

JAN 25 2017

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The legislature finds that providing additional
2 support to Hawaii's agriculture industry could help reduce
3 reliance on agricultural imports and foster job growth in the
4 State. The legislature believes that reducing the burden on
5 emerging small farmers seeking costly, but necessary,
6 certifications and inspections promotes the production of
7 locally-grown food. In furtherance of that goal, the
8 legislature passed Act 258, Session Laws of Hawaii 2016,
9 codified as section 235-110.94, Hawaii Revised Statutes, which
10 established the organic foods production tax credit for farmers,
11 ranchers, and producers seeking to obtain organic certification.

12 The 2015 United States Department of Agriculture National
13 Agricultural Statistics found that there were seven thousand
14 farms in Hawaii in 2012. Of those, 3,032 farms, or forty-three
15 per cent of the total number of farms, had sales of less than
16 \$5,000.



1 Under the federal Organic Foods Production Act (7 C.F.R.
2 subchapter M), a production or handling operation that sells
3 agricultural products as "organic" but whose gross agricultural
4 income from organic sales totals \$5,000 or less annually is
5 exempt from the Organic Foods Production Act certification
6 regulations and from submitting an organic system plan for
7 acceptance or approval but must comply with the applicable
8 organic production and handling requirements and labeling
9 requirements. The regulations are primarily designed for those
10 producers who market their product directly to consumers, as
11 well as to allow such producers to market their products
12 directly to retail food establishments for resale to consumers.
13 The exemption is used primarily by small market gardeners and
14 hobbyists who grow and process produce and other agricultural
15 products for sale at farmers markets and roadside stands to
16 consumers within their communities.

17 The purpose of this Act is to bring Hawaii law into
18 compliance with federal law relating to the sale of organic
19 foods by small organic farms and businesses.

20 SECTION 2. Section 235-110.94, Hawaii Revised Statutes, is
21 amended by amending subsection (i) to read as follows:



1 "(i) As used in this section:

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

4 "Organic Foods Production Act" means the federal Organic
5 Foods Production Act of 1990, as amended (7 United States Code
6 section 6501 et seq.).

7 "Organic system plan" has the same meaning as provided in 7
8 Code of Federal Regulations section 205.2.

9 "Qualified expenses" means expenses incurred by a qualified
10 taxpayer to produce organically produced agricultural products,
11 including expenses incurred to obtain organic certification from
12 the United States Department of Agriculture, pursuant to the
13 Organic Foods Production Act. "Qualified expenses" include:

14 (1) Application fees;

15 (2) Inspection costs;

16 (3) Fees related to equivalency agreement/arrangement
17 requirements, travel/per diem for inspectors, user
18 fees, sales assessments, and postage; and

19 (4) Costs for any equipment, materials, or supplies
20 necessary for organic certification or production of
21 agricultural products, in accordance with the



1 qualified taxpayer's organic system plan and the
2 organic production and handling requirements of the
3 National Organic Program, codified at 7 Code of
4 Federal Regulations part 205, subpart C, including but
5 not limited to certified organic seed, cover crops, or
6 animal feed.

7 "Qualified expenses" shall not include any amount refunded or to
8 be refunded to the taxpayer by the United States Department of
9 Agriculture's organic certification cost-share program or any
10 other similar financial assistance program.

11 "Qualified taxpayer" means a producer, handler, or handling
12 operation, as those terms are defined in title 7 United States
13 Code section 6502:

14 (1) That sells agricultural products in adherence to the
15 standards and requirements of the Organic Foods
16 Production Act^[7], including persons described by the
17 small farmers exemption pursuant to title 7 United
18 States Code section 6505(d);

19 (2) That has applied for organic certification^[7] or is
20 exempt from certification pursuant to title 7 United



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1 States Code section 6505, in accordance with the
 2 requirements of the Organic Foods Production Act; and
 3 (3) Whose gross income from the sale of organically
 4 produced agricultural products for the most recently
 5 reported fiscal year totals no more than \$500,000."

6 SECTION 3. Statutory material to be repealed is bracketed
 7 and stricken. New statutory material is underscored.

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

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S.B. NO. 1196

Report Title:

Organic Farming; Small Farmers

Description:

Brings Hawaii law into compliance with federal law relating to the sale of organic foods by small organic farms and businesses.

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