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

4           "§235-       Non-genetically engineered produce tax credit.

5           (a) There shall be allowed to each qualified producer of non-  
6 genetically engineered produce subject to the tax imposed by  
7 this chapter, a non-genetically engineered produce tax credit  
8 that shall be applied to the taxpayer's net income tax  
9 liability, if any, imposed by this chapter for the taxable year  
10 for which the credit is properly claimed.

11           For each taxable year, a qualified producer may claim a tax  
12 credit in the amount of the lesser of:

13           (1)       per cent of qualified costs incurred by the  
14 qualified producer; or

15           (2)       \$\_\_\_\_\_.

16           (b) No other credit may be claimed under this chapter for  
17 any qualified costs for which a credit is claimed under this  
18 section for the taxable year.



1        (c) The cost upon which the tax credit is computed shall  
2 be determined at the entity level. In the case of a  
3 partnership, S corporation, estate, trust, or other pass through  
4 entity, distribution and share of the credit shall be determined  
5 by rule.

6        If a deduction is taken under section 179 (with respect to  
7 election to expense depreciable business assets) of the Internal  
8 Revenue Code, no tax credit shall be allowed for that portion of  
9 qualified costs for which a deduction was taken.

10       The basis of eligible property for depreciation or  
11 accelerated cost recovery system purposes for state income taxes  
12 shall be reduced by the amount of credit allowable and claimed.  
13 No deduction shall be allowed for that portion of otherwise  
14 deductible qualified costs for which a credit is claimed under  
15 this section.

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

20       (e) The director of taxation:

21       (1) Shall prepare any forms that may be necessary to claim  
22 a credit under this section;



1       (2) May require the taxpayer to furnish information to  
2           ascertain the validity of the claim for credit made  
3           under this section; and

4       (3) May adopt rules pursuant to chapter 91 to effectuate  
5           this section.

6       All claims for a tax credit under this section, including  
7       amended claims, shall be filed on or before the end of the  
8       twelfth month following the close of the taxable year for which  
9       the credit is claimed. Failure to comply with the foregoing  
10       provision shall constitute a waiver of the right to claim the  
11       credit.

12       (f) Every taxpayer that claims a credit under this section  
13       shall, no later than March 31 of each year in which qualified  
14       costs were expended in the previous year, submit a written  
15       statement to the department of agriculture, in the form  
16       specified by the department of agriculture, certifying:

17       (1) The taxpayer's qualified producer status;

18       (2) The amount of qualified costs claimed by the taxpayer,  
19       if any, in the previous taxable year; and

20       (3) The tax liability under this chapter against which the  
21       tax credits are claimed.



1        (g) The department of agriculture shall verify the  
2 eligibility of all taxpayers applying for the tax credit, and  
3 upon such eligibility determination, shall issue a certificate  
4 to the taxpayer certifying:

- 5        (1) The taxpayer's qualified producer status;  
6        (2) The amount of the qualified costs claimed by the  
7        taxpayer; and  
8        (3) The credit amount certified for the taxpayer for the  
9        taxable year.

10       (h) The department of agriculture shall also maintain  
11 records of:

- 12       (1) The total amount of qualified costs for which each  
13       taxpayer claims a tax credit under this section for  
14       each taxable year;  
15       (2) The total amount of tax credits for which each  
16       taxpayer is certified for each taxable year; and  
17       (3) The total amount of all tax credits claimed pursuant  
18       to this section by all taxpayers in each taxable year.

19       Notwithstanding any other law to the contrary, the  
20 information required by this subsection shall be available for  
21 public inspection and dissemination under chapter 92F.



1       (i) The taxpayer shall file the certificate provided for  
2 under subsection (g) with the taxpayer's tax return with the  
3 department of taxation. Notwithstanding the department of  
4 agriculture's certification authority under this section, the  
5 director of taxation may audit and adjust the certification of  
6 each taxpayer claiming a credit under this section to conform to  
7 the facts.

8       (j) The department of agriculture shall certify no more  
9 than \$            in credits in the aggregate for all taxpayers in  
10 the taxable year beginning after December 31, 2013, and ending  
11 before January 1, 2015. In no instance shall the department of  
12 taxation allow the aggregate amount of tax credits claimed to  
13 exceed \$            in the taxable year. To comply with this  
14 restriction, the department of agriculture shall certify credits  
15 on a first come, first served basis.

16       (k) As used in this section:

17       "Genetically engineered" means:

18       (1) Altered at the molecular or cellular level by means  
19 that are not possible under natural conditions or  
20 processes, including recombinant deoxyribonucleic acid  
21 and ribonucleic acid techniques, cell fusion,  
22 microencapsulation, macroencapsulation, gene deletion



1           and doubling, introduction of a foreign gene, and  
2           changing the positions of genes, other than by a means  
3           consisting exclusively of breeding, conjugation,  
4           fermentation, hybridization, in vitro fertilization,  
5           tissue culture, or mutagenesis; or

6           (2) Made through sexual or asexual reproduction, or both,  
7           involving an organism described in paragraph (1).

8           "Produce" means fresh fruits and vegetables for human  
9           consumption.

10           "Qualified costs" means any costs for the production of  
11           non-genetically engineered produce. These costs shall include,  
12           but not be limited to costs incurred for:

13           (1) The purchase of seed or annual plants;

14           (2) Water;

15           (3) Fertilizer, fungicides, insecticides, herbicides,  
16           defoliants, and dessicants used exclusively in the  
17           production of produce for sale;

18           (4) The purchase, repair, and maintenance of equipment  
19           used exclusively in the production of produce; and

20           (5) The components of irrigation systems or other tangible  
21           property necessary for the production of produce.



1        "Qualified producer" means any producer of produce that is  
 2 grown without the knowing and intentional use of genetically  
 3 engineered seed or organisms."

4        SECTION 2. New statutory material is underscored.

5        SECTION 3. This Act, upon its approval, shall apply to  
 6 taxable years beginning after December 31, 2013.

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INTRODUCED BY:

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# H.B. NO. 2187

**Report Title:**

Non-genetically Modified Produce; Tax Credit; Taxation

**Description:**

Provides a non-genetically modified produce tax credit for qualified agricultural costs for the taxable year beginning after December 31, 2013.

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

