



**GOV. MSG. NO. 1367**

EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 12, 2016

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Eighth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Eighth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 12, 2016, the following bill was signed into law:

HB1689 HD2 SD2 CD1

RELATING TO TAXATION  
**ACT 258 (16)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

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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 to reduce  
3 reliance on agricultural imports and to foster job growth in the  
4 State. The legislature believes that reducing the burden on the  
5 emerging number of small farmers seeking costly, but necessary,  
6 certifications and inspections will help to promote the  
7 production of locally-grown food.

8           The purpose of this Act is to establish a tax credit for  
9 farmers, ranchers, and producers seeking to obtain organic  
10 certification.

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

14           "§235-       Organic foods production tax credit. (a) There  
15 shall be allowed to each qualified taxpayer subject to the tax  
16 imposed under this chapter, an income tax credit that shall be  
17 deductible from the taxpayer's net income tax liability, if any,



1 imposed by this chapter for the taxable year in which the credit  
2 is properly claimed.

3 (b) The amount of the tax credit shall be equal to the  
4 qualified expenses of the qualified taxpayer, up to a maximum of  
5 \$50,000.

6 (c) In the case of a partnership, S corporation, estate,  
7 or trust, the tax credit allowable is for qualified expenses  
8 incurred by the entity for the taxable year. The expenses upon  
9 which the tax credit is computed shall be determined at the  
10 entity level. Distribution and share of credit shall be  
11 determined by rule.

12 (d) The total amount of tax credits allowed under this  
13 section shall not exceed \$2,000,000 for all qualified taxpayers  
14 in any taxable year; provided that any taxpayer who is not  
15 eligible to claim the credit in a taxable year due to the  
16 \$2,000,000 cap having been exceeded for that taxable year shall  
17 be eligible to claim the credit in the subsequent taxable year.

18 (e) Every qualified taxpayer, before March 31 of each year  
19 in which qualified expenses were incurred by the taxpayer in the  
20 previous taxable year, shall submit a written, certified



1 statement to the chairperson of the board of agriculture  
2 identifying:

3 (1) Qualified expenses incurred in the previous taxable  
4 year; and

5 (2) The amount of the tax credit claimed by the taxpayer  
6 pursuant to this section, if any, in the previous  
7 taxable year.

8 (f) The department of agriculture shall:

9 (1) Maintain records of the names and addresses of the  
10 qualified taxpayers claiming the credits under this  
11 section and the total amount of the qualified expenses  
12 upon which the tax credits are based;

13 (2) Verify the nature and amount of the qualified  
14 expenses;

15 (3) Total all qualified and cumulative expenses that the  
16 department certifies; and

17 (4) Certify the amount of the tax credit for each taxpayer  
18 for each taxable year and the cumulative amount of the  
19 tax credit.

20 Upon each determination made under this subsection, the  
21 department of agriculture shall issue a certificate to the



1 taxpayer verifying information submitted to the department of  
2 agriculture, including amounts of qualified expenses, the credit  
3 amount certified for the taxpayer for each taxable year, and the  
4 cumulative amount of tax credits certified. The taxpayer shall  
5 file the certificate with the taxpayer's tax return with the  
6 department of taxation.

7 The board of agriculture may assess and collect a fee to  
8 offset the costs of certifying tax credit claims under this  
9 section.

10 (g) The director of taxation:

11 (1) Shall prepare any forms that may be necessary to claim  
12 a tax credit under this section;

13 (2) May require the taxpayer to furnish reasonable  
14 information to ascertain the validity of the claim for  
15 the tax credit made under this section; and

16 (3) May adopt rules under chapter 91 necessary to  
17 effectuate the purposes of this section.

18 (h) If the tax credit under this section exceeds the  
19 taxpayer's net income tax liability, the excess of the credit  
20 over liability may be used as a credit against the taxpayer's  
21 net income tax liability in subsequent years until exhausted.



1 All claims for the tax credit under this section, including  
2 amended claims, shall be filed on or before the end of the  
3 twelfth month following the close of the taxable year for which  
4 the credit may be claimed. Failure to comply with the foregoing  
5 provision shall constitute a waiver of the right to claim the  
6 credit.

7 (i) As used in this section:

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

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

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

15 "Qualified expenses" means expenses incurred by a qualified  
16 taxpayer to produce organically produced agricultural products,  
17 including expenses incurred to obtain organic certification from  
18 the United States Department of Agriculture, pursuant to the  
19 Organic Foods Production Act. "Qualified expenses" include:

20 (1) Application fees;

21 (2) Inspection costs;



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

4       (4) Costs for any equipment, materials, or supplies  
5       necessary for organic certification or production of  
6       agricultural products, in accordance with the  
7       qualified taxpayer's organic system plan and the  
8       organic production and handling requirements of the  
9       National Organic Program, codified at 7 Code of  
10      Federal Regulations part 205, subpart C, including but  
11      not limited to certified organic seed, cover crops, or  
12      animal feed.

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

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



- 1        (1) That sells agricultural products in adherence to the  
2                    standards and requirements of the Organic Foods  
3                    Production Act;
- 4        (2) That has applied for organic certification, in  
5                    accordance with the requirements of the Organic Foods  
6                    Production Act; and
- 7        (3) Whose gross income from the sale of organically  
8                    produced agricultural products for the most recently  
9                    reported fiscal year totals no more than \$500,000."

10        SECTION 3. If any provision of this Act, or the  
11 application thereof to any person or circumstance, is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of the Act that can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable.

16        SECTION 4. New statutory material is underscored.

17        SECTION 5. This Act, upon its approval, shall apply to  
18 taxable years beginning after December 31, 2016; provided that  
19 this Act shall be repealed on December 31, 2021.



APPROVED this 12 day of JUL , 2016



GOVERNOR OF THE STATE OF HAWAII