
A BILL FOR AN ACT

RELATING TO DISASTER RELIEF.

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

1 SECTION 1. (a) There shall be allowed to each taxpayer
2 who is not claimed or is not otherwise eligible to be claimed as
3 a dependent by another taxpayer for federal or Hawaii state
4 individual income tax purposes, who files a net income tax
5 return for a taxable year, a one-time nonrefundable earthquake
6 victim tax credit, except as otherwise provided in this Act.

7 A qualifying taxpayer may claim either a credit equal to a
8 percentage of the costs incurred in repairing damage to a
9 residential structure pursuant to subsection (b) or, in the
10 alternative, a qualifying taxpayer may claim a credit equal to a
11 percentage of loss incurred as defined in subsection (d).

12 The tax credit shall be deductible from the taxpayer's net
13 income tax liability imposed by chapter 235, Hawaii Revised
14 Statutes.

15 (b) The amount of the tax credit for costs incurred in
16 damage repair shall be per cent of the repair costs
17 directly related to the damage directly caused by the
18 earthquakes occurring on the dates specified in subsection (c)



1 to the taxpayer's residential structure situated in the county
2 of Hawaii; provided that:

3 (1) The expenses or costs are not reimbursable by
4 insurance proceeds or disaster relief payments from
5 government agencies or nonprofit organizations;

6 (2) The tax credit shall not exceed \$ per
7 individual taxpayer;

8 (3) The tax credit shall not exceed \$ per trust,
9 estate, partnership, association, company, or
10 corporation, as determined at the entity level;

11 (4) No claim for credit based upon loss is claimed under
12 subsection (d); and

13 (5) No refund as provided in subsection (g) or payment on
14 account of the tax credit allowed by this Act shall be
15 made for amounts less than \$1.

16 (c) The tax credit shall apply to a taxpayer who suffered
17 earthquake damage to the taxpayer's residential structure that
18 is situated in the county of Hawaii, having occurred on
19 October 15, 2006.

20 (d) The amount of tax credit for loss shall be
21 per cent of the loss directly related to the damage directly
22 caused by the earthquakes occurring on the date specified in



1 subsection (c) to the taxpayer's residential structure situated
2 in the county of Hawaii; provided that:

- 3 (1) The loss is not reimbursable by insurance proceeds or
4 disaster relief payments from government agencies or
5 nonprofit organizations or any other source of
6 reimbursement for the loss. For purposes of this
7 subsection, "loss" means the decrease in value as
8 measured by the fair market value of the property
9 immediately prior to the earthquakes identified in
10 subsection (c) and the fair market value immediately
11 after the earthquakes; provided that the loss shall
12 not exceed the taxpayer's adjusted tax basis in the
13 property;
- 14 (2) The tax credit shall not exceed \$ per
15 individual taxpayer;
- 16 (3) The tax credit shall not exceed \$ per trust,
17 estate, partnership, association, company, or
18 corporation, as determined at the entity level;
- 19 (4) No claim for credit based costs incurred in repairing
20 damage is claimed under subsection (b);
- 21 (5) Any taxpayer claiming credit under this subsection
22 shall attach to the taxpayer's return an appraisal of



1 the loss, as defined in paragraph (1), determined by a
2 qualified appraiser. The term "qualified appraiser"
3 means an individual who includes on the appraisal a
4 declaration that:

5 (A) The individual either holds the individual's self
6 out to the public as an appraiser and performs
7 appraisals on a regular basis;

8 (B) Summarizes the appraiser's qualifications to
9 render appraisals of the type required by this
10 Act;

11 (C) The appraiser is qualified to make appraisals of
12 the type of property being valued;

13 (D) The appraiser is not the taxpayer and does not
14 have a "financial interest" in the property, as
15 that term is defined in section 84-3, Hawaii
16 Revised Statutes, and further as the term may
17 apply to the circumstances; and

18 (E) The appraiser understands that an intentionally
19 false or fraudulent overstatement of the value of
20 the property described in the appraisal may
21 subject the appraiser to a penalty under section
22 231-36, Hawaii Revised Statutes, for aiding and



1 abetting an understatement of tax liability and
2 that the appraisal may be disregarded; and

3 (6) No refund as provided in subsection (g) or payment on
4 account of the tax credit allowed by this Act shall be
5 made for amounts less than \$1;

6 (e) To qualify for the income tax credit, the taxpayer
7 shall sign a statement and provide information determined by the
8 department of taxation as necessary to claim the credit under
9 penalties of perjury.

10 (f) If the tax credit under this section exceeds the
11 taxpayer's net income tax liability, any excess of the tax
12 credit over liability may be carried forward until exhausted;
13 provided that tax credits properly claimed by a taxpayer shall
14 be refunded to the taxpayer after being credited against the
15 taxpayer's income tax liability for the taxable year, if the
16 taxpayer qualifies under one of the following tests:

17 (1) All of the taxpayer's income is exempt from taxation
18 under section 235-7(a)(2) or (3), Hawaii Revised
19 Statutes; or

20 (2) The taxpayer's adjusted gross income is \$20,000 or
21 less.



1 (g) In the case of a partnership, S corporation, estate,
2 trust, or association of apartment owners, the tax credit
3 allowable is for expenses incurred and paid for or loss
4 sustained by the entity for the taxable year. The cost or loss
5 upon which the tax credit is computed shall be determined at the
6 entity level.

7 (h) If a deduction is taken under section 179 (with
8 respect to election to expense certain depreciable business
9 assets) of the Internal Revenue Code of 1986, as amended, no tax
10 credit shall be allowed for that portion of the expenses for
11 which the deduction is taken.

12 The basis of property shall be decreased by any amount for
13 which the credit is allowable and claimed. In the alternative,
14 the taxpayer shall treat the amount of the credit allowable and
15 claimed as a taxable income item for the taxable year in which
16 it is properly recognized under the method of accounting used to
17 compute taxable income.

18 (i) No taxpayer who claims the tax credit under this
19 section shall claim any other credit or deduction for the same
20 loss or other expenses or costs.

21 (j) Every claim, including amended claims, for the tax
22 credit under this section shall be filed on or before



1 December 31, 2008. Failure to meet the filing requirements of
2 this subsection shall constitute a waiver of the right to claim
3 the tax credit.

4 (k) If at any time after claiming the tax credit, the
5 taxpayer no longer qualifies for the credit because of
6 subsequent recovery for expenses used to calculate the credit,
7 the credits claimed shall be recaptured. The recapture shall be
8 equal to one hundred per cent of the tax credits that were
9 subsequently ineligible as a result of later recovery. The
10 amount of the recaptured tax credits shall be added to the
11 taxpayer's tax liability for the taxable year in which the
12 recapture occurs.

13 (l) In the case of fraud, making of a false statement, or
14 wilful disregard for the facts, associated with making a return
15 or otherwise claiming the tax credit, there shall be added to
16 the amount wrongfully claimed on a return a penalty of fifty per
17 cent of the amount of such credit claimed.

18 (m) The director of taxation shall prepare any forms that
19 may be necessary to claim a tax credit under this section, may
20 require proof of the claim for the tax credit, and may adopt
21 rules without regard to chapter 91 to effectuate the purposes of
22 this section.



1 SECTION 2. This Act shall take effect on January 1, 2015,
2 and shall apply to the taxable years beginning after
3 December 31, 2005, and before January 1, 2009.



Report Title:

Disaster Relief; Tax Credit for Earthquake Victims

Description:

Creates a one-time tax credit for victims of the October 15, 2006, earthquakes. (SD1)

