
A BILL FOR AN ACT

RELATING TO AGRICULTURAL TAXATION.

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

1 SECTION 1. In 1978, voters approved article XI, section 3,
2 of the Constitution of the State of Hawaii. This section laid
3 out the framework for state policies to promote agriculture and
4 conserve productive agricultural lands in the state. Article
5 XI, section 3, reads as follows:

6 "The State shall conserve and protect
7 agricultural lands, promote diversified agriculture,
8 increase agricultural self-sufficiency and assure the
9 availability of agriculturally suitable lands. The
10 legislature shall provide standards and criteria to
11 accomplish the foregoing.

12 Lands identified by the State as important
13 agricultural lands needed to fulfill the purposes
14 above shall not be reclassified by the State or
15 rezoned by its political subdivisions without meeting
16 the standards and criteria established by the
17 legislature and approved by a two-thirds vote of the



1 body responsible for the reclassification or rezoning
2 action."

3 To address the issue of important agricultural lands, Act
4 183, Session Laws of Hawaii 2005 (Act 183), was enacted. Act
5 183 establishes standards, criteria, and mechanisms to identify
6 important agricultural lands and implement the intent and
7 purpose of article XI, section 3, of the state constitution.

8 Act 183 also recognized that while the supply of lands
9 suitable for agriculture is critical, the long-term viability of
10 agriculture depends on other factors as well. These factors
11 include:

- 12 (1) Commodity prices;
- 13 (2) Availability of water and irrigation;
- 14 (3) Agricultural research and outreach;
- 15 (4) Application of production technologies;
- 16 (5) Marketing; and
- 17 (6) Availability and cost of transportation services.

18 Tax incentives are a critical component of the long-term
19 viability of agriculture on important agricultural lands in the
20 state. The legislature finds that is in the public interest to
21 assist agricultural businesses who hold a majority of their



1 lands in important agricultural lands through incentives such as
2 income tax credits.

3 The purpose of this Act is to further the implementation of
4 Act 183 by establishing the important agricultural land
5 agricultural business tax credit to assist agricultural
6 businesses in cases where more than fifty per cent of the lands
7 the business owns, leases, or uses, excluding lands classified
8 as conservation lands, are important agricultural lands.

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

12 **§235- Important agricultural land agricultural**
13 **business tax credit.** (a) There shall be allowed to each
14 taxpayer subject to the taxes imposed by this chapter an income
15 tax credit, which shall be deductible from the taxpayer's net
16 income tax liability, if any, imposed by this chapter for the
17 taxable year in which the credit is properly claimed.

18 (b) The amount of the credit shall be one hundred per cent
19 of the qualified agricultural costs incurred by an agricultural
20 business during the taxable year; provided that this amount
21 shall be reduced pursuant to subsection (c). No other credit
22 may be claimed under this chapter for the qualified agricultural



1 costs for which a credit is claimed under this section for the
2 taxable year.

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

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

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



1 (e) If the tax credit under this section exceeds the
2 taxpayer's income tax liability, the excess of credit over
3 liability may be used as a credit against the taxpayer's income
4 tax liability in subsequent years until exhausted. All claims
5 for a tax credit under this section, including amended claims,
6 shall be filed on or before the end of the twelfth month
7 following the close of the taxable year for which the credit is
8 claimed. Failure to comply with the foregoing provision shall
9 constitute a waiver of the right to claim the credit.

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

16 (g) The agribusiness development corporation, in
17 consultation with the department, shall determine what
18 information is necessary on an annual basis to conduct a
19 quantitative and qualitative assessment of the outcomes of the
20 tax credit under this section. Every qualified taxpayer, no
21 later than the last day of the taxable year following the close
22 of the taxpayer's taxable year in which qualified agricultural



1 costs were expended, shall submit a written, certified statement
2 to the agribusiness development corporation in the form
3 specified by the agribusiness development corporation providing
4 this information to the agribusiness development corporation.
5 Any taxpayer failing to submit this information to the
6 agribusiness development corporation in the manner prescribed by
7 the agribusiness development corporation prior to the last day
8 of the taxable year following the close of the taxpayer's
9 taxable year in which qualified agricultural costs were expended
10 shall not be eligible to receive the tax credit, and any credit
11 already claimed for that taxable year shall be recaptured in
12 total. The amount of the recaptured tax credit shall be added
13 to the taxpayer's tax liability for the taxable year in which
14 the recapture occurs. Notwithstanding any law to the contrary,
15 a statement submitted under this subsection shall be a public
16 document.

17 On an annual basis, the agribusiness development
18 corporation, in consultation with the department, shall submit a
19 report to the governor and legislature evaluating the
20 effectiveness of the tax credit. The report shall include but
21 not be limited to findings and recommendations to improve the
22 effectiveness of the tax credit to further encourage the



1 development of agricultural businesses that own, hold, or use
2 important agricultural lands.

3 (h) The tax credit allowed under this section shall be
4 available for taxable years beginning after December 31, 2006.

5 (i) As used in this section:

6 "Agricultural business" means any taxpayer with a
7 commercial agricultural, silvicultural, or aquacultural facility
8 or operation, including:

9 (1) The care and production of livestock and livestock
10 products, poultry and poultry products, apiary
11 products, and plant and animal production for nonfood
12 uses;

13 (2) The planting, cultivating, harvesting, and processing
14 of crops; and

15 (3) The farming or ranching of any plant or animal species
16 in a controlled salt, brackish, or freshwater
17 environment;

18 provided that the taxpayer maintains its principal place of
19 business in the state and more than fifty per cent of the land
20 the taxpayer owns, leases, or uses, excluding lands classified
21 as conservation lands, is important agricultural lands.



1 "Important agricultural lands" means lands identified and
2 designated as important agricultural lands pursuant to part III
3 of chapter 205.

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

6 "Qualified agricultural costs" means expenditures made by
7 an agricultural business for:

8 (1) Plans, design, engineering, construction, renovation,
9 repair, maintenance, and equipment for:

10 (A) Roads or utilities serving lands used by the
11 agricultural business for agricultural purposes;

12 (B) Agricultural processing facilities in Hawaii that
13 process crops or livestock from the agricultural
14 business;

15 (C) Water wells, reservoirs, dams, water storage
16 facilities, water pipelines, ditches, or
17 irrigation systems for which the majority of the
18 lands serviced by its water are important
19 agricultural lands; and

20 (D) Agricultural housing specifically for laborers of
21 the agricultural business;



- 1 (2) Feasibility studies, regulatory processing, and legal
- 2 and accounting services related to the items in
- 3 paragraph (1); and
- 4 (3) Equipment used by the agricultural business to
- 5 cultivate, grow, harvest, or process agricultural
- 6 products."

7 SECTION 3. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$ or so much
9 thereof as may be necessary for fiscal year 2007-2008 and the
10 sum of \$ or so much thereof as may be necessary for fiscal
11 year 2008-2009 to the department of taxation for the costs of
12 administering the important agricultural land agricultural
13 business tax credit.

14 The sums appropriated shall be expended by the department
15 of taxation to administer the important agricultural land
16 agricultural business tax credit.

17 SECTION 4. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$ or so much
19 thereof as may be necessary for fiscal year 2007-2008 and the
20 sum of \$ or so much thereof as may be necessary for fiscal
21 year 2008-2009 to the department of agriculture to administer



1 the important agricultural land agricultural business tax
2 credit.

3 The sums appropriated shall be expended by the department
4 of agriculture to administer the important agricultural land
5 agricultural business tax credit.

6 SECTION 5. New statutory material is underscored.

7 SECTION 6. This Act shall take effect on July 1, 2020.



S.B. NO. 1221
S.D. 2
H.D. 2

Report Title:

Agricultural Business Tax Credit; Important Agricultural Lands

Description:

Establishes the important agricultural lands agricultural
business tax credit. (SB1221 HD2)

SB1221 HD2 HMS 2007-3627

