemption from general excise tax for ship building and  
22           ship repair under section 237-28.1; and

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1        (16) Exemption from general excise tax for affordable  
2                housing projects under sections 237-29 and 238-3(j).

3        (c) The director shall adopt such rules as may be  
4        necessary or appropriate to carry out the purposes of this  
5        section, including rules that subject other tax expenditures  
6        authorized under this title to this section."

7        SECTION 3. New statutory material is underscored.

8        SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 

BY REQUEST

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**Report Title:**

Tax Expenditure Accountability

**Description:**

Requires laws that enact, modify, or extend the availability of a tax expenditure to contain specific information, revenue estimates, and analyses before becoming law. Allows the disclosure of certain tax credit information.

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

JUSTIFICATION SHEET

DEPARTMENT: Taxation.

TITLE: A BILL FOR AN ACT RELATING TO TAX  
EXPENDITURE ACCOUNTABILITY.

PURPOSE: To promote transparency when tax preferences  
are enacted and to allow for the disclosure  
of tax information relating to tax  
expenditure claims.

MEANS: Add two new sections to chapter 231, Hawaii  
Revised Statutes (HRS).

JUSTIFICATION: Tax expenditures are any credit, deduction,  
exclusion, exemption, or any other tax  
benefit that provides preferential rate of  
tax or deferral of tax liability. Tax  
expenditures are often enacted based on  
anticipated benefits such as an increase in  
gross domestic product, job creation, and  
enhanced tax revenue. The State Auditor is  
responsible for reviewing tax expenditures  
on a periodic basis under section 23-71,  
HRS, et seq., but the review has proven  
difficult because the purpose of enacting  
the tax expenditures and anticipated  
benefits to the State are not clear. The  
proposal requires all laws enacting,  
modifying, and extending the availability of  
tax expenditures to contain the purpose and  
anticipated benefits.

The disclosure of the identity of the  
taxpayers and amount of tax expenditures  
claimed is important to support public trust  
and fairness. When only certain taxpayers  
receive preferential treatment, the other  
taxpayers have the right to know who the  
recipients are.

Impact on the public: The general public  
will benefit by knowing why any given tax  
expenditure was enacted, whether the tax



expenditure met those expectations, and who received preferential treatment.

Impact on the department and other agencies:  
The Department and other agencies will be benefit through improved public trust of the government.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.