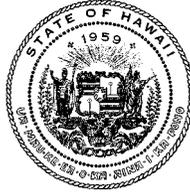


BENJAMIN J. CAYETANO
GOVERNOR

MAZIE HIRONO
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

RAY K. KAMIKAWA
DIRECTOR OF TAXATION

MARIE Y. OKAMURA
DEPUTY DIRECTOR

Tel: (808) 587-1540
Fax: (808) 587-1560

November 5, 1999

TAX INFORMATION RELEASE NO. 99-3

RE: Taxpayers Subject to the Franchise Tax May Claim the Low-income Housing Tax Credit in the Taxable Year for Which the Imposition Is Made

Section 235-110.8, Hawaii Revised Statutes (HRS), provides that Internal Revenue Code section 42, relating to the low-income housing income tax credit is applicable for Hawaii income tax purposes. Under section 235-110.8, HRS, a resident taxpayer may deduct from the taxpayer's net income tax liability, if any, a credit equal to 30 per cent of the applicable percentage of the qualified basis of each building located in Hawaii. The credit is not refundable and must be claimed against net income tax liability for the taxable year in which the credit is properly claimed. The excess credit over liability may be applied to subsequent years until exhausted. Further, the federal credit must be claimed in order to claim the Hawaii credit.

Section 241-4.7, HRS, allows financial institutions to claim the low-income housing credit.¹ The franchise tax is levied annually at the rate of 7.92 per cent of the entire net income of financial institutions from all sources for the preceding taxable year. The financial institution's tax liability for the current taxable year is due on the first day of the taxable year and the tax return is due by April 20 following the close of the calendar year or by the twentieth day of the fourth month following the close of the fiscal year. Haw. Rev. Stat. §§241-2, 241-3, 241-5 (1993), 241-4 (1998 Supp.).

This Tax Information Release clarifies that taxpayers subject to the franchise tax may claim the State low-income housing tax credit in the taxable year for which the imposition is made. Section 241-4.7, HRS, adopts section 235-110.8(b), HRS, which provides as follows:

(b) There shall be allowed to each resident taxpayer subject to the tax imposed by this chapter, a low-income housing tax credit which shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed. (Emphasis added).

¹Act 24, Session Laws of Hawaii 1999, allows insurance companies to offset their insurance premium taxes with the low-income housing tax credit effective for taxable year 1999.

Example: A project which has received an allocation of state and federal low-income housing credits is completed and placed in service on July 1, 1999. A financial institution claiming state credits for this project is on a calendar year basis. Its franchise tax return must be filed on or before April 20, 1999. "Taxable year" under chapter 241, HRS, means the year for which the tax imposition is made. Thus, the financial institution may claim the credit for this project which was completed and placed in service (on July 1, 1999) within the same taxable year but after the filing deadline (April 20, 1999) by filing an amended 1999 franchise tax return. This allows the financial institution to offset the taxes it pays in 1999 (which is computed using its 1998 income) with 1999 credits rather than waiting until 2000 to use the 1999 credits.

Forms and other tax information may be downloaded from the Department's website at <http://www.state.hi.us/tax/tax.html>. On Oahu, forms may be ordered by calling the Department's Forms Request Line at 587-7572. Persons who are not calling from Oahu may call 1-800-222-7572 to receive forms by mail or 808-678-0522 from a fax machine to receive forms by fax.



RAY K. KAMIKAWA
Director of Taxation