A BILL FOR AN ACT

RELATING TO TAXATION OF LOCALLY PRODUCED, ORGANIC FOOD.

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

SECTION 1. The legislature finds that Hawaii is the most isolated, populated land mass on earth and currently relies on imports for over ninety per cent of its food supply. Such reliance is not only costly, but also poses a significant risk of famine in the event of a natural disaster, economic disruption, or other external factors beyond the State's control.

The legislature further finds that through the adoption of the Aloha+ Challenge, Hawaii is committed to doubling local food production for local consumption by 2030, and that organic farmers face additional hardships to achieve and maintain a rigorous "USDA Organic" certification status.

The purpose of this Act is to help Hawaii achieve its local food production goals by:

(1) Providing a tax credit for locally produced, organic food; and
(2)  Exempting locally produced, organic food from the

general excise tax.

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

"§235- Tax credit for locally produced, organic food.

(a) As used in this section:

"Agricultural product" has the same meaning as defined in
title 7 United States Code section 6502.

"Credit period" means a maximum period of five consecutive
years, beginning from the first taxable year in which a
qualified taxpayer begins producing agricultural products or
livestock in the State.

"Livestock" has the same meaning as defined in title 7
United States Code section 6502.

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

"Qualified taxpayer" means a certified organic farm, as
that term is defined in title 7 United States Code section 6502,
that produces agricultural products or livestock in the State.
(b) Each year during the credit period, there shall be allowed to each qualified taxpayer subject to the tax imposed under this chapter, an income tax credit that shall be deductible from the qualified taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

(c) The amount of the credit shall be twenty-five per cent of the qualified taxpayer's taxable income for the taxable year; provided that the amount of the tax credit claimed under this section by a qualified taxpayer shall not exceed $ _______ per taxable year.

(d) In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for twenty-five per cent of its taxable income for the taxable year. The taxable income upon which the tax credit is computed shall be determined at the entity level. Distribution and share of the credit shall be determined pursuant to section 704(b) (with respect to partner's distributive share) of the Internal Revenue Code.

(e) If a deduction is taken under section 179 (with respect to election to expense depreciable business assets) of the Internal Revenue Code, no tax credit shall be allowed for
that portion of the taxable income for which the deduction is taken.

(f) The basis of eligible property for depreciation or accelerated cost recovery system purposes for state income taxes shall be reduced by the amount of credit allowable and claimed. In the alternative, the qualified taxpayer shall treat the amount of the credit allowable and claimed as a taxable income item for the taxable year in which it is properly recognized under the method of accounting used to compute taxable income.

(g) If the tax credit claimed by the qualified taxpayer under this section exceeds the amount of the income tax payments due from the qualified taxpayer, the excess of credit over payments due shall be refunded to the qualified taxpayer; provided that the tax credit properly claimed by a qualified taxpayer who has no income tax liability shall be paid to the qualified taxpayer; provided further that no refunds or payments on account of the tax credit allowed by this section shall be made for amounts less than $1.

(h) The director of taxation shall prepare such forms as may be necessary to claim a credit under this section, may
require proof of the claim for the tax credit, and may adopt
rules pursuant to chapter 91.

(i) All of the provisions relating to assessments and
refunds under this chapter and under section 231-23(c)(1) shall
apply to the tax credit under this section.

(j) Claims for the tax credit under this section,
including any amended claims, shall be filed on or before the
end of the twelfth month following the taxable year for which
the credit may be claimed."

SECTION 3. Section 237-24.3, Hawaii Revised Statutes, is
amended to read as follows:

"§237-24.3 Additional amounts not taxable. In addition to
the amounts not taxable under section 237-24, this chapter shall
not apply to:

(1) Amounts received from the loading, transportation, and
unloading of agricultural commodities shipped for a
producer or produce dealer on one island of this State
to a person, firm, or organization on another island
of this State. The terms "agricultural commodity",
"producer", and "produce dealer" shall be defined in
the same manner as they are defined in section 147-1;
[provided that agricultural commodities need not have been produced in the State;]

(2) Amounts received by the manager, submanager, or board of directors of:

(A) An association of a condominium property regime established in accordance with chapter 514B or any predecessor thereto; or

(B) A nonprofit homeowners or community association incorporated in accordance with chapter 414D or any predecessor thereto and existing pursuant to covenants running with the land, in reimbursement of sums paid for common expenses;

(3) Amounts received or accrued from:

(A) The loading or unloading of cargo from ships, barges, vessels, or aircraft, whether or not the ships, barges, vessels, or aircraft travel between the State and other states or countries or between the islands of the State;

(B) Tugboat services including pilotage fees performed within the State, and the towage of
ships, barges, or vessels in and out of state harbors, or from one pier to another; and

(C) The transportation of pilots or governmental officials to ships, barges, or vessels offshore; rigging gear; checking freight and similar services; standby charges; and use of moorings and running mooring lines;

(4) Amounts received by an employee benefit plan by way of contributions, dividends, interest, and other income; and amounts received by a nonprofit organization or office, as payments for costs and expenses incurred for the administration of an employee benefit plan; provided that this exemption shall not apply to any gross rental income or gross rental proceeds received after June 30, 1994, as income from investments in real property in this State; and provided further that gross rental income or gross rental proceeds from investments in real property received by an employee benefit plan after June 30, 1994, under written contracts executed prior to July 1, 1994, shall not be taxed until the contracts are renegotiated, renewed,
or extended, or until after December 31, 1998, whichever is earlier. For the purposes of this paragraph, "employee benefit plan" means any plan as defined in title 29 United States Code section 1002(3), as amended;

(5) Amounts received for purchases made with United States Department of Agriculture food coupons under the federal food stamp program, and amounts received for purchases made with United States Department of Agriculture food vouchers under the Special Supplemental Foods Program for Women, Infants and Children;

(6) Amounts received by a hospital, infirmary, medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual; provided that this paragraph shall not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices. As used in this paragraph:
"Prescription drugs" are those drugs defined under section 328-1 and dispensed by filling or refilling a written or oral prescription by a practitioner licensed under law to administer the drug and sold by a licensed pharmacist under section 328-16 or practitioners licensed to administer drugs; provided that "prescription drugs" shall not include cannabis or manufactured cannabis products authorized pursuant to chapters 329 and 329D; and

"Prosthetic device" means any artificial device or appliance, instrument, apparatus, or contrivance, including their components, parts, accessories, and replacements thereof, used to replace a missing or surgically removed part of the human body, which is prescribed by a licensed practitioner of medicine, osteopathy, or podiatry and that is sold by the practitioner or that is dispensed and sold by a dealer of prosthetic devices; provided that "prosthetic device" shall not mean any auditory, ophthalmic, dental, or ocular device or appliance, instrument, apparatus, or contrivance;
(7) Taxes on transient accommodations imposed by chapter 237D and passed on and collected by operators holding certificates of registration under that chapter;

(8) Amounts received as dues by an unincorporated merchants association from its membership for advertising media, promotional, and advertising costs for the promotion of the association for the benefit of its members as a whole and not for the benefit of an individual member or group of members less than the entire membership;

(9) Amounts received by a labor organization for real property leased to:

(A) A labor organization; or

(B) A trust fund established by a labor organization for the benefit of its members, families, and dependents for medical or hospital care, pensions on retirement or death of employees, apprenticeship and training, and other membership service programs.

As used in this paragraph, "labor organization" means a labor organization exempt from federal income tax
under section 501(c)(5) of the Internal Revenue Code, as amended;

(10) Amounts received from foreign diplomats and consular officials who are holding cards issued or authorized by the United States Department of State granting them an exemption from state taxes; [and]

(11) Amounts received as rent for the rental or leasing of aircraft or aircraft engines used by the lessees or renters for interstate air transportation of passengers and goods. For purposes of this paragraph, payments made pursuant to a lease shall be considered rent regardless of whether the lease is an operating lease or a financing lease. The definition of "interstate air transportation" is the same as in 49 U.S.C. section 40102[–]; and

(12) Amounts received by a certified organic farm that produces agricultural products or livestock in the State. For the purposes of this paragraph, "agricultural products", "certified organic farm", and "livestock" have the same meaning as defined in title 7 United States Code section 6502."
SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. This Act shall take effect on July 1, 2020; provided that section 2 shall apply to taxable years beginning after December 31, 2020.

INTRODUCED BY: Tim Walz
Richard Luczak
Amy Pawluk
Joni Hochman
Nicole E. Sorenson

JAN 21 2020
Report Title:
Locally Produced, Organic Food; Tax Credit; General Excise Tax; Exemption

Description:
Establishes an income tax credit for locally produced, organic food. Exempts locally produced, organic food from the general excise tax.

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