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August 3, 2004

DEPARTMENT OF TAXATION ANNOUNCEMENT NO. 2004-05

RE: Act 140, Session Laws of Hawaii 2004, Relating to Ethanol Tax Credit (Act 140)

On June 22, 2004, the Governor signed S.B. No. 3207, S.D. 2, H.D. 2, C.D. 1 into law as Act 140. Act 140 encourages the construction of operational, large-capacity ethanol production facilities by changing the ethanol investment tax credit to a facility tax credit.

This Act amended the law as follow:

(1) Provides that the annual dollar amount of the ethanol facility tax credit is equal to 30 percent of the ethanol production facility's nameplate capacity[1] if the nameplate capacity is greater than 500,000 but less than 15 million gallons;[2]

(2) Clarifies that the tax credit is limited to 100 percent of the total of all investments made by the taxpayer in the qualifying ethanol production facility during the eight-year tax credit period;

(3) Requires that the facility be operating at a level of production of at least 75 percent of its nameplate capacity on an annualized basis and that the facility is in production on or before January 1, 2012;

(4) Prohibits a taxpayer from claiming or receiving any other tax credit for the same taxable year; and

(5) Clarifies the definition of "investment" by using the general concept of the Internal Revenue Code Section 263A (relating to capitalization and inclusion in inventory costs of certain expenses subject to certain modifications).

The amendments made shall take effect on July 1, 2004, and shall apply to tax years after December 31, 2003.

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[1] "Nameplate capacity" means the qualifying ethanol production facility's production design capacity in gallons of motor fuel grade ethanol per year.

[2] The prior law contained a 16-tiered credit schedule, which capped the credit at varying dollar amounts, depending on the nameplate capacity of the facility.

Current forms and other tax information are available at the Department's website at: www.state.hi.us/tax. If you know which tax form or publication you need, please call the Department's request line at 808-587-7572, or toll-free from the neighbor islands and continental U.S. at 1-800-222-7572. This service is available 24 hours a day, 7 days a week.



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Director of Taxation

HRS Section Explained: HRS Section 235-110.3.