

Article 11. Determination of Rates

Sections:

8-11.1 Real property tax--Determination of rates.

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- (a) Unless a different meaning is clearly indicated by the context, as used in this section:
- “Base tax year” means the tax year immediately prior to the budgeted tax year.
- “Budgeted tax year” means the tax year beginning July 1 from which real property tax revenues are to help finance the proposed legislative and executive budgets.
- “Class of property” means a class of real property established in accordance with Section 8-7.1(c).
- “Estimated uncontrollable cost adjustment” means a factor representing costs that the city is mandated or obligated to pay.
- “Initial tax rate” means the preliminary tax rate for a class of property as determined in Section 8-11.1(b).
- “Net taxable real property” means the fair market value of property determined pursuant to this chapter which the director of budget and fiscal services certifies as the tax base as provided by ordinance less exemptions as provided by ordinance and, in all cases where appeals from the director's assessment are then unsettled, less 50 percent of the value in dispute.
- “Tax rate” means the dollar amount of tax levied under this chapter per \$1,000.00 of net taxable real property, computed to the nearest cent.
- (b) The council shall annually set the tax rate or rates in accordance with this subsection for the classes of real property established in accordance with subsection 8-7.1(c). A resolution setting the tax rate or rates shall be adopted by the council during the same meeting at which the applicable legislative and executive budget bills are passed on third reading. The tax rate or rates shall be set according to the following procedures. The procedures provide for initial tax rates for the net taxable real property within each class of property to be established by the director. The initial tax rates are established in a way that the average real property tax liability within each class of property does not change in the budgeted tax year compared to the base tax except for the estimated uncontrollable cost adjustment only.
- (1) Tax rates for all taxable classes of property shall be initially established by the director using the following method:
- (A) The director shall establish the estimated change in the operating uncontrollable costs of the City and County of Honolulu, expressed as a percentage of the base tax year's total net tax liability of all classes.
- (B) The director shall determine the average tax liability for each class of property for the base tax year as follows: sum the net tax liability for the base tax year of all parcels within the class, then divide the result by the total number of tax parcels in the class;
- (C) The director shall then determine the average tax liability for each class of property for the budgeted tax year as follows: adjust the figure determined under paragraph (B) by the estimated uncontrollable cost adjustment;
- (D) The director shall then determine the amount to be raised by the initial tax rate for each class of property for the budgeted tax year as follows: multiply the figure determined under paragraph (C) for each class of property by the total number of tax parcels in the class for the budgeted tax year; and
- (E) The director shall then determine the initial tax rate per \$1,000.00 of net taxable real property in each class of property for the budgeted tax year as follows: divide the figure determined under paragraph (D) for each class of property by the assessed valuation of net taxable real property within each class of property for the budgeted tax year, then multiply the result by 1,000, then round the result to the nearest cent.
- (2) The mayor may propose to the council that the initial tax rates be adopted or be increased or decreased for any class of property. The tax rates proposed by the mayor shall be set forth in the form of a resolution transmitted to the council at the same time that other revenue measures for the budgeted tax year are transmitted.
- (3) Upon receipt of the mayor's proposed tax rate resolution, the council may adopt the initial tax rates, the mayor's proposed tax rates, or propose new rates.
- (c) (1) The council shall advertise its intention to set the tax rate or rates and the date, time and place of a public hearing in accordance with law. The date of the public hearing shall be not less than 10 days after the advertisement is first published and shall set forth the proposed tax rate or rates to be considered by the council.
- (2) After the public hearing provided for in subdivision (1) of this subsection, the council shall readvertise and reconvene to adopt a resolution setting the tax rate or rates for the tax year for which property tax revenues are to be raised. The advertisement shall state the rate or rates proposed to be set and the date, time and place of the meeting scheduled for setting the rate or rates. The date, time and place of the meeting shall also be announced at the public hearing required by subdivision (1) of this subsection.
- (3) If, after adopting an increase or decrease in the tax rates as provided by subdivisions (1) and (2) of this subsection, the council determines that it requires a further increase or decrease in tax rates, the council shall readvertise and follow the requirements of subdivisions (1) and (2) of this subsection.
- (d) The council shall notify the director of budget and fiscal services of the tax rate or rates set for a tax year before the commencement of that tax year. Upon receipt of the notification, the director shall use the rate or rates in the levying of property taxes as provided by this chapter.
- (e) The director of budget and fiscal services shall, on or before February 1st preceding the tax year, furnish the council with a calculation certified by the director as being as nearly accurate as possible of the net taxable real property within the city, separately stated for each class established in accordance with subsection 8-7.1(c) plus such additional data relating to the property tax base as may be necessary. The director shall include the amount of all tax credits granted under Article 13 for the current tax year and the amount of all tax credit denials appealed during the current tax year as part of the information required by this subsection.

- (f) Insofar as the validity of any tax rate is concerned, the provisions of subsection (e) of this section as to dates shall be deemed directory; provided, that all other provisions of this section shall be deemed mandatory.
- (g) Notwithstanding any provision to the contrary, there shall be levied upon each individual parcel of real property taxable under this chapter a minimum real property tax of \$300.00 a year, except for properties exempt under Section 8-10.27 and except as provided in Section 8-10.28(b)(2).
- (Sec. 8-11.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 92-75, 96-15, 01-60, 02-45, 02-68, 03-28, 06-10, 10-9)

Article 12. Appeals

Sections:

- 8-12.1 Generally.**
- 8-12.2 Appeals by persons under contractual obligations.**
- 8-12.3 Grounds of appeal—Real property taxes.**
- 8-12.4 Second appeal.**
- 8-12.5 Small claims.**
- 8-12.6 Boards of review—Appointment, removal, compensation.**
- 8-12.7 Boards of review—Duties, powers, procedure before.**
- 8-12.8 Appeal to tax appeal court.**
- 8-12.9 Appeal to board of review.**
- 8-12.10 Costs—Deposit for an appeal.**
- 8-12.11 Costs—Outcome of appeal.**
- 8-12.12 Taxes paid pending appeal.**
- 8-12.13 Amendment of assessment list to conform to decision.**
- 8-12.14 Appeals settled by director.**

Sec. 8-12.1 Generally.

Any taxpayer or owner who may deem himself or herself aggrieved by an assessment made by the director or by the director's refusal to allow any exemption, may appeal from the assessment or from such refusal to the board of review or the tax appeal court pursuant to HRS Section 232-16 on or before January 15th preceding the tax year, as provided in this article. Where such an appeal is based upon the ground that the assessed value of the real property for tax purposes is excessive, the valuation claimed by the taxpayer or owner in the appeal shall be admissible in evidence, in any subsequent condemnation action involving the property, as an admission that the fair market value of the real property as of the date of assessment is no more than the value arrived at when the assessed value from which the taxpayer or owner appealed is adjusted to 100 percent fair market value; provided, that such evidence shall not in any way affect the right of the taxpayer or owner to any severance damages to which the taxpayer or owner may be entitled. (Sec. 8-12.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-15, 97-55)

Sec. 8-12.2 Appeals by persons under contractual obligations.

Whenever any person is under a contractual obligation to pay a tax assessed against another, the person shall have the same rights of appeal to the board of review and the tax appeal court and the Supreme Court, in such person's own name, as if the tax were assessed against such person. The person against whom the tax is assessed shall also have a right to appear and be heard on any such application or appeal. (Sec. 8-12.2, R.O. 1978 (1983 Ed.))

Sec. 8-12.3 Grounds of appeal—Real property taxes.

In the case of a real property tax appeal, no taxpayer shall be deemed aggrieved by an assessment, nor shall an assessment be lowered or an exemption allowed, unless there is shown (1) assessment of the property exceeds by more than 10 percent the market value of the property, or (2) lack of uniformity or inequality, brought about by illegality of the methods used or error in the application of the methods to the property involved, or (3) denial of an exemption to which the taxpayer is entitled and for which such person has qualified, or (4) illegality, on any ground arising under the Constitution or laws of the United States or the laws of the state or the ordinances of the city in addition to the ground of illegality of the methods used, mentioned in clause (2). (Sec. 8-12.3, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-58)

Sec. 8-12.4 Second appeal.

In every case in which a taxpayer appeals a real property tax assessment to the board of review or to the tax appeal court and there is pending an appeal of the assessment, the taxpayer shall not be required to file a notice of the second appeal; provided, the first appeal has not been decided prior to January 15th preceding the tax year of the second appeal; and provided further, the director gives notice that the tax assessment has not been changed from the assessment which is the subject of the appeal. (Sec. 8-12.4, R.O. 1978 (1983 Ed.); Am. Ord. 96-15, 97-55)

Sec. 8-12.5 Small claims.

Any protesting taxpayer who would incur a total tax liability, not including penalties and interest, of less than \$1,000.00 by reason of the protested assessment or payment in question, may elect to employ the small claims procedures of the tax appeal court as set out in HRS Section 232-5. (Sec. 8-12.5, R.O. 1978 (1983 Ed.))

Sec. 8-12.6 Boards of review—Appointment, removal, compensation.

- (a) There shall be up to five boards of review for the City and County of Honolulu, each of which shall consist of five members. In addition to meeting the requirements established in Revised Charter Section 13-103, the members shall have resided in the state for at least three years at the time of their appointments. The appointment of a member shall be to serve on one of the boards of review for the duration of the member's appointment and, in accordance with Section 8-12.7(c), to serve, temporarily, as a substitute member of one of the other board of review for meetings for which such other board is

unable to establish a quorum, but not due to a vacancy on such board. Any vacancy in any of the boards shall be filled for the unexpired term as provided for in the charter.

- (b) A chair and vice-chair of each board shall be elected annually from among the board's membership by its respective members. The vice-chair shall serve as the chair of the board during the chair's temporary absence from the city, illness, or disqualification. Each member may receive and be paid out of the treasury compensation for such member's services for each day's actual attendance and the member's actual traveling expenses.

(Sec. 8-12.6, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-16, 06-38)

Sec. 8-12.7 Boards of review—Duties, powers, procedure before.

- (a) Each board for the city shall hear disputes between the director and any taxpayer in all cases in which appeals have been duly taken. The fact that a notice of appeal has been duly filed by a taxpayer shall be conclusive evidence of the existence of a dispute. However, this provision shall not be construed to permit a taxpayer to dispute an assessment to the extent that it is in accordance with the taxpayer's return, as may be required pursuant to this chapter, unless the taxpayer shows lack of uniformity or inequality as set forth in Section 8-12.3.
- (b) The assignment of particular tax appeals to a specific board of review shall be made by the director.
- (c) Upon the request of the chair of one board, the chair of one of the other boards may administratively, and without requirement of formal action of that chair's board, temporarily assign a member of that board to serve as a substitute member of the requesting board for purposes of establishing a quorum at a designated meeting or designated meetings of the requesting board. The substitute member temporarily assigned under this subsection shall serve only for the particular board meeting or meetings for which the assignment is made and only so long as a quorum may not be maintained by the board to which the substitute member is assigned. During the period of the substitute member's assignment, the substitute member may participate in the discussion of and vote on all appeals before the board. Nothing herein shall prevent a member from again being assigned under this subsection.
- (d) Each board shall hold public meetings at some central location in the city commencing not later than January 15th of each year and shall hear, as expeditiously as possible, all appeals assigned to it for each year. With the exception of questions involving the Constitution or laws of the United States, each board shall have the authority to decide all questions of fact and all questions of law necessary to the determination of the objections raised by the taxpayer in the notice of appeal; provided, that the board shall not have the authority to determine or declare an assessment illegal or void. Each board shall have the authority to allow or disallow exemptions pursuant to law, whether or not previously allowed or disallowed by the director, and to increase or lower any assessment.
- (e) Each board shall base each of its decisions on the evidence before it and, as provided in Section 8-1.18, the assessment made by the director shall be deemed prima facie correct. Assessments for the year upon other similar property situated in the city shall be received in evidence upon the hearing. In increasing or lowering any real property assessment, the board shall be governed by this chapter. Each board shall file with the director its written decision on each appeal, and a certified copy thereof shall be delivered or mailed by the director forthwith to the taxpayer concerned at the taxpayer's last known place of residence or business.
- (f) Upon completion of its review of the property tax appeals for the current year, each board shall compile and submit to the mayor and the council, and shall file with the director for the use of the public, copies of a report detailing the work of the board, which is directed at meeting the objectives of this chapter. The board additionally shall report on instances in which the director, in the application of the valuation methods selected by the director, erred as to the assessment of a particular property or particular properties not brought before the board by any appeal. Before commencing this phase of its work, each board shall publish, during the first week of September, a notice specifying a period of at least 10 days within which complaints may be filed by any taxpayer. Each complaint shall be in writing, shall identify the particular property involved, shall state the valuation claimed by the taxpayer and the grounds of objection to the assessment, and shall be filed with the director who shall transmit the same to the appropriate board. Not earlier than one week after the close of the period allowed for filing complaints, the appropriate board shall hear the same, after first giving reasonable notice of the hearing to all interested taxpayers and the director. Like notice and hearing shall be given in order for the board to include in its report any other property not brought before it by an appeal. The board may proceed by districts designated by their tax map designation, and may from time to time publish the notice above provided for as the work proceeds by districts.
- (g) The director, in the making of assessments for the succeeding year, shall give due consideration to the reports of the boards made pursuant to subsection (f).
- (h) Each board, in addition to all other powers, also shall have the authority to subpoena witnesses, administer oaths, examine books and records, and hear and take evidence in relation to any subject pending before the board. It may request the tax appeal court to order the attendance of witnesses and the giving of testimony by them, and the production of books, records and papers at the hearings of the board.
- (i) In addition to any notice and publication required by state law or these ordinances, the director, on behalf of each board, shall make available on the city's website all notices of hearings, decisions by the boards and all rules and regulations pertaining to the boards.

(Sec. 8-12.7, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 96-15, 96-16, 96-58, 97-55, 05-009, 06-38, 07-47, 15-4)

Sec. 8-12.8 Appeal to tax appeal court.

- (a) An appeal to the tax appeal court may be filed by a taxpayer or the director as provided in HRS Sections 232-8 through 232-14 and Sections 232-16 through 232-18.
- (b) Appeals to the state supreme court shall conform to HRS Sections 232-19 through 232-21.

(Sec. 8-12.8, R.O. 1978 (1983 Ed.))

Sec. 8-12.9 Appeal to board of review.

- (a) A notice of appeal to the board of review must be lodged with the director on or before the date fixed by law for the taking of the appeal by either personal delivery, depositing the appeal in the mail, or by electronic transmission, provided, however, that a notice of appeal cannot be lodged by facsimile transmission. Personal delivery shall include delivery by

private delivery services. Private delivery services are those designated by the Internal Revenue Services. Notwithstanding any other provision to the contrary, (1) a notice of appeal with payment of costs personally delivered shall be deemed to have been lodged with the director when personally delivered before the close of city business hours; (2) a notice of appeal with payment of costs deposited in the mail, postage prepaid, and properly addressed to the director, shall be deemed to have been lodged with the director on the date shown by the postal service cancellation mark stamped upon the envelope or other appropriate wrapper containing the notice of appeal; and (3) a notice of appeal transmitted electronically, properly addressed to the director, with payment of costs also transmitted electronically, shall be deemed lodged with the director on the date the electronic transmission and electronic payment are electronically received by the server designated by the director to receive appeals and payment of costs transmitted electronically.

- (b) The notice of appeal must be in writing and any such notice, however informal it may be, identifying the assessment involved in the appeal, stating the valuation claimed by the taxpayer and the grounds of objection to the assessment shall be sufficient, provided, however, the payment of costs to be deposited by the taxpayer pursuant to Section 8-12.10, including the payment of costs electronically, must be made on or before the date fixed by law for the taking of the appeal in order to perfect the appeal and for the board of review to have jurisdiction to hear the appeal. Upon the necessary information being furnished by the taxpayer to the director, the director shall prepare the notice of appeal upon request of the taxpayer or county and any notice so prepared by the director shall be deemed sufficient as to its form.
- (c) The appeal shall be considered and treated for all purposes as a general appeal and shall bring up for determination all questions of fact and all questions of law, excepting questions involving the Constitution or laws of the United States, necessary for the determination of the objections raised by the taxpayer in the notice of appeal. Any objection involving the Constitution or laws of the United States may be included by the taxpayer in the notice of appeal and in such case the objections may be heard and determined by the tax appeal from a decision of the board of review; but this provision shall not be construed to confer upon the board of review the power to hear or determine such objections. Any notice of appeal may be amended at any time prior to the board's decision; provided, the amendment does not substantially change the dispute or lower the valuation claimed.

(Sec. 8-12.9, R.O. 1978 (1983 Ed.); Am. Ord. 93-20, 07-48)

Sec. 8-12.10 Costs—Deposit for an appeal.

- (a) The costs to be deposited by the taxpayer on appeal to the board of review shall be \$25 for each real property tax appeal.
- (b) The cost to be deposited by the taxpayer on any appeal to the tax appeal court or the state supreme court shall be as provided in HRS Sections 232-22 and 232-23.
- (c) Payment of costs to be deposited by the taxpayer must be made on or before the date fixed by law for the taking of the appeal in order, pursuant to Section 8-12.9, to perfect a notice of appeal and for the board of review to have jurisdiction to hear the appeal.

(Sec. 8-12.10, R.O. 1978 (1983 Ed.); Am. Ord. 96-02, 07-48)

Sec. 8-12.11 Costs—Outcome of appeal.

In the event of an appeal by a taxpayer to the board of review, if the appeal is compromised, or sustained as to any amount of the valuation in dispute, the costs deposited shall be returned to the appellant. Otherwise the entire amount of costs deposited shall be retained by the city.

(Sec. 8-12.11, R.O. 1978 (1983 Ed.); Am. Ord. 05-009, 07-47, 08-5, 09-2)

Sec. 8-12.12 Taxes paid pending appeal.

- (a) In any case of any appeal to the tax appeal court, 50 percent of the tax paid upon the amount of the assessment actually in dispute and in excess of that admitted by the taxpayer shall, pending the final determination of the appeal, be paid by the director into the "litigated claims account." If the final determination by the tax appeal court is in whole or in part in favor of the appealing taxpayer, the director shall repay to the taxpayer out of the account, or if there is a deficit in the account, out of the general fund of the city, the amount of the tax paid upon the amount held by the court to have been excessive or nontaxable. Interest at a rate to be determined by the director based upon the average interest rate earned on city investments in the general fund during the previous fiscal year shall be paid to the appealing taxpayer unless otherwise agreed to by the taxpayer and the director. Interest shall be calculated from the date of each payment by the taxpayer. The balance, if any, of the payment made by the appealing taxpayer and paid into the litigated claims account, or the whole of the payment paid into the litigated claims account, in case the decision is wholly in favor of the assessor, shall, upon the final determination become a realization of the general fund.
- (b) In case of an appeal to the board of review, 50 percent of the tax paid upon the amount of the assessment actually in dispute and in excess of that admitted by the taxpayer, shall during the pendency of the appeal and until and unless an appeal is taken to the tax appeal court, be held by the director in a special deposit account. If the final determination by the board of review is in whole or in part in favor of the appealing taxpayer, the director shall repay to the taxpayer out of the account, or if there is a deficit in the account, out of the general fund of the city, the amount of the tax paid upon the amount held by the board of review to have been excessive or nontaxable. Interest at a rate to be determined by the director based upon the average interest rate earned on city investments in the general fund during the previous fiscal year shall be paid to the appealing taxpayer unless otherwise agreed to by the taxpayer and the director. Interest shall be calculated from the date of each payment by the taxpayer. The balance, if any, of the payment made by the appealing taxpayer and paid into the special deposit account or the whole of the payment paid into the special deposit account, in case the decision wholly in favor of the assessor, shall, upon the final determination become a realization of the general fund.

(Sec. 8-12.12, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 05-030, 10-22)

Sec. 8-12.13 Amendment of assessment list to conform to decision.

The director shall alter or amend the assessment and the assessment list in conformity with the decision or judgment of the last board or court to which an appeal may have been taken. (Sec. 8-12.13, R.O. 1978 (1983 Ed.))

Sec. 8-12.14 Appeals settled by director.

- (a) The director may review any appeal prior to a hearing by the board of review to which the appeal is assigned. The director shall notify the board of review to which the appeal is assigned of the director's review of the appeal.
- (b) For each appeal reviewed by the director, the director may make an offer of settlement of the appeal, subject to further review and approval by the board of review pursuant to Section 8-12.7(a), by allowing or disallowing exemptions or credits pursuant to law, and/or increasing or lowering the assessment amount.
- (c) No later than 90 days following the close of each tax year, the director shall submit to the city clerk a report of all settlements entered into by the director and approved by the board during the tax year, detailing the name of the taxpayer, the tax parcel involved, and the amount of the assessment as initially determined and as settled.

(Added by Ord. 05-009, Am. Ord. 07-47)

Article 13. County Tax Credit*

[*Editor's Note: Article 13 title was amended by Ordinance 03-28.]

Sections:

- 8-13.1 Definitions.**
- 8-13.2 Real property tax credit established.**
- (8-13.3 Administration. Repealed by Ord. 03-28.)**
- 8-13.3 Administration.**
- 8-13.4 Appeal.**
- 8-13.5 Penalties.**
- 8-13.6 Revocation of credit.**

Sec. 8-13.1 Definitions.

When used in this article:

"City" means the City and County of Honolulu.

"Director" means the director of the department of budget and fiscal services.

"Income" means the sum of federal total income as defined in the Internal Revenue Code of the United States of 1954, as amended, and all nontaxable income, including but not limited to (1) tax-exempt interest received from the federal government or any of its instrumentalities, (2) the gross amount of any IRA distribution, pension or annuity benefits received (including Railroad Retirement Act benefits and veterans disability pensions), excluding rollovers, (3) all payments received under the federal Social Security and state unemployment insurance laws, (4) nontaxable contributions to public or private pension, annuity and/or deferred compensation plans, and (5) federal cost of living allowances. All income set forth in the tax return filed by the titleholder, whether the tax return is a joint tax return or an individual tax return, shall be considered the titleholder's income. "Income" does not include nonmonetary gifts from private sources, or surplus foods or other relief in kind provided by public or private agencies.

"Property owner" shall be as defined in Section 8-6.3.

"Qualified surviving spouse" means a person who:

- (1) Is the surviving spouse of a property owner who, at the time of death, was the owner of property which was granted a tax credit under this article;
- (2) Is a transferee of the property directly from the deceased property owner or the estate thereof; and
- (3) Qualifies under this article for the tax credit on the same property.

"Real property tax credit" means the tax credit established pursuant to Section 8-13.2.

"Taxes owed" means the tax calculated for the owner's property in the tax roll under Section 8-3.1(a).

"Titleholder" means the property owner and any other entity listed on the deed or any other legal instrument establishing the entity's ownership right in the property. The term includes corporations and other business entities and trusts. The term does not include mortgage lenders.

(Sec. 8-13.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 03-28, 04-43, 05-026, 06-19, 07-30)

Sec. 8-13.2 Real property tax credit established.

- (a) An owner is entitled to a real property tax credit equal to the amount by which the taxes owed for the same tax year in which the application is filed for the property exceed four percent of the titleholders' income, provided:
 - (1) The owner has been granted the home exemption under Section 8-10.4 at the time the application is filed;
 - (2) The taxes owed for the same tax year in which the application is filed for the tax credit exceed four percent of the titleholders' combined income for the calendar year immediately preceding the date of the application;
 - (3) The combined income of all titleholders of the property for the calendar year immediately preceding the date of the application does not exceed \$60,000;
 - (4) No titleholder owns any other real property anywhere during the applicable tax year;
 - (5) The titleholders have not violated Section 8-13.5;
 - (6) The amount of the tax after applying the credit is not less than the minimum tax required in Section 8-11.1(g);
 - (7) If the taxes owed less any other one-time tax credit are less than or equal to four percent of all titleholders' combined income for the calendar year immediately preceding the date of the application, no credit shall be applied;
 - (8) The titleholder(s) of the property filed income tax returns, if required under Hawaii income tax law and under Internal Revenue Service regulations, on or before filing an application for a tax credit; and
 - (9) The grant of the application of a tax credit entitles the owner to a credit only for the tax year succeeding the tax year in which the application was filed. There will be no carryover tax credit.
- (b) In lieu of the property tax credit provided in subsection (a), an owner otherwise qualifying for the tax credit under subsection (a) where any titleholder is 75 years of age or over on or before June 30th preceding the tax year for which the

credit is claimed and the combined income of all titleholders to the applicable property for the calendar year immediately preceding the date of the application does not exceed \$60,000, is entitled to a real property tax credit equal to the amount by which the taxes owed for the property for the tax year in which the application was filed exceed three percent of the titleholders' combined income.

(Sec. 8-13.2, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 03-28, 04-43, 05-026, 06-08, 07-20, 07-30, 14-33)

(Sec. 8-13.3 Administration. Repealed by Ord. 03-28.)

Sec. 8-13.3 Administration.

- (a) The director shall determine the eligibility of the owner for a tax credit upon review and verification of each application for the tax credit. The application form shall be as prescribed by the director. To verify information in the application, the director shall require proof of the income of each of the titleholders.
- The director shall require that each titleholder provide copies of: (1) a tax return transcript from the Internal Revenue Service, (2) a tax account transcript, if applicable, from the Internal Revenue Service, and (3) any accompanying forms and schedules as the director may require to verify the veracity of the transcripts. For titleholders who did not have to file and therefore did not file an income tax return under Hawaii income tax law and under Internal Revenue Service regulations, the director shall require proof of the titleholders' income which may include bank statements or other financial records as verification. The director may require proof of nonreceipt of income from relief programs such as social security, welfare, and unemployment compensation, etc. and may require such authorization from the titleholders to enable the director to fully verify the titleholders' income.
- The applicant may refuse to provide such records, information or authorization. However, upon such refusal to submit a true and complete application, the director may deny the application for a tax credit. Notwithstanding any provision to the contrary, there shall be no appeal from such a decision of the director to deny an application due to the applicant's refusal to provide records, information or authorization.
- (b) The owner's application for a tax credit shall be filed on or before September 30th for a credit upon taxes due in the immediately succeeding tax year. The application shall require the certification by the owner that:
- (1) The requirements of Section 8-13.2(a) or (b) under which the credit is applied for shall be fulfilled throughout the succeeding tax year; and
 - (2) The owner's property shall continue to qualify for a home exemption under Section 8-10.4 throughout such year.
- (c) The director shall determine if the owner qualifies for a tax credit before December 31st preceding the tax year and, in the event the application is denied, the director shall notify the applicant in writing on or before the December 31st date.
- (1) If an application for a tax credit is granted, the director shall apply the credit to the property tax bill issued pursuant to Section 8-3.2, apportioned in two equal parts between the two installments of taxes due pursuant to said section.
 - (2) If an application for a tax credit is denied, the director shall:
 - (A) State the basis for denial; and
 - (B) Inform the applicant that the director's decision may be appealed, and the procedure and deadline for appeal.

(Added by Ord. 03-28; Am. Ord. 04-43, 05-026, 06-19, 06-43, 07-20, 07-30)

Sec. 8-13.4 Appeal.

The director shall, pursuant to the provisions of HRS Chapter 91, establish appeals procedures for denied tax credit applications. (Sec. 8-13.4, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 03-28)

Sec. 8-13.5 Penalties.

- (a) Any person who:
- (1) Files a fraudulent application or attests to any false statement with the intent to defraud the city or evade the payment of real property taxes or any part thereof; or
 - (2) In any manner intentionally deceives or attempts to deceive the city, shall be guilty of a violation and be subject to a criminal fine of not more than \$2,000, in addition to being responsible for paying any outstanding taxes, interest and penalties.
- (b) During the tax year for which a tax credit was granted to an owner of property pursuant to this article, if the owner fails to notify the city within 30 days that the requirements of Section 8-13.2(a) or (b) under which the credit was granted are no longer met, in addition to the consequences provided in Section 8-13.6, the owner shall be subject to a fine of \$200.

(Sec. 8-13.5, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 03-28, 07-20)

Sec. 8-13.6 Revocation of credit.

During the tax year for which a tax credit is granted to an owner of property pursuant to this article, if:

- (1) Title to the property is transferred to a new owner by gift, sale, devise, operation of law, or otherwise, except when title is transferred to a qualified surviving spouse, or
- (2) The requirements of Section 8-13.2(a) or (b) under which the credit was granted are no longer met,

then the tax credit shall be revoked and the owner shall owe property taxes in the amount of the tax credit. The additional taxes shall be billed and shall be deemed delinquent if not paid within 30 days after the date of mailing of the tax bill, or if the credit is revoked within the tax year for which the credit was granted, within 30 days after the date of mailing of the tax bill, or on or before the next installment payment date, if any, for such taxes, whichever is later.

(Added by Ord. 03-28; Am. Ord. 07-20)

**(Article 14. Reporting of Honolulu Real Property Interests Owned
or Acquired by Foreign Persons. Repealed by Ord. 04-03)**

Article 14. Reserved

Article 15. Severability

Sections:

8-15.1 Severability.

Sec. 8-15.1 Severability.

The provisions of this chapter are declared to be severable. In accordance therewith, if any portion of said chapter is held invalid for any reason, the validity of any other portion of this chapter shall not be affected and if the application of any portion of this chapter to any person, property or circumstance is held invalid, the application hereof to any other person, property or circumstance shall not be affected. (Sec. 8-13.1, R.O. 1978 (1983 Ed.); Sec. 8-14.1, R.O. 1978 (1987 Supp. to 1983 Ed.))

Article 16. Tax Credit for Septic Tank to Replace Household Cesspool

Sections:

8-16.1 Definitions.

8-16.2 Septic tank cesspool replacement tax credit established.

8-16.3 Administration—Rules.

Sec. 8-16.1 Definitions.

For the purposes of this article:

“Cesspool” means a covered lined or partially lined pool, pit or deep hole in the ground to receive untreated discharges of sewage and from which the liquids seep into the surrounding soil through the bottom or sides.

“Disposal system” means any seepage pit, effluent irrigation system, soil absorption system, disposal trench, or other facility used in the disposal of wastewater, including any wastewater transmission lines, pumps, power, or other equipment associated with the ultimate disposal of wastewater, provided that the term shall not include any cesspool or injection well.

“Eligible costs” means costs incurred after February 9, 2005.*

“Septic tank” means a watertight settling tank in which settled sludge is in immediate contact with the sewage flowing through the tank and the organic solids are decomposed by an anaerobic bacterial action.

“Wastewater” means the same as that term is defined in Section 14-1.2.

(Added by Ord. 05-002)

[Editor’s Note: “February 9, 2005” is substituted for “the effective date of this ordinance.”]

Sec. 8-16.2 Septic tank cesspool replacement tax credit established.

- (a) An owner of residential real property in the city whose property utilizes a cesspool to dispose of domestic wastewater and who replaces the cesspool with a septic tank shall be entitled a one-time tax credit under this article against the owner’s real property tax liability unless:
- (1) A sewer improvement district that would serve the property is planned by the department of environmental services to be established within 10 years after the date of application for the tax credit;
 - (2) The conversion to a septic tank is required by the State of Hawaii, department of health, as a condition of expanding the size of the dwelling/dwellings; or
 - (3) The conversion to a septic tank is required by the U.S. Environmental Protection Agency.
- (b) The amount of the tax credit shall not exceed 50 percent of the total cost of the septic tank and disposal system; provided that the tax credit shall apply only to the actual cost to the owner of the septic tank and disposal system and their installation, and shall not include the cost of consumer incentive premiums unrelated to the operation or installation of the septic tank and disposal system; provided further that the amount of the resultant tax shall not be less than the minimum tax required in Section 8-11.1(g).
- (c) The credit shall be claimed against real property tax liability for the tax year immediately following approval of the application for the credit. The application must be filed only after installation of the septic tank is completed, the septic tank is operational, and the cesspool is permanently sealed. The tax credit shall entitle the owner to a credit only for the single tax year. There shall be no carryover tax credit.
- (d) Allowance of a credit under this article shall not preclude future mandatory connection to a sewer system as required in Section 14-1.6(a).

(Added by Ord. 05-002)

Sec. 8-16.3 Administration—Rules.

- (a) The director of budget and fiscal services shall determine the eligibility of the owner for the tax credit upon review and verification that the owner’s cesspool has been sealed and a septic tank installed and operational.
- (b) The owner shall file an application therefor with the department of budget and fiscal services after installation of the septic tank is completed, the septic tank is operational, and the cesspool is permanently sealed. Application must be filed on or before September 30th preceding the tax year in which the credit would be provided.
- (c) The director shall adopt rules having the force and effect of law for the administration, implementation and enforcement of this article.

(Added by Ord. 05-002)