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# 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.

17           Under the federal Organic Foods Production Act (7 C.F.R.  
18 Chapter I, subchapter M), a production or handling operation



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

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

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

20 "(i) As used in this section:



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

3 "Organic Foods Production Act" means the federal Organic  
4 Foods Production Act of 1990, as amended (7 [~~United States Code~~  
5 ~~section 6501~~] U.S.C. §6501 et seq.).

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

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

- 13 (1) Application fees;
- 14 (2) Inspection costs;
- 15 (3) Fees related to equivalency agreement/arrangement  
16 requirements, travel/per diem for inspectors, user  
17 fees, sales assessments, and postage; and
- 18 (4) Costs for any equipment, materials, or supplies  
19 necessary for organic certification or production of  
20 agricultural products, in accordance with the  
21 qualified taxpayer's organic system plan and the



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

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

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

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

18 (2) That has applied for organic certification [7] or is  
19 exempt from certification pursuant to title 7 United  
20 States Code section 6505, in accordance with the



1 requirements of the Organic Foods Production Act;

2 [~~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 and

7 (4) Who provides a letter each year from the certifier  
8 confirming that the exempt organic farming operation  
9 seeking to establish or maintain qualification for the  
10 tax credit is in good standing with respect to its  
11 exempt status and in full compliance with applicable  
12 organic production and handling and labeling  
13 requirements."

14 SECTION 3. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval  
17 and shall apply to taxable years beginning after December 31,  
18 2016.

19



**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. Applies to taxable years beginning after 12/31/2016. (SD1)

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

