

STATE OF HAWAII - DEPARTMENT OF TAXATION  
**INSTRUCTIONS FOR FORM N-350**  
**CESSPOOL UPGRADE, CONVERSION OR**  
**CONNECTION INCOME TAX CREDIT**

**GENERAL INSTRUCTIONS**

**PURPOSE OF FORM**

Use Form N-350 to figure and claim the cesspool upgrade, conversion or connection income tax credit under section 235-16.5 Hawaii Revised Statutes (HRS).

**WHO MAY CLAIM THIS CREDIT**

For taxable years beginning AFTER December 31, 2015, and BEFORE December 31, 2020, each taxpayer who incurs qualified expenses that are certified by the Department of Health, may claim a nonrefundable cesspool upgrade, conversion or connection income tax credit for the taxable year in which the taxpayer's qualified expenses are certified by the Department of Health.

**FLOW-THROUGH ENTITIES**

The qualified expenses upon which the tax credit is computed is determined at the entity level. In the case of a partnership, S corporation, estate, trust, or other flow-through entity, distribution and share of the credit is determined pursuant to section 235-110.7(a), HRS.

**CREDIT REQUIREMENTS**

Section 235-16.5, HRS, provides that the amount of the credit is:

- (1) Equal to the qualified expenses of the taxpayer, up to a maximum of \$10,000 per cesspool; OR
- (2) Equal to the qualified expenses of the taxpayer, up to a maximum of \$10,000 per residential dwelling connected to a residential large capacity cesspool; AND
- (3) Only one certified tax credit per qualified cesspool.

In order to claim this credit, you must complete and attach to your Hawaii income tax return:

- (1) Form N-350 (Complete Part II and attach.)
- (2) Schedule CR (Not required if you file Form N-40 for fiduciary's share of the credit.)
- (3) Schedule K-1 (Required only if you are a member of a flow-through entity claiming a credit for the entity's eligible costs of cesspool upgrade, conversion, or connection.)

If the credit exceeds the taxpayer's net income tax liability, the excess of credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted.

**DEADLINE FOR CLAIMING THE CREDIT**

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

**DEFINITIONS FOR PURPOSES OF THE CREDIT**

"Aerobic treatment unit system" means an individual wastewater system that consists of an aerobic treatment unit tank, aeration device, piping, and a discharge method that is in accordance with rules adopted by the department of health relating to household aerobic units.

"Cesspool" means an individual wastewater system consisting of an excavation in the ground whose depth is greater than its widest surface dimension, which receives untreated wastewater, and retains or is designed to retain the organic matter and solids discharged into it, but permits the liquid to seep through its bottom or sides to gain access to the underground geographic formation.

"Qualified cesspool" means a cesspool that is certified by the department of health as being:

- (1) Located within:
  - (A) Two hundred feet of a shoreline, perennial stream, or wetland; or
  - (B) A source water assessment program area (two year time of travel from a cesspool to a public drinking water source); or
- (2) A residential large capacity cesspool.

"Qualified expenses" means costs that are necessary and directly incurred by the taxpayer for upgrading or converting a qualified cesspool into a septic system or an aerobic treatment unit system, or connecting a qualified cesspool to a sewer system, and that are certified as such by the appropriate government agency.

"Residential large capacity cesspool" means a cesspool that is connected to more than one residential dwelling.

"Septic system" means an individual wastewater system that typically consists of a septic tank, piping, and a drainage field where there is natural biological decontamination as wastewater discharged into the system is filtered through soil.

"Sewer system" means a system of piping, with appurtenances, for collecting and conveying wastewater from source to discharge following treatment.

"Wastewater" means any liquid waste, whether or not treated and whether animal, mineral, or vegetable, including agricultural, industrial, and thermal wastes."

**CERTIFICATION OF CREDITS**

The Department of Health shall:

- (1) Certify all qualified cesspools;
- (2) Certify no more than two residential large capacity cesspools as qualified cesspools;
- (3) Collect and maintain a record of all qualified expenses certified by an appropriate government agency for the taxable year; and
- (4) Certify to each taxpayer the amount of credit the taxpayer may claim.

The director of health may adopt rules under chapter 91 as necessary to implement the certification requirements under this section.

Upon each determination, the Department of Health shall issue a certificate to the taxpayer verifying the qualified expenses and the credit amount certified for the taxable year. For a taxable year, the Department of Health may certify a credit for a taxpayer who could have claimed the credit in a previous taxable year, but was unable to because the aggregate maximum annual credit amount was certified by the Department of Health in that taxable year.

The taxpayer shall file the certificate with the taxpayer's tax return with the Department of Taxation. Notwithstanding the Department of Health's certification authority, the Director of Taxation may audit and adjust the certification to conform to the facts.

If in any taxable year the annual amount of certified credits reaches \$5,000,000 in the aggregate, the Department of Health shall immediately discontinue certifying credits for that taxable year and notify the Department of Taxation. Any remaining applications for certification for that taxable year may be carried forward to the subsequent year for certification in that taxable year. In no instance shall the Department of Health certify a total amount of credits exceeding \$5,000,000 per taxable year. To comply with this restriction, the Department of Health shall certify credits on a first come, first served basis.

The request for certification to claim the Cesspool Upgrade, Conversion or Connection Income Tax Credit may be obtained from:

Department of Health  
Environmental Management Division  
Wastewater Branch  
919 Ala Moana Blvd., Room 309  
Honolulu, HI 96814

Telephone: (808) 586-4294