
A BILL FOR AN ACT

RELATING TO AGRICULTURAL TAXATION.

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

1 SECTION 1. In 1978, voters approved article XI, section 3,
2 of the Constitution of the State of Hawaii, which sets out the
3 framework for state policies to promote agriculture and the
4 conservation of productive agricultural lands in the State.

5 Article XI, section 3, reads as follows:

6 "The State shall conserve and protect agricultural lands,
7 promote diversified agriculture, increase agricultural self
8 sufficiency and assure the availability of agriculturally
9 suitable lands. The legislature shall provide standards and
10 criteria to accomplish the foregoing.

11 Lands identified by the State as important agricultural
12 lands needed to fulfill the purposes above shall not be
13 reclassified by the State or rezoned by its political
14 subdivisions without meeting the standards and criteria
15 established by the legislature and approved by a two-thirds vote
16 of the body responsible for the reclassification or rezoning
17 action."



1 To address the issue of important agricultural lands, Act
2 183, Session Laws of Hawaii 2005 (Act 183), was enacted. Act
3 183 establishes standards, criteria, and mechanisms to identify
4 important agricultural lands and implement the intent and
5 purpose of article XI, section 3, of the Hawaii State
6 Constitution.

7 Act 183 also recognized that while the supply of lands
8 suitable for agriculture is critical, the long-term viability of
9 agriculture also depends on other factors. These factors
10 include:

- 11 (1) Commodity prices;
- 12 (2) Availability of water for irrigation;
- 13 (3) Agricultural research and outreach;
- 14 (4) Application of production technologies;
- 15 (5) Marketing; and
- 16 (6) Availability and cost of transportation services.

17 Tax incentives are a critical component of the long-term
18 viability of agriculture on important agricultural lands in the
19 State. The legislature finds that it is in the public's
20 interest to assist agricultural businesses that hold a majority
21 of its lands within important agricultural lands by providing
22 incentives such as income tax credits.



1 The purpose of this Act is to further the implementation of
2 Act 183, Session Laws of Hawaii 2005, by establishing the
3 important agricultural land agricultural business tax credit to
4 assist agricultural businesses that own, hold, or use a majority
5 of their lands as important agricultural lands.

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

9 "§235- Important agricultural land agricultural business
10 tax credit. (a) There shall be allowed to each taxpayer
11 subject to the taxes imposed by this chapter an income tax
12 credit, which shall be deductible from the taxpayer's net income
13 tax liability, if any, imposed by this chapter for the taxable
14 year in which the credit is properly claimed. The tax credit
15 shall be as follows:

16 (1) In the year the qualified agricultural costs are made,
17 fifty per cent of the qualified agricultural costs up
18 to a maximum of _____ ;

19 (2) In the first year following the year in which the
20 qualified agricultural costs are made, twenty per cent
21 of the qualified agricultural costs up to a maximum of
22 _____ ;



1 (3) In the second year following the year in which the
2 qualified agricultural costs are made, ten per cent of
3 the qualified agricultural costs up to a maximum of
4 _____;

5 (4) In the third year following the year in which the
6 qualified agricultural costs are made, ten per cent of
7 the qualified agricultural costs up to a maximum of
8 _____; and

9 (5) In the fourth year following the year in which the
10 qualified agricultural costs are made, ten per cent of
11 the qualified agricultural costs up to a maximum of
12 _____.

13 (b) The amount of the credit shall be _____ per cent
14 of the qualified agricultural costs incurred by an agricultural
15 business during the taxable year; provided that this amount
16 shall be reduced pursuant to subsection (c). No other credit
17 may be claimed under this chapter for the qualified agricultural
18 costs for which a credit is claimed under this section for the
19 taxable year.

20 (c) The amount of the qualified agricultural costs
21 eligible to be claimed under this section shall be reduced by
22 the amount of funds received by an agricultural business during

1 the taxable year from the irrigation repair and maintenance
2 special fund under section 167-24.

3 (d) The cost upon which the tax credit is computed shall
4 be determined at the entity level. In the case of a
5 partnership, S corporation, estate, trust, or other pass through
6 entity, the allowable tax credit may be claimed by the partners,
7 shareholders, beneficiaries, or members.

8 If deduction is taken under section 179 (with respect to
9 election to expense depreciable business assets) of the Internal
10 Revenue Code, no tax credit shall be allowed for that portion of
11 the qualified agricultural cost for which the deduction is
12 taken.

13 The basis of eligible property for depreciation or
14 accelerated cost recovery system purposes for state income taxes
15 shall be reduced by the amount of credit allowable and claimed.

16 No credit shall be allowed for those costs for which a
17 credit is claimed under this section.

18 (e) If the tax credit under this section exceeds the
19 taxpayer's income tax liability, the excess of credit over
20 liability may be used as a credit against the taxpayer's income
21 tax liability in subsequent years until exhausted.



1 All claims for a tax credit under this section, including
2 amended claims, shall be filed on or before the end of the
3 twelfth month following the close of the taxable year for which
4 the credit is claimed. Failure to comply with the foregoing
5 provision shall constitute a waiver of the right to claim the
6 credit.

7 (f) The director of taxation shall prepare any forms that
8 may be necessary to claim a credit under this section. The
9 director may also require the taxpayer to furnish information to
10 ascertain the validity of the claim for credit made under this
11 section and may adopt rules necessary to effectuate the purposes
12 of this section pursuant to chapter 91.

13 (g) The agribusiness corporation, in consultation with the
14 department of taxation, shall determine the types of information
15 that is necessary on an annual basis to enable a quantitative
16 and qualitative assessment of the outcomes of the tax credit to
17 be determined. Every taxpayer, no later than the last day of
18 the taxable year following the close of the taxpayer's taxable
19 year in which qualified costs were expended, shall submit a
20 written, certified statement to the agribusiness development
21 corporation.



1 Any taxpayer failing to submit information to the
2 agribusiness development corporation in the manner prescribed by
3 the agribusiness development corporation prior to the last day
4 of the taxable year following the close of the taxpayer's
5 taxable year in which qualified costs were expended shall not be
6 eligible to receive the tax credit, and any credit already
7 claimed for that taxable year shall be recaptured in total. The
8 amount of the recaptured tax credit shall be added to the
9 taxpayer's tax liability for the taxable year in which the
10 recapture occurs.

11 Not withstanding any law to the contrary, a statement
12 submitted under this subsection shall be a public document.

13 (h) On an annual basis, the agribusiness development
14 corporation, in consultation with the department of taxation,
15 shall submit a report evaluating the effectiveness of the tax
16 credit. The report shall include but not be limited to findings
17 and recommendations to improve the effectiveness of the tax
18 credit to further encourage the development of agricultural
19 businesses that own, hold, or use important agricultural lands.

20 (i) The tax credit allowed under this section shall be
21 available for taxable years beginning after December 31, 2006.

22 (j) As used in this section:



1 "Agricultural business" means any taxpayer with a
2 commercial agricultural, silvicultural, or aquacultural facility
3 or operation, including:

4 (1) The care and production of livestock and livestock
5 products, poultry and poultry products, apiary
6 products, and plant and animal production for nonfood
7 uses;

8 (2) The planting, cultivating, harvesting, and processing
9 of crops; and

10 (3) The farming or ranching of any plant or animal species
11 in a controlled salt, brackish, or freshwater
12 environment;

13 provided that it maintains its principal place of business in
14 the State and more than fifty per cent of the land the
15 agricultural business owns, leases, or uses, excluding land
16 classified as conservation land, is important agricultural land.

17 "Important agricultural lands" means lands identified and
18 designated as important agricultural lands pursuant to chapter
19 205, part III.

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

22 "Qualified agricultural costs" means expenditures for:



- 1 (1) The plans, design, engineering, construction,
2 renovation, repair, maintenance, and equipment for:
- 3 (A) Roads or utilities serving lands in the State
4 used by an agricultural business for agricultural
5 purposes;
- 6 (B) Agricultural processing facilities in the State
7 that process crops or livestock from an
8 agricultural business;
- 9 (C) Water wells, reservoirs, dams, water storage
10 facilities, water pipelines, ditches, or
11 irrigation systems in the State for which the
12 majority of the lands serviced by its water are
13 important agricultural lands; and
- 14 (D) Agricultural housing in the State specifically
15 for laborers of an agricultural business;
- 16 (2) Feasibility studies, regulatory processing, and legal
17 and accounting services related to the items under
18 paragraph (1); and
- 19 (3) Equipment used to cultivate, grow, harvest, or process
20 agricultural products by an agricultural business."

21 SECTION 3. There is appropriated out of the general
22 revenues of the State of Hawaii the sum of \$, or so



1 much thereof as may be necessary for fiscal year 2007-2008, and
2 the same sum, or so much thereof as may be necessary for fiscal
3 year 2008-2009, to the department of taxation for the costs to
4 administer the important agricultural land agricultural business
5 tax credit.

6 The sums appropriated shall be expended by the department
7 of taxation for the purposes of this Act.

8 SECTION 4. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$, or so
10 much thereof as may be necessary for fiscal year 2007-2008, and
11 the same sum, or so much thereof as may be necessary for fiscal
12 year 2008-2009, to the agribusiness development corporation for
13 the costs to administer the important agricultural land
14 agricultural business tax credit.

15 The sums appropriated shall be expended by the agribusiness
16 development corporation for the purposes of this Act.

17 SECTION 5. New statutory material is underscored.

18 SECTION 6. This Act, upon its approval, shall apply to
19 taxable years beginning after December 31, ; provided that
20 sections 3 and 4 shall take effect on July 1, .



Report Title:

Agricultural Business Tax Credit; Important Agricultural Lands

Description:

Establishes the important agricultural lands agricultural
business tax credit. (SD2)

