
A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 196-6.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) On or after January 1, 2010, no building permit shall
4 be issued for a new single-family dwelling that does not include
5 a solar water heater system that meets the standards established
6 pursuant to section 269-44, unless the chief energy officer of
7 the Hawaii state energy office approves a variance. A variance
8 application shall only be accepted if submitted by an architect
9 or mechanical engineer licensed under chapter 464, who attests
10 that:

11 (1) Installation is impracticable due to poor solar
12 resource;

13 (2) Installation is cost-prohibitive based upon a life
14 cycle cost-benefit analysis that incorporates the
15 average residential utility bill and the cost of the
16 new solar water heater system with a life cycle that
17 does not exceed fifteen years;



(3) A renewable energy technology system[~~as defined in section 235-12.5,~~] is substituted for use as the primary energy source for heating water[~~+~~]. For the purposes of this paragraph, "renewable energy technology system" means a new system that captures and converts a renewable source of energy, such as solar or wind energy, into:

(A) A usable source of thermal or mechanical energy;

(B) Electricity; or

(C) Fuel; or

(4) A demand water heater device approved by Underwriters Laboratories, Inc., is installed; provided that at least one other gas appliance is installed in the dwelling. For the purposes of this paragraph, "demand water heater" means a gas-tankless instantaneous water heater that provides hot water only as it is needed."

SECTION 2. Section 201-113, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established in the state treasury the Hawaii film and creative industries development special fund into which shall be deposited:



(1) Appropriations by the legislature;

(2) Donations and contributions made by private individuals or organizations for deposit into the fund;

(3) Grants provided by governmental agencies or any other source;

~~[(4) Effective January 2, 2023, all revenues, fees, and charges from the processing of the motion picture, digital media, and film production income tax credit pursuant to section 235-17;]~~ and

~~[(5)]~~ (4) Effective July 1, 2022, all existing and future revenues, fees, and income received by the department from its management of public facilities that support media and entertainment workforce and business development, with the exception of the Hawaii film studio."

SECTION 3. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following Internal Revenue Code subchapters, parts of subchapters, sections, subsections, and parts of



1 subsections shall not be operative for the purposes of this
2 chapter, unless otherwise provided:

3 (1) Subchapter A (sections 1 to 59A) (with respect to
4 determination of tax liability), except section
5 1(h) (2) (relating to net capital gain reduced by the
6 amount taken into account as investment income),
7 except sections 2(a), 2(b), and 2(c) (with respect to
8 the definition of "surviving spouse" and "head of
9 household"), except section 41 (with respect to the
10 credit for increasing research activities), except
11 section 42 (with respect to low-income housing
12 credit), [~~except sections 47 and 48, as amended, as of~~
13 ~~December 31, 1984 (with respect to certain depreciable~~
14 ~~tangible personal property),~~] and except section
15 48(d) (3), as amended, as of February 17, 2009 (with
16 respect to the treatment of United States Department
17 of Treasury grants made under section 1603 of the
18 American Recovery and Reinvestment Tax Act of 2009).
19 For treatment, see sections 235-110.91[, ~~235-110.7,~~
20 and 235-110.8;



- 1 (2) Section 78 (with respect to dividends received from
2 certain foreign corporations by domestic corporations
3 choosing foreign tax credit);
- 4 (3) Section 86 (with respect to social security and tier 1
5 railroad retirement benefits);
- 6 (4) Section 91 (with respect to certain foreign branch
7 losses transferred to specified 10-percent owned
8 foreign corporations);
- 9 (5) Section 103 (with respect to interest on state and
10 local bonds). For treatment, see section 235-7(b);
- 11 (6) Section 114 (with respect to extraterritorial income).
12 For treatment, any transaction as specified in the
13 transitional rule for 2005 and 2006 as specified in
14 the American Jobs Creation Act of 2004 section 101(d)
15 and any transaction that has occurred pursuant to a
16 binding contract as specified in the American Jobs
17 Creation Act of 2004 section 101(f) are inoperative;
- 18 (7) Section 120 (with respect to amounts received under
19 qualified group legal services plans). For treatment,
20 see section 235-7(a)(9) to (11);



- 1 (8) Section 122 (with respect to certain reduced uniformed
2 services retirement pay). For treatment, see
3 section 235-7(a) (3);
- 4 (9) Section 135 (with respect to income from United States
5 savings bonds used to pay higher education tuition and
6 fees). For treatment, see section 235-7(a) (1);
- 7 (10) Section 139C (with respect to COBRA premium
8 assistance);
- 9 (11) Subchapter B (sections 141 to 150) (with respect to
10 tax exemption requirements for state and local bonds);
- 11 (12) Section 151 (with respect to allowance of deductions
12 for personal exemptions). For treatment, see
13 section 235-54;
- 14 (13) Section 179B (with respect to expensing of capital
15 costs incurred in complying with Environmental
16 Protection Agency sulphur regulations);
- 17 (14) Section 181 (with respect to special rules for certain
18 film and television productions);
- 19 (15) Section 196 (with respect to deduction for certain
20 unused investment credits);



- 1 (16) Section 199 (with respect to the U.S. production
2 activities deduction);
- 3 (17) Section 199A (with respect to qualified business
4 income);
- 5 (18) Section 222 (with respect to qualified tuition and
6 related expenses);
- 7 (19) Sections 241 to 247 (with respect to special
8 deductions for corporations). For treatment, see
9 section 235-7(c);
- 10 (20) Section 250 (with respect to foreign-derived
11 intangible income and global intangible low-taxed
12 income);
- 13 (21) Section 267A (with respect to certain related party
14 amounts paid or accrued in hybrid transactions or with
15 hybrid entities);
- 16 (22) Section 280C (with respect to certain expenses for
17 which credits are allowable). For treatment, see
18 section 235-110.91;
- 19 (23) Section 291 (with respect to special rules relating to
20 corporate preference items);
- 21 (24) Section 367 (with respect to foreign corporations);



- 1 (25) Section 501(c)(12), (15), (16) (with respect to exempt
2 organizations); except that section 501(c)(12) shall
3 be operative for companies that provide potable water
4 to residential communities that lack any access to
5 public utility water services;
- 6 (26) Section 515 (with respect to taxes of foreign
7 countries and possessions of the United States);
- 8 (27) Subchapter G (sections 531 to 565) (with respect to
9 corporations used to avoid income tax on
10 shareholders);
- 11 (28) Subchapter H (sections 581 to 597) (with respect to
12 banking institutions), except section 584 (with
13 respect to common trust funds). For treatment, see
14 chapter 241;
- 15 (29) Section 642(a) and (b) (with respect to special rules
16 for credits and deductions applicable to trusts). For
17 treatment, see sections 235-54(b) and 235-55;
- 18 (30) Section 646 (with respect to tax treatment of electing
19 Alaska Native settlement trusts);
- 20 (31) Section 668 (with respect to interest charge on
21 accumulation distributions from foreign trusts);



- 1 (32) Subchapter L (sections 801 to 848) (with respect to
2 insurance companies). For treatment, see sections
3 431:7-202 and 431:7-204;
- 4 (33) Section 853 (with respect to foreign tax credit
5 allowed to shareholders). For treatment, see
6 section 235-55;
- 7 (34) Section 853A (with respect to credits from tax credit
8 bonds allowed to shareholders);
- 9 (35) Subchapter N (sections 861 to 999) (with respect to
10 tax based on income from sources within or without the
11 United States), except sections 985 to 989 (with
12 respect to foreign currency transactions). For
13 treatment, see sections 235-4, 235-5, and 235-7(b),
14 and 235-55;
- 15 (36) Section 1042(g) (with respect to sales of stock in
16 agricultural refiners and processors to eligible farm
17 cooperatives);
- 18 (37) Section 1055 (with respect to redeemable ground
19 rents);
- 20 (38) Section 1057 (with respect to election to treat
21 transfer to foreign trust, etc., as taxable exchange);



- 1 (39) Sections 1291 to 1298 (with respect to treatment of
2 passive foreign investment companies);
- 3 (40) Subchapter Q (sections 1311 to 1351) (with respect to
4 readjustment of tax between years and special
5 limitations), except for section 1341 (with respect to
6 computation of tax where taxpayer restores substantial
7 amount held under claim of right);
- 8 (41) Subchapter R (sections 1352 to 1359) (with respect to
9 election to determine corporate tax on certain
10 international shipping activities using per ton rate);
- 11 (42) Subchapter U (sections 1391 to 1397F) (with respect to
12 designation and treatment of empowerment zones,
13 enterprise communities, and rural development
14 investment areas). For treatment, see chapter 209E;
- 15 (43) Subchapter W (sections 1400 to 1400C) (with respect to
16 District of Columbia enterprise zone);
- 17 (44) Section 1400O (with respect to education tax
18 benefits);
- 19 (45) Section 1400P (with respect to housing tax benefits);
- 20 (46) Section 1400R (with respect to employment relief);



1 (47) Section 1400T (with respect to special rules for
2 mortgage revenue bonds);

3 (48) Section 1400U-1 (with respect to allocation of
4 recovery zone bonds);

5 (49) Section 1400U-2 (with respect to recovery zone
6 economic development bonds); and

7 (50) Section 1400U-3 (with respect to recovery zone
8 facility bonds)."

9 SECTION 4. Section 235-110.93, Hawaii Revised Statutes, is
10 amended by amending subsection (d) to read as follows:

11 "(d) The cost upon which the tax credit is computed shall
12 be determined at the entity level. In the case of a
13 partnership, S corporation, estate, trust, or other pass through
14 entity, distribution and share of the credit shall be determined
15 [~~pursuant to section 235-110.7(a).~~] by rule.

16 If a deduction is taken under section 179 (with respect to
17 election to expense depreciable business assets) of the Internal
18 Revenue Code, no tax credit shall be allowed for that portion of
19 the qualified agricultural cost for which a deduction was taken.

20 The basis of eligible property for depreciation or
21 accelerated cost recovery system purposes for state income taxes



1 shall be reduced by the amount of credit allowable and claimed.
2 No deduction shall be allowed for that portion of otherwise
3 deductible qualified agricultural costs on which a credit is
4 claimed under this section."

5 SECTION 5. Section 237-16.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§237-16.5 Tax on written real property leases[; ~~deduction~~**
8 **allowed]**. (a) This section relates to the leasing of real
9 property by a lessor to a lessee. There is hereby levied, and
10 shall be assessed and collected annually, a privilege tax
11 against persons engaging or continuing within the State in the
12 business of leasing real property to another, equal to four per
13 cent of the gross proceeds or gross income received or derived
14 from the leasing[; ~~provided that where real property is~~
15 ~~subleased by a lessee to a sublessee, the lessee, as provided in~~
16 ~~this section, shall be allowed a deduction from the amount of~~
17 ~~gross proceeds or gross income received from its sublease of the~~
18 ~~real property. The deduction shall be in the amount allowed~~
19 ~~under this section]~~.

20 [All deductions under this section and the name and general
21 excise tax number of the lessee's lessor shall be reported on



~~the general excise tax return. Any deduction allowed under this section shall only be allowed with respect to leases and subleases in writing and relating to the same real property.~~

~~(b) The lessee shall obtain from its lessor a certificate, in the form as the department shall prescribe, certifying that the lessor is subject to tax under this chapter on the gross proceeds or gross income received from the lessee. The absence of the certificate in itself shall give rise to the presumption that the lessee is not allowed the deduction under this section.~~

~~(c) If various real property or space leased to the lessee have different rental values, then the total monetary gross proceeds or gross income paid to a lessor for all real property or space shall first be allocated to the fair rental value for each real property or space. If the lessee leases less than one hundred per cent of real property or space that was leased from the lessor to a sublessee, then the total monetary gross proceeds or gross income paid by the lessee for that real property or space to its lessor shall be allocated. The percentage of real property or space subleased shall be multiplied by the monetary gross proceeds or gross income paid for the real property or space by the lessee to its lessor. The~~



~~product of the preceding multiplication shall be deducted from the monetary gross proceeds or gross income received for real property or space by the lessee.~~

~~Once the allocations are made, the appropriate deduction under subsection (g) shall be made.~~

~~(d) The lessor shall make allocations under this section at the time the sublease is entered into and the allocations shall not be changed during the term of the sublease. There shall be a reasonable basis for the allocations, taking into consideration the size, quality, and location of the real property or space subleased. In no event shall the total amount allocated to all subleases exceed the total monetary gross proceeds paid by the lessee to its lessor. The director may redetermine the amount of the deduction under this section if the director finds that the basis for allocation is not reasonable or that redetermination is necessary to prevent the avoidance of taxes.~~

~~(e)]~~ (b) As used in this section:

"Lease" means the rental of real property under an instrument in writing by which one conveys real property for a specified term and for a specified consideration, and includes



1 the written extension or renegotiation of a lease, and any
2 holdover tenancy.

3 "Lessee" means one who holds real property under lease, and
4 includes a sublessee.

5 "Lessor" means one who conveys real property by lease, and
6 includes a sublessor.

7 "Real property or space" means the area actually rented and
8 used by the lessee, and includes common elements as defined in
9 section 514B-3.

10 ~~["Sublease" includes the rental of real property which is~~
11 ~~held under a lease and is made in a written document by which~~
12 ~~one conveys real property for a specified term and for a~~
13 ~~specified consideration. A sublease includes the written~~
14 ~~extension or renegotiation of a sublease and any holdover~~
15 ~~tenancy under the written sublease.~~

16 ~~"Sublessee" means one who holds real property under a~~
17 ~~sublease.~~

18 ~~"Sublessor" means one who conveys real property by~~
19 ~~sublease.~~



~~(f) This section shall not cause the tax upon a lessor, with respect to any item of the lessor's gross proceeds or gross income, to exceed four per cent.~~

~~(g) After allocation under subsection (c), if necessary, the deduction under this section shall be allowed from the gross proceeds or gross income of the lessee received from its sublease in an amount calculated by multiplying the gross proceeds or gross income paid by the lessee to its lessor for the lease of the real property by .875.~~

~~The amount calculated shall be deducted by the lessee from the lessee's total reported gross proceeds or gross income. The deduction allowed by this subsection may be taken by the fiscal and calendar year lessees.]"~~

SECTION 6. Section 237-22, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) To the extent that any deduction, allocation, or other method to determine tax liability is necessary to comply with subsection (a), each taxpayer liable for the tax imposed by this chapter shall be entitled to full offset for the amount of legally imposed sales, gross receipts, or use taxes paid by the taxpayer with respect to the imported property, service, or



1 contracting to another state and any subdivision thereof;
2 provided that such offset shall not exceed the amount of general
3 excise tax imposed under this chapter upon the gross proceeds of
4 sales or gross income from the sale and subsequent sale of the
5 imported property, service, or contracting. The amount of
6 legally imposed sales, gross receipts, or use taxes paid by the
7 taxpayer with respect to the import shall be first applied
8 against any use tax, as permitted under section [~~238-3(i),~~]
9 238-3(h), and any remaining amount may be applied under this
10 section for the same imported property, service, or contracting.

11 The director of taxation shall have the authority to
12 implement this offset by prescribing tax forms and instructions
13 that require tax reporting and payment by deduction, allocation,
14 or any other method to determine tax liability to the extent
15 necessary to comply with the foregoing.

16 The director of taxation may require the taxpayer to
17 produce the necessary receipts or vouchers indicating the
18 payment of the sales, gross receipts, or use taxes to another
19 state or subdivision as a condition for the allowance of this
20 offset."



SECTION 7. Section 237-24, Hawaii Revised Statutes, is amended to read as follows:

"§237-24 Amounts not taxable. This chapter shall not apply to the following amounts:

- (1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured;
- (2) Amounts received (other than amounts paid by reason of death of the insured) under life insurance, endowment, or annuity contracts, either during the term or at maturity or upon surrender of the contract;
- (3) Amounts received under any accident insurance or health insurance policy or contract or under workers' compensation acts or employers' liability acts, as compensation for personal injuries, death, or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of the personal injuries, death, or sickness;
- (4) The value of all property of every kind and sort acquired by gift, bequest, or devise, and the value of all property acquired by descent or inheritance;



(5) Amounts received by any person as compensatory damages for any tort injury to the person, or to the person's character reputation, or received as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties (provided that amounts received as punitive damages for tort injury or breach of contract injury shall be included in gross income);

(6) Amounts received as salaries or wages for services rendered by an employee to an employer;

(7) Amounts received as alimony and other similar payments and settlements;

(8) Amounts collected by distributors as fuel taxes on "liquid fuel" imposed by chapter 243, and the amounts collected by such distributors as a fuel tax imposed by any Act of the Congress of the United States;

(9) Taxes on liquor imposed by chapter 244D on dealers holding permits under that chapter;

(10) The amounts of taxes on cigarettes and tobacco products imposed by chapter 245 on wholesalers or



1 dealers holding licenses under that chapter and
2 selling the products at wholesale;

3 (11) Federal excise taxes imposed on articles sold at
4 retail and collected from the purchasers thereof and
5 paid to the federal government by the retailer;

6 (12) The amounts of federal taxes under chapter 37 of the
7 Internal Revenue Code, or similar federal taxes,
8 imposed on sugar manufactured in the State, paid by
9 the manufacturer to the federal government;

10 (13) An amount up to, but not in excess of, \$2,000 a year
11 of gross income received by any blind, deaf, or
12 totally disabled person engaging, or continuing, in
13 any business, trade, activity, occupation, or calling
14 within the State; a corporation all of whose
15 outstanding shares are owned by an individual or
16 individuals who are blind, deaf, or totally disabled;
17 a general, limited, or limited liability partnership,
18 all of whose partners are blind, deaf, or totally
19 disabled; or a limited liability company, all of whose
20 members are blind, deaf, or totally disabled;



1 ~~[(14)]~~ ~~Amounts received by a producer of sugarcane from the~~
2 ~~manufacturer to whom the producer sells the sugarcane,~~
3 ~~where:~~

4 ~~(A) The producer is an independent cane farmer, so~~
5 ~~classed by the Secretary of Agriculture under the~~
6 ~~Sugar Act of 1948 (61 Stat. 922, chapter 519) as~~
7 ~~the Act may be amended or supplemented;~~

8 ~~(B) The value or gross proceeds of sale of the sugar,~~
9 ~~and other products manufactured from the~~
10 ~~sugarcane, is included in the measure of the tax~~
11 ~~levied on the manufacturer under section~~
12 ~~237-13(1) or (2);~~

13 ~~(C) The producer's gross proceeds of sales are~~
14 ~~dependent upon the actual value of the products~~
15 ~~manufactured therefrom or the average value of~~
16 ~~all similar products manufactured by the~~
17 ~~manufacturer; and~~

18 ~~(D) The producer's gross proceeds of sales are~~
19 ~~reduced by reason of the tax on the value or sale~~
20 ~~of the manufactured products;~~



1 ~~(15)~~] (14) Money paid by the State or eleemosynary
2 child-placing organizations to foster parents for
3 their care of children in foster homes;

4 ~~[(16)]~~ (15) Amounts received by a cooperative housing
5 corporation from its shareholders in reimbursement of
6 funds paid by such corporation for lease rental, real
7 property taxes, and other expenses of operating and
8 maintaining the cooperative land and improvements;
9 provided that such a cooperative corporation is a
10 corporation:

11 (A) Having one and only one class of stock
12 outstanding;

13 (B) Each of the stockholders of which is entitled
14 solely by reason of the stockholder's ownership
15 of stock in the corporation, to occupy for
16 dwelling purposes a house, or an apartment in a
17 building owned or leased by the corporation; and

18 (C) No stockholder of which is entitled (either
19 conditionally or unconditionally) to receive any
20 distribution not out of earnings and profits of



1 the corporation except in a complete or partial
2 liquidation of the corporation; and

3 ~~[(17)]~~ (16) Amounts received by a contractor of the
4 Patient-Centered Community Care program that is
5 established by the United States Department of
6 Veterans Affairs pursuant to title 38 United States
7 Code section 8153, as amended, for the actual costs or
8 advancements to third party health care providers
9 pursuant to a contract with the United States."

10 SECTION 8. 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;~~



~~provided that agricultural commodities need not have
been produced in the State;~~

~~(2)]~~ (1) Amounts received by the manager, submanager, or
board of directors of:

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

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

in reimbursement of sums paid for common expenses;

~~(3)]~~ (2) Amounts received or accrued from:

(A) The loading or unloading of cargo from ships,
barges, vessels, or aircraft, including
stevedoring services as defined in section 382-1,
whether or not the ships, barges, vessels, or
aircraft travel between the State and other
states or countries or between the islands of the
State;



- 1 (B) Tugboat services including pilotage fees
2 performed within the State, and the towage of
3 ships, barges, or vessels in and out of state
4 harbors, or from one pier to another;
- 5 (C) The transportation of pilots or governmental
6 officials to ships, barges, or vessels offshore;
7 rigging gear; checking freight and similar
8 services; standby charges; and use of moorings
9 and running mooring lines; and
- 10 (D) Wharfage and demurrage imposed under chapter 266
11 that is paid to the department of transportation;
- 12 ~~[-(4)-]~~ (3) Amounts received by an employee benefit plan by
13 way of contributions, dividends, interest, and other
14 income; and amounts received by a nonprofit
15 organization or office, as payments for costs and
16 expenses incurred for the administration of an
17 employee benefit plan; provided that this exemption
18 shall not apply to any gross rental income or gross
19 rental proceeds received after June 30, 1994, as
20 income from investments in real property in this
21 State; and provided further that gross rental income



1 or gross rental proceeds from investments in real
2 property received by an employee benefit plan after
3 June 30, 1994, under written contracts executed prior
4 to July 1, 1994, shall not be taxed until the
5 contracts are renegotiated, renewed, or extended, or
6 until after December 31, 1998, whichever is earlier.

7 For the purposes of this paragraph, "employee benefit
8 plan" means any plan as defined in title 29 United
9 States Code section 1002(3), as amended;

10 ~~[(5)]~~ (4) Amounts received for purchases made with United
11 States Department of Agriculture food coupons under
12 the federal food stamp program, and amounts received
13 for purchases made with United States Department of
14 Agriculture food vouchers under the Special
15 Supplemental Foods Program for Women, Infants and
16 Children;

17 ~~[(6)]~~ (5) Amounts received by a hospital, infirmery,
18 medical clinic, health care facility, pharmacy, or a
19 practitioner licensed to administer the drug to an
20 individual for selling prescription drugs or
21 prosthetic devices to an individual; provided that



1 this paragraph shall not apply to any amounts received
2 for services provided in selling prescription drugs or
3 prosthetic devices. As used in this paragraph:

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

13 "Prosthetic device" means any artificial device
14 or appliance, instrument, apparatus, or contrivance,
15 including their components, parts, accessories, and
16 replacements thereof, used to replace a missing or
17 surgically removed part of the human body, which is
18 prescribed by a licensed practitioner of medicine,
19 osteopathy, or podiatry and that is sold by the
20 practitioner or that is dispensed and sold by a dealer
21 of prosthetic devices; provided that "prosthetic



1 device" shall not mean any auditory, ophthalmic,
2 dental, or ocular device or appliance, instrument,
3 apparatus, or contrivance;

4 ~~[(7)]~~ (6) Taxes on transient accommodations imposed by
5 chapter 237D and passed on and collected by operators
6 holding certificates of registration under that
7 chapter;

8 ~~[(8)]~~ (7) Amounts received as dues by an unincorporated
9 merchants association from its membership for
10 advertising media, promotional, and advertising costs
11 for the promotion of the association for the benefit
12 of its members as a whole and not for the benefit of
13 an individual member or group of members less than the
14 entire membership;

15 ~~[(9)]~~ (8) Amounts received by a labor organization for real
16 property leased to:

17 (A) A labor organization; or

18 (B) A trust fund established by a labor organization
19 for the benefit of its members, families, and
20 dependents for medical or hospital care, pensions
21 on retirement or death of employees,



1 apprenticeship and training, and other membership
2 service programs.

3 As used in this paragraph, "labor organization" means
4 a labor organization exempt from federal income tax
5 under section 501(c)(5) of the Internal Revenue Code,
6 as amended;

7 ~~[(10)]~~ (9) Amounts received from foreign diplomats and
8 consular officials who are holding cards issued or
9 authorized by the United States Department of State
10 granting them an exemption from state taxes; and

11 ~~[(11)]~~ ~~Amounts received as rent for the rental or leasing of~~
12 ~~aircraft or aircraft engines used by the lessees or~~
13 ~~renters for interstate air transportation of~~
14 ~~passengers and goods. For purposes of this paragraph,~~
15 ~~payments made pursuant to a lease shall be considered~~
16 ~~rent regardless of whether the lease is an operating~~
17 ~~lease or a financing lease. The definition of~~
18 ~~"interstate air transportation" is the same as in 49~~
19 ~~U.S.C. section 40102; and~~

20 ~~[(12)]~~ (10) Amounts received by a hospital, infirmary,
21 medical clinic, health care facility, or pharmacy, or



1 a medical or dental practitioner, for
2 healthcare-related goods or services purchased under
3 the medicare, medicaid, or TRICARE programs. For the
4 purposes of this paragraph, the healthcare-related
5 services need not be performed by a medical or dental
6 practitioner but may be performed by a physician's
7 assistant, nurse, or other employee under the medical
8 or dental practitioner's direction. As used in this
9 paragraph:

10 "Medicaid" means the program established under
11 Title XIX of the Social Security Act of 1935, as
12 amended;

13 "Medical or dental practitioner" means a
14 physician or osteopathic physician licensed pursuant
15 to chapter 453; a dentist licensed under chapter 448;
16 an advanced practice registered nurse licensed
17 pursuant to chapter 457; or a pharmacist licensed
18 pursuant to chapter 461;

19 "Medicare" means the program established under
20 Title XVIII of the Social Security Act of 1935, as
21 amended; and



1 "TRICARE" means the program of the Department of
2 Defense military health system managed by the Defense
3 Health Agency, or any successor program."

4 SECTION 9. Section 237-25, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Any provision of law to the contrary notwithstanding,
7 there shall be exempted from, and excluded from the measures of,
8 the tax imposed by chapter 237 all sales, and the gross proceeds
9 of all sales, of:

10 (1) Intoxicating liquor, as defined in chapter 281,
11 hereafter sold by any person licensed under chapter
12 281 to the United States (including any agency or
13 instrumentality of the United States that is wholly
14 owned or otherwise so constituted as to be immune from
15 the levy of a tax under chapter 238 or 244D but not
16 including national banks), or to any organization to
17 which that sale is permitted by the proviso of
18 "Class 3" of section 281-31, located on any Army,
19 Navy, or Air Force reservation, but the person making
20 the sale shall nevertheless, within the meaning of



1 chapters 237, 244D, and 281 be deemed to be a licensed
2 seller;

3 (2) Tobacco products and cigarettes, as defined in chapter
4 245, sold by any person licensed under the chapter to
5 the United States (including any agency or
6 instrumentality thereof that is wholly owned or
7 otherwise so constituted as to be immune from the levy
8 of a tax under chapter 238 or 245 but not including
9 national banks), but the person making the sale shall
10 nevertheless, within the meaning of chapters 237 and
11 245, be deemed to be a licensed seller;

12 ~~[(3) Other tangible personal property sold by any person~~
13 ~~licensed under this chapter to the United States~~
14 ~~(including any agency, instrumentality, or federal~~
15 ~~credit union thereof but not including national~~
16 ~~banks), and to any state-chartered credit union, but~~
17 ~~the person making such sale shall nevertheless, within~~
18 ~~the meaning of this chapter, be deemed a licensed~~
19 ~~seller;]~~ and

20 ~~[(4)]~~ (3) When the amount of property sold by a licensee
21 turns upon the amount of the property sold through a



1 vending machine or similar device to the customer
2 using the device, there shall not be deemed to have
3 occurred any sale covered by an exemption under
4 paragraph (1), or (2) [~~or (3)~~]."

5 SECTION 10. Section 237-29.5, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) There shall be exempted from, and excluded from the
8 measure of, the taxes imposed by this chapter all of the value
9 or gross proceeds arising from the manufacture, production, or
10 sale of tangible personal property:

11 (1) Shipped by the manufacturer, producer, or seller to a
12 point outside the State where the property is resold
13 or otherwise consumed or used outside the State; or

14 (2) The sale of which is exempt under section
15 ~~[237-24.3(2).]~~ 237-24.3(1)."

16 SECTION 11. Section 238-1, Hawaii Revised Statutes, is
17 amended by amending the definition of "use" to read as follows:

18 ""Use" (and any nounal, verbal, adjectival, adverbial, and
19 other equivalent form of the term) herein used interchangeably
20 means any use, whether the use is of such nature as to cause the
21 property, services, or contracting to be appreciably consumed or



1 not, or the keeping of the property or services for such use or
2 for sale, the exercise of any right or power over tangible or
3 intangible personal property incident to the ownership of that
4 property, and shall include control over tangible or intangible
5 property by a seller who is licensed or who should be licensed
6 under chapter 237, who directs the importation of the property
7 into the State for sale and delivery to a purchaser in the
8 State, liability and free on board (FOB) to the contrary
9 notwithstanding, regardless of where title passes, but the term
10 "use" shall not include:

11 (1) Temporary use of property, not of a perishable or
12 quickly consumable nature, where the property is
13 imported into the State for temporary use (not sale)
14 therein by the person importing the same and is not
15 intended to be, and is not, kept permanently in the
16 State. For example, without limiting the generality
17 of the foregoing language:

18 (A) In the case of a contractor importing permanent
19 equipment for the performance of a construction
20 contract, with intent to remove, and who does



1 remove, the equipment out of the State upon
2 completing the contract;

3 (B) In the case of moving picture films imported for
4 use in theaters in the State with intent or under
5 contract to transport the same out of the State
6 after completion of such use; and

7 (C) In the case of a transient visitor importing an
8 automobile or other belongings into the State to
9 be used by the transient visitor while therein
10 but which are to be used and are removed upon the
11 transient visitor's departure from the State;

12 (2) Use by the taxpayer of property acquired by the
13 taxpayer solely by way of gift;

14 (3) Use which is limited to the receipt of articles and
15 the return thereof, to the person from whom acquired,
16 immediately or within a reasonable time either after
17 temporary trial or without trial;

18 (4) Use of goods imported into the State by the owner of a
19 vessel or vessels engaged in interstate or foreign
20 commerce and held for and used only as ship stores for
21 the vessels;



1 (5) The use or keeping for use of household goods,
2 personal effects, and private automobiles imported
3 into the State for nonbusiness use by a person who:

4 (A) Acquired them in another state, territory,
5 district, or country;

6 (B) At the time of the acquisition was a bona fide
7 resident of another state, territory, district,
8 or country;

9 (C) Acquired the property for use outside the State;
10 and

11 (D) Made actual and substantial use thereof outside
12 this State;

13 provided that as to an article acquired less than
14 three months prior to the time of its importation into
15 the State it shall be presumed, until and unless
16 clearly proved to the contrary, that it was acquired
17 for use in the State and that its use outside the
18 State was not actual and substantial;

19 ~~[(6) The leasing or renting of any aircraft or the keeping~~
20 ~~of any aircraft solely for leasing or renting to~~
21 ~~lessees or renters using the aircraft for commercial~~



1 ~~transportation of passengers and goods or the~~
2 ~~acquisition or importation of any such aircraft or~~
3 ~~aircraft engines by any lessee or renter engaged in~~
4 ~~interstate air transportation. For purposes of this~~
5 ~~paragraph, "leasing" includes all forms of lease,~~
6 ~~regardless of whether the lease is an operating lease~~
7 ~~or financing lease. The definition of "interstate air~~
8 ~~transportation" is the same as in 49 U.S.C. 40102;~~

9 ~~(7)]~~ (6) The use of oceangoing vehicles for passenger or
10 passenger and goods transportation from one point to
11 another within the State as a public utility as
12 defined in chapter 269;

13 ~~[(8) The use of material, parts, or tools imported or~~
14 ~~purchased by a person licensed under chapter 237 which~~
15 ~~are used for aircraft service and maintenance, or the~~
16 ~~construction of an aircraft service and maintenance~~
17 ~~facility as those terms are defined in section~~
18 ~~237-24.9;~~

19 ~~(9)]~~ (7) The use of services or contracting imported for
20 resale where the contracting or services are for



1 resale, consumption, or use outside the State pursuant
2 to section 237-29.53(a); and
3 ~~[(10)]~~ (8) The use of property, services, or contracting
4 imported by foreign diplomats and consular officials
5 who are holding cards issued or authorized by the
6 United States Department of State granting them an
7 exemption from state taxes.

8 With regard to purchases made and distributed under the
9 authority of chapter 421, a cooperative association shall be
10 deemed the user thereof."

11 SECTION 12. Section 238-3, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§238-3 Application of tax, etc.** (a) The tax imposed by
14 this chapter shall not apply to any property, services, or
15 contracting or to any use of the property, services, or
16 contracting that cannot legally be so taxed under the
17 Constitution or laws of the United States, but only so long as,
18 and only to the extent to which the State is without power to
19 impose the tax.



1 To the extent that any exemption, exclusion, or
2 apportionment is necessary to comply with the preceding
3 sentence, the director of taxation shall:

4 (1) Exempt or exclude from the tax under this chapter,
5 property, services, or contracting or the use of
6 property, services, or contracting exempted under
7 chapter 237; or

8 (2) Apportion the gross value of services or contracting
9 sold to customers within the State by persons engaged
10 in business both within and without the State to
11 determine the value of that portion of the services or
12 contracting that is subject to taxation under chapter
13 237 for the purposes of section 237-21.

14 (b) The tax imposed by this chapter shall not apply to any
15 use of property, services, or contracting the transfer of which
16 property, services, or contracting to, or the acquisition of
17 which by, the person so using the same, has actually been or
18 actually is taxed under chapter 237.

19 (c) The tax imposed by this chapter shall be paid only
20 once upon or in respect of the same property, services, or
21 contracting; provided that nothing in this chapter contained



1 shall be construed to exempt any property, services, or
2 contracting, or the use thereof from taxation under any other
3 law of the State.

4 (d) The tax imposed by this chapter shall be in addition
5 to any other taxes imposed by any other laws of the State,
6 except as otherwise specifically provided herein; provided that
7 if it be finally held by any court of competent jurisdiction,
8 that the tax imposed by this chapter may not legally be imposed
9 in addition to any other tax or taxes imposed by any other law
10 or laws with respect to the same property, services, or
11 contracting, or the use thereof, then this chapter shall be
12 deemed not to apply to the property, services, or contracting,
13 or the use thereof under such specific circumstances, but such
14 other laws shall be given full effect with respect to the
15 property, services, or contracting, or use.

16 (e) The tax imposed by this chapter shall not apply to any
17 use of property exempted by section 238-4.

18 (f) The tax imposed by this chapter shall not apply to any
19 use or consumption of aircraft and vessels, the transfer of
20 which aircraft or vessel to, or the acquisition of which by, the
21 person so using or consuming the same, or the rental for the use



1 of the aircraft or vessel, has actually been or actually is
2 taxed under chapter 237.

3 (g) The tax imposed by this chapter shall not apply to any
4 intoxicating liquor as defined in chapter 244D and cigarettes
5 and tobacco products as defined in chapter 245, imported into
6 the State and sold to any person or common carrier in interstate
7 commerce, whether ocean-going or air, for consumption
8 out-of-state by the person, crew, or passengers on the shipper's
9 vessels or airplanes.

10 ~~[(h) The tax imposed by this chapter shall not apply to~~
11 ~~any use of vessels constructed under section 189-25 prior to~~
12 ~~July 1, 1969.~~

13 ~~-(i)]~~ (h) Each taxpayer liable for the tax imposed by this
14 chapter on property, services, or contracting shall be entitled
15 to full credit for the combined amount or amounts of legally
16 imposed sales or use taxes paid by the taxpayer with respect to
17 the same transaction and property, services, or contracting to
18 another state and any subdivision thereof, but the credit shall
19 not exceed the amount of the use tax imposed under this chapter
20 on account of the transaction and property, services, or
21 contracting. The director of taxation may require the taxpayer



1 to produce the necessary receipts or vouchers indicating the
2 payment of the sales or use tax to another state or subdivision
3 as a condition for the allowance of the credit.

4 ~~[(j)]~~ (i) The tax imposed by this chapter shall not apply
5 to any use of property, services, or contracting exempted by
6 section 237-26 or section 237-29.

7 ~~[(k) The tax imposed by this chapter shall not apply to
8 any use of air pollution control facility exempted by section
9 237-27.5.]~~"

10 SECTION 13. Section 421H-4, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) The membership shares and cooperative fees are
13 interests in real property for purposes of:

14 (1) Cooperative housing corporations under section 216 of
15 the federal Internal Revenue Code of 1954, as amended;

16 and

17 (2) Exemption from state general excise tax under section

18 ~~[237-24(16).]~~ 237-24(15)."

19 SECTION 14. Section 209E-11, Hawaii Revised Statutes, is
20 repealed.



1 ~~["§209E-11 State general excise exemptions. The~~
2 ~~department shall certify annually to the department of taxation~~
3 ~~that any qualified business is exempt from the payment of~~
4 ~~general excise taxes on the gross proceeds from an eligible~~
5 ~~business activity as defined in this chapter; provided that~~
6 ~~agricultural businesses other than those engaged in the~~
7 ~~production of genetically engineered agricultural products shall~~
8 ~~not be exempt from the payment of general excise taxes on the~~
9 ~~gross proceeds of agricultural retail sales. The gross proceeds~~
10 ~~received by a contractor licensed under chapter 444 shall be~~
11 ~~exempt from the general excise tax for construction within an~~
12 ~~enterprise zone performed for a qualified business within an~~
13 ~~enterprise zone or a business that has been approved by the~~
14 ~~department to enroll into the enterprise zone program. The~~
15 ~~exemption shall extend for a period not to exceed seven years;~~
16 ~~provided that for qualified businesses engaged in the~~
17 ~~manufacturing of tangible personal property or the producing or~~
18 ~~processing of agricultural products, the exemption shall extend~~
19 ~~for a period not to exceed ten years; provided further that if a~~
20 ~~force majeure event occurs, then the period of time shall be~~
21 ~~tolled until the force majeure event ceases."]~~



SECTION 15. Section 235-12.5, Hawaii Revised Statutes, is repealed.

~~["§235-12.5 Renewable energy technologies; income tax credit. (a) Each individual or corporate taxpayer that files an individual or corporate net income tax return for a taxable year may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed for every eligible renewable energy technology system that is installed and placed in service in the State by a taxpayer during the taxable year. The tax credit may be claimed as follows:~~

~~(1) For each solar energy system: thirty-five per cent of the actual cost or the cap amount determined in subsection (b); provided that:~~

~~(A) For taxable years beginning after December 31, 2019, and except as provided in subparagraphs (B) and (C), no tax credit may be claimed for a solar energy system that is five megawatts in total output capacity or larger and requires a power purchase agreement approved by the public utilities commission;~~



1 ~~(B) A solar energy system that is five megawatts in~~
2 ~~total output capacity or larger, installed and~~
3 ~~placed in service pursuant to a power purchase~~
4 ~~agreement approved or pending approval by a~~
5 ~~decision and order by the public utilities~~
6 ~~commission prior to December 31, 2019, shall~~
7 ~~continue to receive a tax credit equal to~~
8 ~~thirty-five per cent of the actual cost, or~~
9 ~~\$500,000 per solar energy system that has a total~~
10 ~~output capacity of at least one thousand~~
11 ~~kilowatts per system of direct current, whichever~~
12 ~~is less; and~~
13 ~~(C) For each solar energy system integrated with a~~
14 ~~pumped hydroelectric energy storage system, the~~
15 ~~tax credit may be claimed for thirty-five per~~
16 ~~cent of the actual cost or the cap amount~~
17 ~~determined in subsection (b), whichever is less;~~
18 ~~provided that applicable project approval filings~~
19 ~~have been made to the public utilities commission~~
20 ~~by December 31, 2021; or~~



~~(2) For each wind-powered energy system: twenty per cent of the actual cost or the cap amount determined in subsection (b), whichever is less; provided further that multiple owners of a single system shall be entitled to a single tax credit; and provided further that the tax credit shall be apportioned between the owners in proportion to their contribution to the cost of the system.~~

~~In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for every eligible renewable energy technology system that is installed and placed in service in the State by the entity. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to administrative rule.~~

~~(b) The amount of credit allowed for each eligible renewable energy technology system shall not exceed the applicable cap amount, which is determined as follows:~~

~~(1) If the primary purpose of the solar energy system is to use energy from the sun to heat water for household use, then the cap amounts shall be:~~



1 ~~(A) \$2,250 per system for single-family residential~~
2 ~~property;~~

3 ~~(B) \$350 per unit per system for multi-family~~
4 ~~residential property; and~~

5 ~~(C) \$250,000 per system for commercial property;~~

6 ~~(2) For all other solar energy systems, the cap amounts~~
7 ~~shall be:~~

8 ~~(A) \$5,000 per system for single-family residential~~
9 ~~property; provided that if all or a portion of~~
10 ~~the system is used to fulfill the substitute~~
11 ~~renewable energy technology requirement pursuant~~
12 ~~to section 196-6.5(a)(3), the credit shall be~~
13 ~~reduced by thirty-five per cent of the actual~~
14 ~~system cost or \$2,250, whichever is less;~~

15 ~~(B) \$350 per unit per system for multi-family~~
16 ~~residential property; and~~

17 ~~(C) \$500,000 per system for commercial property; and~~

18 ~~(3) For all wind-powered energy systems, the cap amounts~~
19 ~~shall be:~~

20 ~~(A) \$1,500 per system for single-family residential~~
21 ~~property; provided that if all or a portion of~~



1 ~~the system is used to fulfill the substitute~~
2 ~~renewable energy technology requirement pursuant~~
3 ~~to section 196-6.5(a)(3), the credit shall be~~
4 ~~reduced by twenty per cent of the actual system~~
5 ~~cost or \$1,500, whichever is less;~~

6 ~~(B) \$200 per unit per system for multi-family~~
7 ~~residential property; and~~

8 ~~(C) \$500,000 per system for commercial property.~~

9 ~~(c) For the purposes of this section:~~

10 ~~"Actual cost" means costs related to the renewable energy~~
11 ~~technology systems under subsection (a), including accessories~~
12 ~~and installation, but not including the cost of consumer~~
13 ~~incentive premiums unrelated to the operation of the system or~~
14 ~~offered with the sale of the system and costs for which another~~
15 ~~credit is claimed under this chapter.~~

16 ~~"Household use" means any use to which heated water is~~
17 ~~commonly put in a residential setting, including commercial~~
18 ~~application of those uses.~~

19 ~~"Renewable energy technology system" means a new system~~
20 ~~that captures and converts a renewable source of energy, such as~~
21 ~~solar or wind energy, into:~~



1 ~~(1) A usable source of thermal or mechanical energy;~~

2 ~~(2) Electricity; or~~

3 ~~(3) Fuel.~~

4 ~~"Solar or wind energy system" means any identifiable~~
5 ~~facility, equipment, apparatus, or the like that converts solar~~
6 ~~or wind energy to useful thermal or electrical energy for~~
7 ~~heating, cooling, or reducing the use of other types of energy~~
8 ~~that are dependent upon fossil fuel for their generation.~~

9 ~~(d) For taxable years beginning after December 31, 2005,~~
10 ~~the dollar amount of any utility rebate shall be deducted from~~
11 ~~the cost of the qualifying system and its installation before~~
12 ~~applying the state tax credit.~~

13 ~~(e) The director of taxation shall prepare any forms that~~
14 ~~may be necessary to claim a tax credit under this section,~~
15 ~~including forms identifying the technology type of each tax~~
16 ~~credit claimed under this section, whether for solar or wind.~~
17 ~~The director may also require the taxpayer to furnish reasonable~~
18 ~~information to ascertain the validity of the claim for credit~~
19 ~~made under this section and may adopt rules necessary to~~
20 ~~effectuate the purposes of this section pursuant to chapter 91.~~



~~(f) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted, unless otherwise elected by the taxpayer pursuant to subsection (g) or (h). All claims for the tax credit under this section, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with this subsection shall constitute a waiver of the right to claim the credit.~~

~~(g) For solar energy systems, a taxpayer may elect to reduce the eligible credit amount by thirty per cent and if this reduced amount exceeds the amount of income tax payment due from the taxpayer, the excess of the credit amount over payments due shall be refunded to the taxpayer; provided that tax credit amounts properly claimed by a taxpayer who has no income tax liability shall be paid to the taxpayer; and provided further that no refund on account of the tax credit allowed by this section shall be made for amounts less than \$1.~~



~~The election required by this subsection shall be made in a manner prescribed by the director on the taxpayer's return for the taxable year in which the system is installed and placed in service. A separate election may be made for each separate system that generates a credit. An election once made is irrevocable.~~

~~(h) Notwithstanding subsection (g), for any renewable energy technology system, an individual taxpayer may elect to have any excess of the credit over payments due refunded to the taxpayer, if:~~

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

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

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

~~A husband and wife who do not file a joint tax return shall only be entitled to make this election to the extent that they~~



1 ~~would have been entitled to make the election had they filed a~~
2 ~~joint tax return.~~

3 ~~The election required by this subsection shall be made in a~~
4 ~~manner prescribed by the director on the taxpayer's return for~~
5 ~~the taxable year in which the system is installed and placed in~~
6 ~~service. A separate election may be made for each separate~~
7 ~~system that generates a credit. An election once made is~~
8 ~~irrevocable.~~

9 ~~(i) No taxpayer shall be allowed a credit under this~~
10 ~~section for the portion of the renewable energy technology~~
11 ~~system required by section 196-6.5 that is installed and placed~~
12 ~~in service on any newly constructed single-family residential~~
13 ~~property authorized by a building permit issued on or after~~
14 ~~January 1, 2010.~~

15 ~~(j) To the extent feasible, using existing resources to~~
16 ~~assist the energy efficiency policy review and evaluation, the~~
17 ~~department shall assist with data collection on the following~~
18 ~~for each taxable year:~~

19 ~~(1) The number of renewable energy technology systems that~~
20 ~~have qualified for a tax credit during the calendar~~
21 ~~year by:~~



1 ~~(A) Technology type; and~~

2 ~~(B) Taxpayer type (corporate and individual); and~~

3 ~~(2) The total cost of the tax credit to the State during~~
4 ~~the taxable year by:~~

5 ~~(A) Technology type; and~~

6 ~~(B) Taxpayer type.~~

7 ~~(k) This section shall apply to eligible renewable energy~~
8 ~~technology systems that are installed and placed in service on~~
9 ~~or after July 1, 2009."]~~

10 SECTION 16. Section 235-17, Hawaii Revised Statutes, is
11 repealed.

12 ~~["§235-17 Motion picture, digital media, and film~~
13 ~~production income tax credit. (a) Any law to the contrary~~
14 ~~notwithstanding, there shall be allowed to each taxpayer subject~~
15 ~~to the taxes imposed by this chapter, an income tax credit that~~
16 ~~shall be deductible from the taxpayer's net income tax~~
17 ~~liability, if any, imposed by this chapter for the taxable year~~
18 ~~in which the credit is properly claimed. The amount of the~~
19 ~~credit shall be:~~

20 ~~(1) Twenty-two per cent of the qualified production costs~~
21 ~~incurred by a qualified production in any county of~~



1 ~~the State with a population of over seven hundred~~
2 ~~thousand; or~~

3 ~~(2) Twenty seven per cent of the qualified production~~
4 ~~costs incurred by a qualified production in any county~~
5 ~~of the State with a population of seven hundred~~
6 ~~thousand or less.~~

7 ~~A qualified production occurring in more than one county may~~
8 ~~prorate its expenditures based upon the amounts spent in each~~
9 ~~county, if the population bases differ enough to change the~~
10 ~~percentage of tax credit.~~

11 ~~In the case of a partnership, S corporation, estate, or~~
12 ~~trust, the tax credit allowable is for qualified production~~
13 ~~costs incurred by the entity for the taxable year. The cost~~
14 ~~upon which the tax credit is computed shall be determined at the~~
15 ~~entity level. Distribution and share of credit shall be~~
16 ~~determined by rule.~~

17 ~~If a deduction is taken under section 179 (with respect to~~
18 ~~election to expense depreciable business assets) of the Internal~~
19 ~~Revenue Code of 1986, as amended, no tax credit shall be allowed~~
20 ~~for those costs for which the deduction is taken.~~



1 ~~The basis for eligible property for depreciation of~~
2 ~~accelerated cost recovery system purposes for state income taxes~~
3 ~~shall be reduced by the amount of credit allowable and claimed.~~

4 ~~(b) The credit allowed under this section shall be claimed~~
5 ~~against the net income tax liability for the taxable year. For~~
6 ~~the purposes of this section, "net income tax liability" means~~
7 ~~net income tax liability reduced by all other credits allowed~~
8 ~~under this chapter.~~

9 ~~(c) If the tax credit under this section exceeds the~~
10 ~~taxpayer's income tax liability, the excess of credits over~~
11 ~~liability shall be refunded to the taxpayer; provided that no~~
12 ~~refunds or payment on account of the tax credits allowed by this~~
13 ~~section shall be made for amounts less than \$1. All claims,~~
14 ~~including any amended claims, for tax credits under this section~~
15 ~~shall be filed on or before the end of the twelfth month~~
16 ~~following the close of the taxable year for which the credit may~~
17 ~~be claimed. Failure to comply with any of the foregoing~~
18 ~~provision shall constitute a waiver of the right to claim the~~
19 ~~credit.~~

20 ~~(d) To qualify for this tax credit, a production shall:~~



- 1 ~~(1) Meet the definition of a qualified production~~
- 2 ~~specified in subsection (c);~~
- 3 ~~(2) Have qualified production costs totaling at least~~
- 4 ~~\$100,000;~~
- 5 ~~(3) Provide the State a qualified Hawaii promotion, which~~
- 6 ~~shall be at a minimum, a shared card, end-title screen~~
- 7 ~~credit, where applicable;~~
- 8 ~~(4) Provide evidence of reasonable efforts to hire local~~
- 9 ~~talent and crew;~~
- 10 ~~(5) Provide evidence when making any claim for products or~~
- 11 ~~services acquired or rendered outside of this State~~
- 12 ~~that reasonable efforts were unsuccessful to secure~~
- 13 ~~and use comparable products or services within this~~
- 14 ~~State;~~
- 15 ~~(6) Provide evidence of financial or in-kind contributions~~
- 16 ~~or educational or workforce development efforts, in~~
- 17 ~~partnership with related local industry labor~~
- 18 ~~organizations, educational institutions, or both,~~
- 19 ~~toward the furtherance of the local film and~~
- 20 ~~television and digital media industries;~~



~~(7) Provide evidence of reasonable efforts to comply with all applicable requirements under title 14, including tax return filing and payments; and~~

~~(8) Provide complete responses to the department of taxation's inquiries and document requests, in the form prescribed by the department, no later than ninety days from the inquiry or request; provided that a taxpayer shall be given notice of and an opportunity to cure any failure to meet the requirements of this subsection, including chapter 237, within thirty days of receipt of the notice; provided further that nothing in this subsection shall be interpreted as waiving any act required by this section.~~

~~(e) On or after July 1, 2006, no qualified production cost that has been financed by investments for which a credit was claimed by any taxpayer pursuant to section 235-110.9 is eligible for credits under this section.~~

~~(f) To receive the tax credit, the taxpayer shall first prequalify the production for the credit by registering with the department of business, economic development, and tourism during the development or preproduction stage.~~



~~(g) The director of taxation shall prepare forms as may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish information to ascertain the validity of the claim for credit made under this section and may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.~~

~~(h) Every taxpayer claiming a tax credit under this section for a qualified production shall, no later than ninety days following the end of each taxable year in which qualified production costs were expended, submit a written, sworn statement to the department of business, economic development, and tourism that identifies:~~

- ~~(1) All qualified production costs as provided by subsection (a), if any, incurred in the previous taxable year;~~
- ~~(2) The amount of tax credits claimed pursuant to this section, if any, in the previous taxable year; and~~
- ~~(3) The number of total hires versus the number of local hires by category and by county.~~



~~This information may be reported from the department of business, economic development, and tourism to the legislature pursuant to subsection (i) (4).~~

~~(i) The department of business, economic development, and tourism shall:~~

~~(1) Maintain records of the names of the taxpayers and qualified productions thereof claiming the tax credits under subsection (a);~~

~~(2) Obtain and total the aggregate amounts of all qualified production costs per qualified production and per qualified production per taxable year;~~

~~(3) Provide a letter to the director of taxation specifying the amount of the tax credit per qualified production for each taxable year that a tax credit is claimed and the cumulative amount of the tax credit for all years claimed; and~~

~~(4) Submit a report to the legislature no later than twenty days prior to the convening of each regular session detailing the non-aggregated qualified production costs that form the basis of the tax credit claims and expenditures, itemized by taxpayer, in a~~



1 ~~redacted format to preserve the confidentiality and~~
2 ~~that shall include the dollar amount claimed, name of~~
3 ~~company, and name of the qualified production of the~~
4 ~~taxpayers claiming the credit.~~

5 ~~(j) Upon each determination required under subsection (i),~~
6 ~~the department of business, economic development, and tourism~~
7 ~~shall issue a letter to the taxpayer, regarding the qualified~~
8 ~~production, specifying the qualified production costs and the~~
9 ~~tax credit amount qualified for in each taxable year a tax~~
10 ~~credit is claimed; provided that the department of business,~~
11 ~~economic development, and tourism shall issue the letter to the~~
12 ~~taxpayer no later than seven months after receipt of the~~
13 ~~taxpayer's statement under subsection (h). The taxpayer for~~
14 ~~each qualified production shall file the letter with the~~
15 ~~taxpayer's tax return for the qualified production to the~~
16 ~~department of taxation. Notwithstanding the authority of the~~
17 ~~department of business, economic development, and tourism under~~
18 ~~this section, the director of taxation may audit and adjust the~~
19 ~~tax credit amount to conform to the information filed by the~~
20 ~~taxpayer.~~



~~(k) Each taxpayer claiming a tax credit under this section shall submit to the department of business, economic development, and tourism a fee for the motion picture, digital media, and film production income tax credit in an amount equal to 0.2 per cent of the tax credit claimed by the qualified production no later than the deadline stated in subsection (c). The department of business, economic development, and tourism may prescribe the form and method by which this fee is remitted, including through electronic means. The fees collected under this subsection shall be deposited into the Hawaii film and creative industries development special fund under section 201-113.~~

~~(l) Total tax credits claimed per qualified production shall not exceed \$17,000,000.~~

~~(m) Qualified productions shall comply with subsections (d), (e), (f), (h), and (k).~~

~~(n) The total amount of tax credits allowed under this section in any particular year shall be \$50,000,000; however, if the total amount of credits applied for in any particular year exceeds the aggregate amount of credits allowed for that year under this section, the excess shall be treated as having been~~



~~1 applied for in the subsequent year and shall be claimed in the~~
~~2 subsequent year; provided that no excess shall be allowed to be~~
~~3 claimed after December 31, 2032.~~

~~4 (c) For the purposes of this section:~~

~~5 "Commercial":~~

~~6 (1) Means an advertising message that is filmed using~~
~~7 film, videotape, or digital media, for dissemination~~
~~8 via television broadcast or theatrical distribution;~~

~~9 (2) Includes a series of advertising messages if all parts~~
~~10 are produced at the same time over the course of six~~
~~11 consecutive weeks; and~~

~~12 (3) Does not include an advertising message with~~
~~13 Internet-only distribution.~~

~~14 "Digital media" means production methods and platforms~~
~~15 directly related to the creation of cinematic imagery and~~
~~16 content, specifically using digital means, including but not~~
~~17 limited to digital cameras, digital sound equipment, and~~
~~18 computers, to be delivered via film, videotape, interactive game~~
~~19 platform, or other digital distribution media.~~

~~20 "Post-production" means production activities and services~~
~~21 conducted after principal photography is completed, including~~



1 ~~but not limited to editing, film and video transfers,~~
2 ~~duplication, transcoding, dubbing, subtitling, credits, closed~~
3 ~~captioning, audio production, special effects (visual and~~
4 ~~sound), graphics, and animation.~~

5 ~~"Production" means a series of activities that are directly~~
6 ~~related to the creation of visual and cinematic imagery to be~~
7 ~~delivered via film, videotape, or digital media and to be sold,~~
8 ~~distributed, or displayed as entertainment or the advertisement~~
9 ~~of products for mass public consumption, including but not~~
10 ~~limited to scripting, casting, set design and construction,~~
11 ~~transportation, videography, photography, sound recording,~~
12 ~~interactive game design, and post-production.~~

13 ~~"Qualified production":~~

14 ~~(1) Means a production, with expenditures in the State,~~
15 ~~for the total or partial production of a~~
16 ~~feature-length motion picture, short film,~~
17 ~~made-for-television movie, commercial, music video,~~
18 ~~interactive game, television series pilot, single~~
19 ~~season (up to twenty-two episodes) of a television~~
20 ~~series regularly filmed in the State (if the number of~~
21 ~~episodes per single season exceeds twenty-two,~~



1 ~~additional episodes for the same season shall~~
2 ~~constitute a separate qualified production),~~
3 ~~television special, single television episode that is~~
4 ~~not part of a television series regularly filmed or~~
5 ~~based in the State, national magazine show, or~~
6 ~~national talk show. For the purposes of subsections~~
7 ~~(d) and (1), each of the aforementioned qualified~~
8 ~~production categories shall constitute separate,~~
9 ~~individual qualified productions; and~~

10 ~~(2) Does not include:~~

- 11 ~~(A) News;~~
12 ~~(B) Public affairs programs;~~
13 ~~(C) Non-national magazine or talk shows;~~
14 ~~(D) Televised sporting events or activities;~~
15 ~~(E) Productions that solicit funds;~~
16 ~~(F) Productions produced primarily for industrial,~~
17 ~~corporate, institutional, or other private~~
18 ~~purposes; and~~
19 ~~(G) Productions that include any material or~~
20 ~~performance prohibited by chapter 712.~~



1 ~~"Qualified production costs" means the costs incurred by a~~
2 ~~qualified production within the State that are subject to the~~
3 ~~general excise tax under chapter 237 at the highest rate of tax~~
4 ~~or income tax under this chapter if the costs are not subject to~~
5 ~~general excise tax and that have not been financed by any~~
6 ~~investments for which a credit was or will be claimed pursuant~~
7 ~~to section 235-110.9. Qualified production costs include but~~
8 ~~are not limited to:~~

9 ~~(1) Costs incurred during preproduction such as location~~
10 ~~scouting and related services;~~

11 ~~(2) Costs of set construction and operations, purchases or~~
12 ~~rentals of wardrobe, props, accessories, food, office~~
13 ~~supplies, transportation, equipment, and related~~
14 ~~services;~~

15 ~~(3) Wages or salaries of cast, crew, and musicians;~~

16 ~~(4) Costs of photography, sound synchronization, lighting,~~
17 ~~and related services;~~

18 ~~(5) Costs of editing, visual effects, music, other~~
19 ~~post-production, and related services;~~

20 ~~(6) Rentals and fees for use of local facilities and~~
21 ~~locations, including rentals and fees for use of state~~



1 ~~and county facilities and locations that are not~~
2 ~~subject to general excise tax under chapter 237 or~~
3 ~~income tax under this chapter;~~
4 ~~(7) Rentals of vehicles and lodging for cast and crew;~~
5 ~~(8) Airfare for flights to or from Hawaii, and interisland~~
6 ~~flights;~~
7 ~~(9) Insurance and bonding;~~
8 ~~(10) Shipping of equipment and supplies to or from Hawaii,~~
9 ~~and interisland shipments; and~~
10 ~~(11) Other direct production costs specified by the~~
11 ~~department in consultation with the department of~~
12 ~~business, economic development, and tourism;~~
13 ~~provided that any government-imposed fines, penalties, or~~
14 ~~interest that are incurred by a qualified production within the~~
15 ~~State shall not be "qualified production costs". "Qualified~~
16 ~~production costs" does not include any costs funded by any~~
17 ~~grant, forgivable loan, or other amounts not included in gross~~
18 ~~income for purposes of this chapter."]~~

19 SECTION 17. Section 235-110.7, Hawaii Revised Statutes, is
20 repealed.



1 ~~["§235-110.7 Capital goods excise tax credit. (a) There~~
2 ~~shall be allowed to each taxpayer subject to the tax imposed by~~
3 ~~this chapter a capital goods excise tax credit, which shall be~~
4 ~~deductible from the taxpayer's net income tax liability, if any,~~
5 ~~imposed by this chapter for the taxable year in which the credit~~
6 ~~is properly claimed.~~

7 ~~The amount of the tax credit shall be four per cent of the~~
8 ~~cost of the eligible depreciable tangible personal property used~~
9 ~~by the taxpayer in a trade or business and placed in service~~
10 ~~within Hawaii after December 31, 2009.~~

11 ~~In the case of a partnership, S corporation, estate, or~~
12 ~~trust, the tax credit allowable is for eligible depreciable~~
13 ~~tangible personal property that is placed in service by the~~
14 ~~entity. The cost upon which the tax credit is computed shall be~~
15 ~~determined at the entity level. Distribution and share of~~
16 ~~credit shall be determined by rules.~~

17 ~~In the case of eligible depreciable tangible personal~~
18 ~~property for which a credit for sales or use taxes paid to~~
19 ~~another state is allowable under section 238-3(i), the amount of~~
20 ~~the tax credit allowed under this section shall not exceed the~~



~~amount of use tax actually paid under chapter 238 relating to the tangible personal property.~~

~~If a deduction is taken under section 179 (with respect to election to expense certain depreciable business assets) of the Internal Revenue Code of 1954, as amended, no tax credit shall be allowed for that portion of the cost of property for which the deduction was taken.~~

~~(b) If the capital goods excise tax credit allowed under subsection (a) exceeds the taxpayer's net income tax liability, the excess of credit over liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credit allowed by this section shall be made for amounts less than \$1.~~

~~All claims for tax credits under this section, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.~~

~~(c) Application for the capital goods excise tax credit shall be upon forms provided by the department of taxation.~~



~~(d) Sections 47 (with respect to dispositions of section 38 property and the recapture percentages) of the Internal Revenue Code of 1954, as amended, as of December 31, 1984, and 280F as operative for this chapter (with respect to limitation on investment tax credit and depreciation for luxury automobiles; limitation where certain property used for personal purposes) of the Internal Revenue Code of 1954, as amended, shall be operative for purposes of this section.~~

~~(e) As used in this section, the definition of section 38 property (with respect to investment in depreciable tangible personal property) as defined by section 48 (a) (1) (A), (a) (1) (B), (a) (3), (a) (4), (a) (7), (a) (8), (a) (10) (A), (b), (c), (f), (l), (m), and (s) of the Internal Revenue Code of 1954, as amended as of December 31, 1984, is operative for the purposes of this section only.~~

~~(f) As used in this section:~~

~~"Cost" means the:~~

~~(1) Actual invoice price of the tangible personal property; or~~

~~(2) Basis from which depreciation is taken under section 167 (with respect to depreciation) or from which a~~



1 ~~deduction may be taken under section 168 (with respect~~
2 ~~to accelerated cost recovery system) of the Internal~~
3 ~~Revenue Code of 1954, as amended,~~
4 ~~whichever is less.~~

5 ~~"Eligible depreciable tangible personal property" is~~
6 ~~section 38 property as defined by the operative provisions of~~
7 ~~section 48 and having a depreciable life under section 167 or~~
8 ~~for which a deduction may be taken under section 168 of the~~
9 ~~Internal Revenue Code of 1954, as amended.~~

10 ~~"Placed in service" means the earliest of the following~~
11 ~~taxable years:~~

12 ~~(1) The taxable year in which, under the:~~

13 ~~(A) Taxpayer's depreciation practice, the period for~~
14 ~~depreciation; or~~

15 ~~(B) Accelerated cost recovery system, a claim for~~
16 ~~recovery allowances,~~

17 ~~with respect to the property begins; or~~

18 ~~(2) The taxable year in which the property is placed in a~~
19 ~~condition or state of readiness and availability for a~~
20 ~~specifically assigned function.~~

21 ~~"Purchase" means an acquisition of property.~~



1 ~~"Tangible personal property" means tangible personal~~
2 ~~property that is placed in service within Hawaii after December~~
3 ~~31, 1987, and the purchase or importation of which resulted in a~~
4 ~~transaction that was subject to the imposition and payment of~~
5 ~~tax at the rate of four per cent under chapter 237 or 238.~~

6 ~~"Tangible personal property" does not include tangible personal~~
7 ~~property that is an integral part of a building or structure or~~
8 ~~tangible personal property used in a foreign-trade zone, as~~
9 ~~defined under chapter 212."]~~

10 SECTION 18. Section 235-110.32, Hawaii Revised Statutes,
11 is repealed.

12 ~~["~~§235-110.32~~ Renewable fuels production tax credit.~~

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

19 ~~For each taxpayer producing renewable fuels, the annual~~
20 ~~dollar amount of the renewable fuels production tax credit~~
21 ~~during the ten-year credit period shall be equal to 20 cents per~~



~~seventy-six thousand British thermal units of renewable fuels using the lower heating value sold for distribution in the State; 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 \$3,500,000 per taxable year; provided further that the tax credit shall only be claimed for fuels with lifecycle emissions below that of fossil fuels. No other tax credit may be claimed under this chapter for the costs incurred to produce the renewable fuels that are used to properly claim a tax credit under this section for the taxable year.~~

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

~~(b) In the case of a partnership, S corporation, estate, or trust, distribution and share of the renewable fuels~~



~~production tax credit shall be determined pursuant to section 704(b) (with respect to a partner's distributive share) of the Internal Revenue Code of 1986, as amended. For a fiscal year taxpayer, the taxpayer shall report the credit in the taxable year in which the calendar year end is included.~~

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

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

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

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



- 1 ~~(4) The number of full-time and number of part-time~~
2 ~~employees of the facility and those employees' states~~
3 ~~of residency, totaled per state;~~
- 4 ~~(5) The number and location of all renewable fuel~~
5 ~~production facilities within and outside of the State;~~
6 ~~and~~
- 7 ~~(6) The lifecycle greenhouse gas emissions per British~~
8 ~~thermal units for each type of qualified fuel~~
9 ~~produced.~~
- 10 ~~(d) Within thirty calendar days after the due date of the~~
11 ~~statement required under subsection (c), the Hawaii state energy~~
12 ~~office shall:~~
- 13 ~~(1) Acknowledge, in writing, receipt of the statement;~~
- 14 ~~(2) Issue a certificate to the taxpayer reporting the~~
15 ~~amount of renewable fuels produced and sold, the~~
16 ~~amount of credit that the taxpayer is entitled to~~
17 ~~claim for the previous calendar year, and the~~
18 ~~cumulative amount of the tax credit during the credit~~
19 ~~period; and~~
- 20 ~~(3) Provide the taxpayer with a determination of whether~~
21 ~~the lifecycle greenhouse gas emissions for each type~~



1 ~~of qualified fuel produced is lower than that of~~
2 ~~fossil fuels.~~

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

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

19 ~~(g) Notwithstanding any other law to the contrary, the~~
20 ~~information collected and compiled by the Hawaii state energy~~
21 ~~office under subsections (c) and (d) for the purposes of the~~



~~renewable fuels production tax credit shall be available for
public inspection and dissemination, subject to chapter 92F.~~

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

~~(i) A taxpayer may elect to reduce the eligible credit
amount by thirty per cent and if this reduced amount exceeds the
amount of income tax payment due from the taxpayer, the excess
of the credit amount over payments due shall be refunded to the
taxpayer; provided that tax credit amounts properly claimed by a
taxpayer who has no income tax liability shall be paid to the
taxpayer; provided further that no refund on account of the tax~~



~~credit allowed by this section shall be made for amounts less than \$1.~~

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

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

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

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

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

~~A married couple who does not file a joint tax return shall only be entitled to make this election to the extent that they~~



1 ~~would have been entitled to make the election had they filed a~~
2 ~~joint tax return.~~

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

7 ~~(k) Before the production of any renewable fuels for the~~
8 ~~calendar year, the taxpayer shall provide written notice of the~~
9 ~~taxpayer's intention to begin production of renewable fuels.~~

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

19 ~~(l) The taxpayer shall provide written notice to the~~
20 ~~director of taxation and the chief energy officer of the Hawaii~~
21 ~~state energy office within thirty days following the start of~~



1 ~~production. The notice shall include the production start date~~
2 ~~and expected renewable fuels production for the next twelve~~
3 ~~months. Notwithstanding any other law to the contrary, the~~
4 ~~written notice described in this subsection shall be available~~
5 ~~for public inspection and dissemination, subject to chapter 92F.~~

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

11 ~~(1) The number and location of renewable fuels production~~
12 ~~facilities in the State and outside the State that~~
13 ~~have claimed a credit under this section;~~

14 ~~(2) The total number of British thermal units of renewable~~
15 ~~fuels, itemized by type of fuel produced and sold~~
16 ~~during the previous calendar year; and~~

17 ~~(3) The projected number of British thermal units of~~
18 ~~renewable fuels production for the succeeding year.~~

19 ~~(n) The director of taxation:~~

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



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

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

~~(o) As used in this section:~~

~~"Credit period" means a maximum period of ten consecutive 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 residue;~~

~~(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.~~

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

- ~~(1) Is sold as a fuel in the State; and~~
- ~~(2) Meets the relevant ASTM International specifications
or other industry specifications for the particular
fuel, including but not limited to:~~
 - ~~(A) Methanol, ethanol, or other alcohols;~~
 - ~~(B) Hydrogen;~~
 - ~~(C) Biodiesel or renewable diesel;~~
 - ~~(D) Biogas;~~
 - ~~(E) Other biofuels;~~
 - ~~(F) Renewable jet fuel or renewable gasoline; or~~



1 ~~(G) Logs, wood chips, wood pellets, or wood bark."~~]

2 SECTION 19. Section 237-16.8, Hawaii Revised Statutes, is
3 repealed.

4 ~~["§237-16.8] Exemption of certain convention, conference,~~
5 ~~and trade show fees.~~ In addition to any other applicable
6 ~~exemption provided under this chapter, there shall be exempted~~
7 ~~from the measure of taxes imposed by this chapter all of the~~
8 ~~value or gross income derived by a fraternal benefit, religious,~~
9 ~~charitable, scientific, educational, or other nonprofit~~
10 ~~organization under section 501(c) of the Internal Revenue Code~~
11 ~~of 1986, as amended, from fees for convention, conference, or~~
12 ~~trade show exhibit or display spaces; provided that the gross~~
13 ~~proceeds of sales by a vendor through the use of exhibit or~~
14 ~~display space at a conference, convention, or trade show shall~~
15 ~~be subject to the imposition of the general excise tax under~~
16 ~~section 237-13."]~~

17 SECTION 20. Section 237-24.5, Hawaii Revised Statutes, is
18 repealed.

19 ~~["§237-24.5 Additional exemptions. (a) In addition to~~
20 ~~the amounts exempt under section 237-24, this chapter shall not~~
21 ~~apply to amounts received by:~~



~~(1) An exchange from:~~

~~(A) Transaction fees charged exchange members by the
exchange for:~~

~~(i) The sale or purchase of securities or
products, or both, bought or sold on an
exchange by exchange members for their own
account or an account for which they have
responsibility as an agent, broker, or
fiduciary;~~

~~(ii) Order book executions made for purposes of
effecting transactions; and~~

~~(iii) Trade processing performed by an exchange in
matching trades, keypunching, record
keeping, post cashiering, and notarization;~~

~~(B) Membership dues, fees, charges, assessments, and
fines from individuals or firms, including
charges for firm symbols (member identification),
application processing, registration, initiation,
membership transfers, floor or post privileges,
transaction time extensions, expediting~~



1 ~~transactions, crossover trades (trading out of~~
2 ~~assigned functions) and rule infractions;~~

3 ~~(C) Service fees charged to members including fees~~
4 ~~for communications, badges, forms, documents, and~~
5 ~~reports;~~

6 ~~(D) Listing fees and listing maintenance fees charged~~
7 ~~to companies that wish to be listed and have~~
8 ~~their securities or products traded on the~~
9 ~~exchange; and~~

10 ~~(E) Participation in the communication network~~
11 ~~consortium operated collectively by United States~~
12 ~~exchanges or other markets recognized by the~~
13 ~~Securities and Exchange Commission, the~~
14 ~~Commodities Futures Trading Commission, or~~
15 ~~similar regulatory authorities outside the United~~
16 ~~States that provides last sale and quote~~
17 ~~securities information to subscribers or that~~
18 ~~connects such markets or exchanges for purposes~~
19 ~~of data transmission;~~

20 ~~(2) Exchange members by reason of executing a securities~~
21 ~~or product transaction on an exchange; provided that~~



1 ~~this exemption shall apply only to amounts received by~~
2 ~~exchange members from brokers or dealers registered~~
3 ~~with the Securities and Exchange Commission, from~~
4 ~~futures commission merchants, brokers, or associates~~
5 ~~registered with the Commodities Futures Trading~~
6 ~~Commission, or from similar individuals or firms~~
7 ~~registered with similar regulatory authorities outside~~
8 ~~the United States; and~~

9 ~~(3) Exchange members as proceeds from the sale of their~~
10 ~~exchange memberships.~~

11 ~~(b) As used in this section:~~

12 ~~"Exchange" means an exchange or board of trade as defined~~
13 ~~in 15 United States Code section 78c(a)(1) or in 7 United States~~
14 ~~Code section 7, respectively, which is subject to regulation by~~
15 ~~the Securities and Exchange Commission or the Commodities~~
16 ~~Futures Trading Commission or an organization subject to similar~~
17 ~~regulation under the laws of a jurisdiction outside the United~~
18 ~~States.~~

19 ~~"Exchange member" means an individual or firm that is~~
20 ~~qualified by an exchange as a member and pays membership dues to~~



1 ~~an exchange in order to trade securities or products on an~~
2 ~~exchange.~~

3 ~~"Securities" means securities as defined in 15 United~~
4 ~~States Code section 78c and "products" means contracts of sale~~
5 ~~of commodities for future delivery, futures contracts, options,~~
6 ~~calls, puts, and similar rights as defined in 7 United States~~
7 ~~Code section 2, which securities or products are permitted to be~~
8 ~~traded on an exchange."]~~

9 SECTION 21. Section 237-24.9, Hawaii Revised Statutes, is
10 repealed.

11 ~~["**§237-24.9 Aircraft service and maintenance facility.**~~

12 ~~(a) This chapter shall not apply to amounts received from the~~
13 ~~servicing and maintenance of aircraft or from the construction~~
14 ~~of an aircraft service and maintenance facility in the State.~~

15 ~~(b) As used in this section:~~

16 ~~"Aircraft" means any craft or artificial contrivance of~~
17 ~~whatever description engaged in intrastate, interstate, or~~
18 ~~international scheduled commercial use as defined in chapter~~
19 ~~263, that operates with two or more jet engines.~~

20 ~~"Aircraft service and maintenance" means all scheduled and~~
21 ~~unscheduled tasks performed within an aircraft service and~~



~~1 maintenance facility for the inspection, modification,~~
~~2 maintenance, and repair of aircraft and related components~~
~~3 including engines, hydraulic and electrical systems, and all~~
~~4 other components which are an integral part of an aircraft.~~

~~5 "Aircraft service and maintenance facility" means a~~
~~6 facility for aircraft service and maintenance that is not less~~
~~7 than thirty thousand square feet in area, and which may include~~
~~8 ancillary space which is integral to the facility, such as parts~~
~~9 and inventory warehouse space, tool rooms, and related~~
~~10 administrative and employee space.~~

~~11 "Construction of an aircraft service and maintenance~~
~~12 facility" means all design, engineering, labor, and material~~
~~13 costs associated with the construction of facilities the~~
~~14 [principal] purpose of which is the provision of facilities for~~
~~15 aircraft service and maintenance.~~

~~16 "Maintenance" means the upkeep of aircraft engines,~~
~~17 hydraulic and electrical systems, and all other components which~~
~~18 are an integral part of an aircraft, but does not include~~
~~19 refueling, janitorial services or cleaning, restocking of~~
~~20 aircraft and passenger supplies, or loading or unloading of~~
~~21 cargo and passenger baggage."]~~



SECTION 22. Section 237-27, Hawaii Revised Statutes, is repealed.

~~["§237-27 Exemption of certain petroleum refiners. (a)~~

~~As used in this section:~~

~~"Petroleum products" means petroleum; any distillate, fraction, or derivative of petroleum; natural gas or its components; gas manufactured from a petroleum product; and any product derived from the gas or from the manufacture thereof, such as benzene, xylene, toluene, acetylene, tars, components of tars, and ammonia.~~

~~"Refiner" means any person who, in the State, engages in the business of refining petroleum products and is taxable under this chapter, upon the value or gross proceeds of sales of the petroleum products resultant from the business. A person who is engaged in business as a refiner and also in other business shall be deemed a refiner only in respect of the business that produces the products included in the measure of the tax imposed by this chapter.~~

~~"Refining" means:~~



1 ~~(1) Any process performed by a refiner that includes a~~
2 ~~change in the character or properties of a petroleum~~
3 ~~product through the application of heat; or~~

4 ~~(2) The compounding by a refiner of a petroleum product~~
5 ~~with a product that has been refined by the refiner by~~
6 ~~the process stated in paragraph (1).~~

7 ~~(b) There shall be excluded from the measure of the tax on~~
8 ~~a refiner such part of the petroleum products resultant from the~~
9 ~~refiner's business as is to be further refined by another~~
10 ~~refiner, to the extent that the petroleum products resultant~~
11 ~~from such further refining will be (or but for this subsection~~
12 ~~would be) included in the measure of the tax on such other~~
13 ~~refiner, and where petroleum products are to be used partly for~~
14 ~~such refining and partly for other purposes, the proportion used~~
15 ~~for each purpose shall be determined upon the basis of weight or~~
16 ~~BTU content."]~~

17 SECTION 23. Section 237-27.5, Hawaii Revised Statutes, is
18 repealed.

19 ~~["**§237-27.5 Air pollution control facility.** (a) As used~~
20 ~~in this section, "air pollution control facility" shall mean a~~
21 ~~new identifiable treatment facility, equipment, device, or the~~



1 ~~like, which is used to abate or control atmospheric pollution or~~
2 ~~contamination by removing, reducing, or rendering less noxious~~
3 ~~air contaminants emitted into the atmosphere from a point~~
4 ~~immediately preceding the point of such removal, reduction, or~~
5 ~~rendering to the point of discharge of air, meeting emission~~
6 ~~standards as established by the department of health, excluding~~
7 ~~air conditioner, fan, or other similar facility for the comfort~~
8 ~~of persons at a place of business.~~

9 ~~(b) Any provision of law to the contrary notwithstanding,~~
10 ~~and upon receipt of the certification required by subsection~~
11 ~~(c), there shall be exempted from, and excluded from the measure~~
12 ~~of, the taxes imposed by this chapter, all of the gross proceeds~~
13 ~~arising from, and all of the amount of tangible personal~~
14 ~~property furnished in conjunction with, the construction,~~
15 ~~reconstruction, erection, operation, use, or maintenance of an~~
16 ~~air pollution control facility.~~

17 ~~(c) Application for the exemption provided by this section~~
18 ~~shall first be made with the director of health who, if~~
19 ~~satisfied that the facility meets the pollution emission~~
20 ~~criteria established by the department of health, shall certify~~
21 ~~to that fact. A new certificate shall be obtained from the~~



~~director of health and filed with the director of taxation every five years certifying that the pollution control facility complies with the pollutant emission criteria established by the department of health."~~

SECTION 24. Section 237-28.1, Hawaii Revised Statutes, is repealed.

~~["§237-28.1] Exemption of certain shipbuilding and ship repair business. There shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the gross proceeds arising from shipbuilding and ship repairs rendered to surface vessels federally owned or engaged in interstate or international trade."~~

SECTION 25. Section 237-30.7, Hawaii Revised Statutes, is repealed.

~~["§237-30.7] Withholding of tax by persons claiming the motion picture, digital media, and film production income tax credit. (a) Every person making payment to a loan-out company and claiming a tax credit pursuant to section 235-17 shall deduct and withhold an amount equal to the highest rate of tax under this chapter plus any applicable county surcharge for all payments made to the loan-out company for services performed in~~



1 ~~the State. The amounts withheld shall be remitted pursuant to~~
2 ~~subsection (b). The amounts withheld under this section shall~~
3 ~~be deemed to be a general excise tax withholding for the benefit~~
4 ~~of the loan-out company performing the service.~~

5 ~~(b) Every person subject to subsection (a) shall make a~~
6 ~~return of the amount withheld and file the return with the~~
7 ~~department of taxation no later than the twentieth day of the~~
8 ~~calendar month immediately following the month in which the~~
9 ~~payment was made to the loan-out company. The taxes withheld~~
10 ~~shall be remitted with the return. The department of taxation~~
11 ~~shall prescribe the forms and procedures to administer this~~
12 ~~section.~~

13 ~~(c) All taxes withheld pursuant to this section shall be~~
14 ~~held in trust by the person withholding for the State. If any~~
15 ~~person required to withhold and remit taxes under this section~~
16 ~~fails to withhold or remit the taxes, the person shall be liable~~
17 ~~for the failure as provided in section 235-64."]~~

18 SECTION 26. Section 241-4.5, Hawaii Revised Statutes, is
19 repealed.

20 ~~["§241-4.5 Capital goods excise tax credit. The capital~~
21 ~~goods excise tax credit provided under section 235-110.7 shall~~



1 ~~be operative for this chapter after December 31, 1987; provided~~
2 ~~that the capital goods excise tax credit shall be inoperative~~
3 ~~after December 31, 2008, and before January 1, 2010."]~~

4 SECTION 27. Section 241-4.6, Hawaii Revised Statutes, is
5 repealed.

6 ~~["§241-4.6 Renewable energy technologies; income tax~~
7 ~~credit. The renewable energy technologies income tax credit~~
8 ~~provided under section 235-12.5 shall be operative for this~~
9 ~~chapter for taxable years beginning after December 31, 2002;~~
10 ~~provided that the system was installed after June 30, 2003."]~~

11 SECTION 28. Act 88, Session Laws of Hawaii 2006, as
12 amended by Act 89, Session Laws of Hawaii 2013, as amended by
13 Act 143, Session Laws of Hawaii 2017, as amended by Act 217,
14 Session Laws of Hawaii 2022, is amended by amending section 4 to
15 read as follows:

16 "SECTION 4. This Act shall take effect on July 1, 2006;
17 provided that:

18 (1) Section 2 of this Act shall apply to qualified
19 production costs incurred on or after July 1, 2006,
20 and before January 1, ~~[2033,]~~ 2026; and



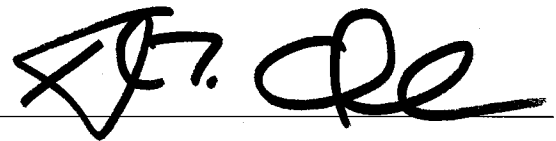
1 (2) This Act shall be repealed on January 1, [~~2033, and~~
2 ~~section 235-17, Hawaii Revised Statutes, shall be~~
3 ~~reenacted in the form in which it read on the day~~
4 ~~before the effective date of this Act.] 2026."~~

5 SECTION 29. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 30. This Act shall take effect on January 1, 2026.

8

INTRODUCED BY:



JAN 23 2025



H.B. NO. 1369

Report Title:

Taxation; Income Tax; General Excise Tax; Use Tax

Description:

Repeals certain credits, deductions, and exemptions under the income tax, general excise tax, and use tax laws.

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