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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1           SECTION 1. Section 235-110.93, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§235-110.93 Important agricultural land qualified  
4 agricultural cost tax credit. (a) There shall be allowed to  
5 each taxpayer an important agricultural land qualified  
6 agricultural cost tax credit that ~~[may be claimed in taxable~~  
7 ~~years beginning after the taxable year during which the tax~~  
8 ~~credit under section 235-110.46 is repealed, exhausted, or~~  
9 ~~expired. The credit]~~ shall be deductible from the taxpayer's  
10 net income tax liability, if any, imposed by this chapter for  
11 the taxable year in which the credit is properly claimed. The  
12 tax credit amount shall be determined as follows:

13           (1) In the first year in which the credit is claimed, the  
14           lesser of the following:

15           (A) Twenty-five per cent of the qualified  
16           agricultural costs incurred by the taxpayer after  
17           July 1, 2008; or



- 1 (B) \$625,000;
- 2 (2) In the second year in which the credit is claimed, the
- 3 lesser of the following:
- 4 (A) Fifteen per cent of qualified agricultural costs
- 5 incurred by the taxpayer after July 1, 2008; or
- 6 (B) \$250,000; and
- 7 (3) In the third year in which the credit is claimed, the
- 8 lesser of the following:
- 9 (A) Ten per cent of the qualified agricultural costs
- 10 incurred by the taxpayer after July 1, 2008; or
- 11 (B) \$125,000.

12 The taxpayer may incur qualified agricultural costs during a  
13 taxable year in anticipation of claiming the credit in future  
14 taxable years during which the credit is available. The  
15 taxpayer may claim the credit in any taxable year after the  
16 taxable year during which the taxpayer incurred the qualified  
17 agricultural costs upon which the credit is claimed. The  
18 taxpayer also may claim the credit in consecutive or  
19 inconsecutive taxable years until exhausted.



1 (b) No other credit may be claimed under this chapter for  
2 qualified agricultural costs for which a credit is claimed under  
3 this section for the taxable year.

4 (c) The amount of the qualified agricultural costs  
5 eligible to be claimed under this section shall be reduced by  
6 the amount of funds received by the taxpayer during the taxable  
7 year from the irrigation repair and maintenance special fund  
8 under section 167-24.

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

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

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

21 No deduction shall be allowed for that portion of otherwise



1 deductible qualified agricultural costs on which a credit is  
2 claimed under this section.

3 (e) If the credit under this section exceeds the  
4 taxpayer's net income tax liability for the taxable year, the  
5 excess of the credit over liability shall be refunded to the  
6 taxpayer; provided that no refunds or payments on account of the  
7 credits allowed by this section shall be made for amounts less  
8 than \$1.

9 All claims for a tax credit under this section, including  
10 amended claims, shall be filed on or before the end of the  
11 twelfth month following the close of the taxable year for which  
12 the credit is claimed. Failure to comply with the foregoing  
13 provision shall constitute a waiver of the right to claim the  
14 credit.

15 (f) The director of taxation:

16 (1) Shall prepare any forms that may be necessary to claim  
17 a credit under this section;

18 (2) May require the taxpayer to furnish information to  
19 ascertain the validity of the claim for credit made  
20 under this section; and



1 (3) May adopt rules pursuant to chapter 91 to effectuate  
2 this section.

3 (g) The department of agriculture shall:

4 (1) Maintain records of the total amount of qualified  
5 agricultural costs for each taxpayer claiming a  
6 credit;

7 (2) Verify the amount of the qualified agricultural costs  
8 claimed;

9 (3) Total all qualified agricultural costs claimed; and

10 (4) Certify the total amount of the tax credit for each  
11 taxable year.

12 Upon each determination, the department of agriculture  
13 shall issue a certificate to the taxpayer verifying the  
14 qualifying agricultural costs and the credit amount certified  
15 for each taxable year. For a taxable year, the department of  
16 agriculture may certify a credit for a taxpayer who could have  
17 claimed the credit in a previous taxable year, but chose not to  
18 because the maximum annual credit amount under subsection (h)  
19 was reached in that taxable year.

20 The taxpayer shall file the certificate with the taxpayer's  
21 tax return with the department of taxation. Notwithstanding the



1 department of agriculture's certification authority under this  
2 section, the director of taxation may audit and adjust  
3 certification to conform to the facts.

4 Notwithstanding any other law to the contrary, the  
5 information required by this subsection shall be available for  
6 public inspection and dissemination under chapter 92F.

7 (h) If in any taxable year the annual amount of certified  
8 credits reaches \$7,500,000 in the aggregate, the department of  
9 agriculture shall immediately discontinue certifying credits and  
10 notify the department of taxation. In no instance shall the  
11 department of agriculture certify a total amount of credits  
12 exceeding \$7,500,000 per taxable year. To comply with this  
13 restriction, the department of agriculture shall certify credits  
14 on a first come, first served basis.

15 The department of taxation shall not allow the aggregate  
16 amount of credits claimed to exceed that amount per taxable  
17 year.

18 (i) The department of agriculture, in consultation with  
19 the department of taxation, shall annually determine the  
20 information necessary to provide a quantitative and qualitative  
21 assessment of the outcomes of the tax credit.



1 Every taxpayer, no later than the last day of the taxable  
2 year following the close of the taxpayer's taxable year in which  
3 the credit is claimed, shall submit a certified written  
4 statement to the department of agriculture. Failure to provide  
5 the information shall result in ineligibility and a recapture of  
6 any credit already claimed for that taxable year. The amount of  
7 the recaptured tax credit shall be added to the taxpayer's tax  
8 liability for the taxable year in which the recapture occurs.

9 Notwithstanding any law to the contrary, a statement  
10 submitted under this subsection shall be a public document.

11 (j) The department of agriculture, in consultation with  
12 the department of taxation, shall annually submit a report  
13 evaluating the effectiveness of the tax credit. The report  
14 shall include but not be limited to findings and recommendations  
15 to improve the effectiveness of the tax credit to further  
16 encourage the development of agricultural businesses.

17 (k) As used in this section:

18 "Agricultural business" means any person with a commercial  
19 agricultural, silvicultural, or aquacultural facility or  
20 operation, including:



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

5 (2) The planting, cultivating, harvesting, and processing  
6 of crops; and

7 (3) The farming or ranching of any plant or animal species  
8 in a controlled salt, brackish, or freshwater  
9 environment;

10 provided that the principal place of the agricultural business  
11 is maintained in the State and more than fifty per cent of the  
12 land the agricultural business owns or leases, excluding land  
13 classified as conservation land, is important agricultural land.

14 "Important agricultural lands" means lands identified and  
15 designated as important agricultural lands pursuant to part III  
16 of chapter 205.

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

19 "Qualified agricultural costs" means expenditures for:

20 (1) The plans, design, engineering, construction,  
21 renovation, repair, maintenance, and equipment for:





- 1           (A) Roads or utilities, primarily for agricultural  
2                   purposes, where the majority of the lands  
3                   serviced by the roads or utilities, excluding  
4                   lands classified as conservation lands, are  
5                   important agricultural lands;
- 6           (B) Agricultural processing facilities in the State,  
7                   primarily for agricultural purposes, where the  
8                   majority of the crops or livestock processed,  
9                   harvested, treated, washed, handled, or packaged  
10                  are from agricultural businesses;
- 11          (C) Water wells, reservoirs, dams, water storage  
12                  facilities, water pipelines, ditches, or  
13                  irrigation systems in the State, primarily for  
14                  agricultural purposes, providing water for lands,  
15                  the majority of which, excluding lands classified  
16                  as conservation lands, are important agricultural  
17                  lands; and
- 18          (D) Agricultural housing in the State, exclusively  
19                  for agricultural purposes; provided that:
  - 20                   (i) The housing units are occupied solely by  
21                          farmers or employees for agricultural



- 1                    businesses and their immediate family  
2                    members;
- 3                    (ii) The housing units are owned by the  
4                    agricultural business;
- 5                    (iii) The housing units are in the general  
6                    vicinity, as determined by the department of  
7                    agriculture, of agricultural lands owned or  
8                    leased by the agricultural business; and
- 9                    (iv) The housing units conform to any other  
10                    conditions that may be required by the  
11                    department of agriculture;
- 12                    (2) Feasibility studies, regulatory processing, and legal  
13                    and accounting services related to the items under  
14                    paragraph (1);
- 15                    (3) Equipment, primarily for agricultural purposes, used  
16                    to cultivate, grow, harvest, or process agricultural  
17                    products by an agricultural business; [~~and~~]
- 18                    (4) Regulatory processing, studies, and legal and other  
19                    consultant services related to obtaining or retaining  
20                    sufficient water for agricultural activities and



1 retaining the right to farm on lands identified as  
2 important agricultural lands[-]; and  
3 (5) The clearing of, removal of trees and debris from, and  
4 soil restoration to correct any nutrient deficiency  
5 that is present on, former sugar and pineapple  
6 plantation lands that have been out of agricultural  
7 use for more than five years and are to be used  
8 primarily for agricultural purposes.

9 ~~[(1) The department of agriculture shall cease certifying~~  
10 ~~credits pursuant to this section after the fourth taxable year~~  
11 ~~following the taxable year during which the credits are first~~  
12 ~~claimed, provided that a taxpayer with accumulated, but~~  
13 ~~unclaimed, certified credits may continue claiming the credits~~  
14 ~~in subsequent taxable years until exhausted.~~

15 ~~(m)]~~ (1) The department of taxation, in consultation with  
16 the department of agriculture, shall submit to the legislature  
17 an annual report, no later than twenty days prior to the  
18 convening of each regular session, beginning with the regular  
19 session of 2010, regarding the quantitative and qualitative  
20 assessment of the impact of the important agricultural land  
21 qualified agricultural cost tax credit."



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

3 SECTION 3. This Act, upon its approval, shall apply to  
4 taxable years beginning after December 31, 2017.



**Report Title:**

Qualified Agricultural Costs; Important Agricultural Land  
Qualified Agricultural Cost Tax Credit

**Description:**

Repeals the provision that makes the claiming of the important agricultural land qualified agricultural cost tax credit contingent upon the tax credit for the aquarium and marine science research facility at Ko Olina Resort and the training and educational facilities at Makaha Resort being repealed, exhausted, or expired. Clarifies definition of "qualified agricultural costs." Repeals the provision that the Department of Agriculture must cease certifying credits after 2017. Applies to taxable years beginning after 12/31/2017. (SD2)

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

