
A BILL FOR AN ACT

RELATING TO THE CAPITAL INFRASTRUCTURE TAX CREDIT.

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

1 SECTION 1. Section 235-17.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~§~~]**235-17.5**[~~§~~] **Capital infrastructure tax credit.** (a)

4 There shall be allowed to each taxpayer subject to the taxes
5 imposed by this chapter a capital infrastructure tax credit that
6 shall be deductible from the taxpayer's net income tax
7 liability, if any, imposed by this chapter for the taxable year
8 in which the capital infrastructure costs were paid or incurred.

9 (b) For the purpose of this section:

10 "Base investment" means the amount of money invested by an
11 investor[~~+~~] with a qualified infrastructure tenant.

12 "Capital infrastructure costs" means capital expenditures,
13 as used in section 263 of the Internal Revenue Code and the
14 regulations promulgated thereunder[~~;~~ ~~provided that the~~], or
15 capital expenditures [~~are~~] for real property [~~and~~], fixtures,
16 structures, machinery, equipment, or capital assets that are
17 paid or incurred in connection with the displaced tenant's move



1 of the tenant's current active trade or business to the tenant's
2 new location[+] within Honolulu harbor; provided further that
3 the capital infrastructure costs shall not include amounts for
4 which another credit is claimed[-] or any amounts received in
5 any form from the State.

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

8 "Qualified infrastructure tenant" means a business:

9 (1) That currently owns capital or property or maintains
10 an office, operations, or facilities at the former
11 Kapalama military reservation site;

12 (2) Whose principal business is maritime, and waterfront
13 dependent, and [~~is included under the State's plan to~~
14 ~~relocate the business to piers twenty-four through~~
15 ~~twenty-eight]~~ to be relocated within Honolulu harbor;

16 and

17 (3) Will be displaced and relocated by the State pursuant
18 to the Kapalama container terminal project.

19 (c) The amount of the tax credit shall be equal to fifty
20 per cent of the capital infrastructure costs paid or incurred by
21 the qualified infrastructure tenant during the taxable year up



1 to a maximum of [~~\$2,500,000 in capital infrastructure costs~~]
2 \$ _____ in tax credits per qualified infrastructure tenant in
3 any taxable year, provided that the qualified infrastructure
4 tenant shall notify the taxpayer claiming the credit under
5 subsection (a) of the amount of capital infrastructure costs
6 which may be claimed. If the capital infrastructure costs paid
7 or incurred by the qualified infrastructure tenant result in a
8 tax credit in excess of \$ _____ in any taxable year, the excess
9 capital infrastructure costs shall be applied to a subsequent
10 tax year or years, until exhausted, for computation of credit.

11 (d) In the case of an entity taxed as a partnership,
12 credit shall be determined at the entity level, but distribution
13 and share of the credit may be determined notwithstanding
14 section 704 of the Internal Revenue Code.

15 (e) The credit allowed under this section shall be claimed
16 against the net income tax liability for the taxable year. If
17 the tax credit under this section exceeds the taxpayer's income
18 tax liability, the excess of the tax credit over liability may
19 be used as a credit against the taxpayer's net income tax
20 liability in subsequent years until exhausted. All claims,
21 including amended claims, for a tax credit under this section



1 shall be filed on or before the end of the twelfth month
2 following the close of the taxable year for which the credit may
3 be claimed. Failure to comply with the foregoing provision
4 shall constitute a waiver of the right to claim the credit.

5 (f) This section shall not apply to taxable years
6 beginning after December 31, 2019.

7 (g) Any credit claimed under this section shall be
8 recaptured following the close of the taxable year for which the
9 credit is claimed if:

10 (1) ~~[within]~~ Within three years:

11 ~~[(1)]~~ (A) The qualified infrastructure tenant fails to
12 continue the line of business it conducted as of
13 July 1, 2014; or

14 ~~[(2)]~~ (B) The interest in the qualified infrastructure
15 tenant, whether in whole or in part, has been
16 sold, exchanged, withdrawn, or otherwise disposed
17 of by the taxpayer claiming a credit under this
18 section~~[.];~~ or

19 (2) The qualified infrastructure tenant fails to relocate
20 from the former Kapalama military reservation site to
21 another location, pursuant to a lease with the



1 department of transportation, within days of the
2 execution of the lease.

3 The recapture shall be equal to one hundred per cent of the
4 amount of the total tax credit claimed under this section in the
5 preceding five taxable years, and shall be added to the
6 taxpayer's tax liability for the taxable year in which the
7 recapture occurs pursuant to this subsection.

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

14 (i) Any taxpayer claiming a tax credit under this section,
15 within days of submitting the claim for credit, shall
16 submit the following information to the legislature:

- 17 (1) The amount of the tax credit claimed; and
18 (2) The qualified infrastructure tenant for which the tax
19 credit is claimed."

20 SECTION 2. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 3. This Act shall take effect on July 1, 2015, and
2 shall apply to taxable years beginning after December 31, 2014.



Report Title:

Capital Infrastructure Tax Credit; Kapalama Container Terminal Project; Displaced Tenants

Description:

Includes structures, machinery, equipment, and capital assets in the definition of capital infrastructure costs. Sets a new maximum amount of capital infrastructure tax credits that may be issued in any taxable year per qualified infrastructure tenant. Specifies that excess tax credits may be carried forward.
(SB676 HD1 PROPOSED)

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