

CHAPTER 1195**INCOME TAX EXEMPTION FOR AGRICULTURAL
DEVELOPMENT AUTHORITY BONDS AND NOTES***S.F. 2115*

AN ACT relating to state income taxation by exempting certain bonds and notes issued by the agricultural development authority and providing a retroactive applicability date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 422.7, subsection 19, Code Supplement 1989, is amended to read as follows:

19. Subtract interest earned on bonds and notes issued by the agricultural development authority as provided in section 175.17, subsection 10, ~~to the extent the interest is included in federal adjusted gross income.~~

Sec. 2. Section 422.35, subsection 13, Code Supplement 1989, is amended to read as follows:

13. Subtract the interest earned from bonds and notes issued by the agricultural development authority as provided in section 175.17, subsection 10, ~~to the extent the interest is included in federal taxable income.~~

Sec. 3.

This Act is retroactively applicable for tax years beginning on or after January 1, 1989.

Approved April 26, 1990

CHAPTER 1196**SEED CAPITAL TAX CREDIT, AND EXPEDITED REGISTRATION
OF SMALL ISSUES OF SECURITIES***S.F. 2411*

AN ACT providing a seed capital income tax credit, authorizing expedited registration by filing for small issues under the state securities law, and providing effective and applicability dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 422.11D SEED CAPITAL CREDIT.

1. The taxes imposed under this division less credits allowed under sections 422.10, 422.11A, 422.11B, 422.12, and 422.12B, shall be reduced by a seed capital credit. An individual may claim the seed capital credit allowed a partnership, subchapter S corporation, or estate or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, subchapter S corporation, or estate or trust.

2. The amount of the credit is equal to ten percent of a taxpayer's investment, during the tax year, in an initial offering of securities by a qualified business or a qualified seed capital fund.

3. A seed capital fund, to be a qualified seed capital fund under this section, must meet all of the following conditions:

a. The investment must be in shares or other equity interests, which are purchased for money consideration and carry voting rights.

b. The issue of shares or other equity interests must be registered under an expedited registration by filing system as provided in section 502.207A.

c. Its capital base must be used to make investments exclusively in the types of businesses described in subsection 4, paragraph "a".

d. Its capital base must be used to make qualified investments according to the following schedule:

(1) Invest at least thirty percent of its capital base, raised through investments for which tax credits were taken, within three years of the fiscal year in which tax credits were claimed.

(2) Invest at least fifty percent of its capital base, raised through investments for which tax credits were taken, within four years of the fiscal year in which tax credits were claimed.

(3) Invest at least seventy percent of its capital base, raised through investments for which tax credits were taken, within five years of the fiscal year in which tax credits were claimed.

e. More than twenty percent of the total funds raised for which tax credits were claimed must not be invested in any one qualified business.

4. A business, to be a qualified business under this section, must meet all of the following conditions:

a. The business must be engaged in one or more of the following activities:

(1) Interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products.

(2) Agricultural, fishery, or forestry processing.

(3) Research and development of products and processes associated with any of the activities enumerated in subparagraph (1) or (2).

b. The shares must be purchased for money consideration and carry full voting rights.

c. The shares must be sold in an offering registered under an expedited registration by filing system as provided in section 502.207A.

5. If during the tax year, the investment or a portion of the investment is disposed of prior to having been owned by the taxpayer for two years, the tax under this division is increased by the amount of the credit taken on the investment or portion of the investment.

6. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

7. An investment in securities offered by a seed capital fund or qualified business qualifies for a tax credit only if the investment is in an unaffiliated and nonrelated person, partnership, or corporation.

8. The director may conduct an examination of a seed capital fund or business to determine if it has met the requirements of this section. The director may request and if requested shall receive the assistance of the administrator of chapter 502 to conduct an examination of a seed capital fund or business.

9. The issuer must file a copy of its annual report with the director and the administrator of chapter 502 for each of the three years following the offering.

10. A violation of this section is grounds for decertification of a seed capital fund or business as a qualified seed capital fund or a qualified business. A seed capital fund or a business alleged to have violated this section, or to be out of compliance with this section, shall be allowed a one hundred twenty day grace period to remedy the violation or to comply with this section. Decertification shall cause the forfeiture of any right or interest to a tax credit under this section and shall cause the total amount of tax credit for all tax years under this section to be due and payable with income tax liability for the tax year when decertification is effective.

Sec. 2. Section 422.33, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The taxes imposed under this division shall be reduced by a seed capital credit.

a. The amount of the credit is equal to ten percent of a taxpayer's investment, during the tax year, in an initial offering of securities by a qualified business or a qualified seed capital fund.

b. A seed capital fund, to be a qualified seed capital fund under this section, must meet all of the following conditions:

(1) The investment must be in shares or other equity interests, which are purchased for money consideration and carry voting rights.

(2) The issue of shares or other equity interests must be registered under an expedited registration by filing system as provided in section 502.207A.

(3) Its capital base must be used to make investments exclusively in the types of businesses described in paragraph "c", subparagraph (1).

(4) Its capital base must be used to make qualified investments according to the following schedule:

(a) Invest at least thirty percent of its capital base, raised through investments for which tax credits were taken, within three years of the fiscal year in which tax credits were claimed.

(b) Invest at least fifty percent of its capital base, raised through investments for which tax credits were taken, within four years of the fiscal year in which tax credits were claimed.

(c) Invest at least seventy percent of its capital base, raised through investments for which tax credits were taken, within five years of the fiscal year in which tax credits were claimed.

(5) More than twenty percent of the total funds raised for which tax credits were claimed must not be invested in any one qualifying business.

c. A business, to be a qualified business under this subsection, must meet all of the following conditions:

(1) The business must be engaged in one or more of the following activities:

(a) Interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products.

(b) Agricultural, fishery, or forestry processing.

(c) Research and development of products and processes associated with any of the activities enumerated in subparagraph subdivision (a) or (b).

(2) The shares must be purchased for money consideration and carry full voting rights.

(3) The shares must be sold in an offering registered under an expedited registration by filing system as provided in section 502.207A.

d. If during the tax year, the investment or a portion of the investment is disposed of prior to having been owned by the taxpayer for two years, the tax under this division is increased by the amount of the credit taken on the investment or portion of the investment.

e. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

f. An investment in securities offered by a seed capital fund or qualified business qualifies for a tax credit only if the investment is in an unaffiliated and nonrelated person, partnership, or corporation.

g. The director may conduct an examination of a seed capital fund or business to determine if it has met the requirements of this subsection. The director may request and if requested shall receive the assistance of the administrator of chapter 502 to conduct an examination of a seed capital fund or business.

h. The issuer must file a copy of its annual report with the director and the administrator of chapter 502 for each of the three years following the offering.

i. A violation of this subsection is grounds for decertification of a seed capital fund or business as a qualified seed capital fund or a qualified business. A seed capital fund or a business alleged to have violated this subsection, or to be out of compliance with this subsection, shall be allowed a one hundred twenty day grace period to remedy the violation or to comply with this subsection. Decertification shall cause the forfeiture of any right or interest to a tax credit under this subsection and shall cause the total amount of tax credit for all tax years under this subsection to be due and payable with income tax liability for the tax year when decertification is effective.

Sec. 3. NEW SECTION. 502.207A EXPEDITED REGISTRATION BY FILING FOR SMALL ISSUERS.

1. A security meeting the conditions set forth in this section may be registered by filing as provided in this section.

2. In order to register under this section, the issuer must meet all of the following conditions:
 - a. The issuer must be a corporation or partnership organized under the laws of one of the states or possessions of the United States which engages in or proposes to engage in a business other than petroleum exploration or production mining or other extractive industries.
 - b. The securities must be offered and sold only on behalf of the issuer, and must not be used by any selling security holder to register securities for resale.
3. In order to register under this section, all of the following conditions must be satisfied:
 - a. The offering price for common stock, the exercise price if the securities are options, warrants, or rights for common stock, or the conversion price if the securities are convertible into common stock must be equal to or greater than five dollars per share. The issuer must not split its common stock, or declare a stock dividend, for two years after effectiveness of the registration, except that in connection with a subsequent registered public offering, the issuer may upon application and consent of the administrator take such action.
 - b. A commission, fee, or other remuneration shall not be paid or given, directly or indirectly, for the sale of the securities, except for a payment to a broker-dealer or agent registered under this chapter, or except for a payment as permitted by the administrator by rule or by order issued upon written application showing good cause for allowance of a commission, fee, or other remuneration.
 - c. The issuer or a broker-dealer offering or selling the securities is not or would not be disqualified under rule 505, 17 C.F.R. § 230.505 (2)(iii), adopted under the federal Securities Act of 1933.
 - d. The aggregate offering price of the offering of securities by the issuer within or outside this state must not exceed one million dollars, less the aggregate offering price for all securities sold within twelve months before the start of, and during the offering of, the securities under rule 504, 17 C.F.R. § 230.504, in reliance on any exemption under section 3(b) of the federal Securities Act of 1933 or in violation of section 5(a) of that Act; provided, that if rule 504, 17 C.F.R. § 230.504, adopted under the Securities Act of 1933, is amended after the effective date of this section, the administrator may by rule increase the limit under this paragraph to conform to that increased amount.
 - e. An offering document meeting the disclosure requirements of rule 502(b)(2), 17 C.F.R. § 230.502(b)(2), adopted under the Securities Act of 1933, must be delivered to each purchaser in the state prior to the sale of the securities, unless the administrator by rule or order provides for disclosure different from that rule.
 - f. The issuer must file with the administrator an application for registration and the offering document to be used in connection with the offer and sale of securities.
 - g. The issuer must pay to the administrator a fee of one hundred dollars and is not required to pay the filing fee set forth in section 502.208, subsection 2.
4. Unless the administrator issues a stop order denying the effectiveness of the registration, as provided in section 502.209, the registration becomes effective on the fifth business day after the registration has been filed with the administrator, or earlier if the administrator permits a shorter time period between registration and effectiveness.
5. In connection with an offering registered under this section, a person may be registered as an agent of the issuer under section 502.301 by the filing of an application by the issuer with the administrator for the registration of the person as an agent of the issuer and the paying of a fee of ten dollars. Notwithstanding any other provision of this chapter, the registration of the agent shall be effective until withdrawn by the issuer or until the securities registered pursuant to the registration statement have all been sold, whichever occurs first. The registration of an agent shall become effective when ordered by the administrator or on the fifth business day after the agent's application has been filed with the administrator, whichever occurs first, and the administrator shall not impose further conditions upon the registration of the agent. However, the administrator may deny, revoke, suspend, or withdraw the registration of the agent at any time as provided in section 502.304. Notwithstanding section 502.302, subsection 5, for the purposes of registration of agents under this section, the issuer and agent

are not required to post bond. An agent registered solely pursuant to this section is entitled to sell only securities registered under this section.

6. This section is not applicable to any of the following issuers:

- a. An investment company, including a mutual fund.
- b. An issuer subject to the reporting requirements of section 13 or 15(d) of the federal Securities Exchange Act of 1934.
- c. A direct participation program, unless otherwise permitted by the administrator by rule or order for good cause.
- d. A blind pool or other offering for which the specific business or properties cannot now be described, unless the administrator determines that the blind pool is a community development, seed, or venture capital fund for which the administrator permits a waiver.

7. Notwithstanding any other provision of this chapter, the administrator shall not deny effectiveness to or suspend or revoke the effectiveness of a registration under this section on the basis of section 502.209, subsection 1, paragraph "h", and the administrator shall not impose the conditions specified in section 502.208, subsection 8, subsection 9, paragraph "b", or subsection 12. The administrator may issue a stop order pursuant to section 502.209 to filers under this section for any of the following additional reasons:

- a. The issuer's principal place of business is not in this state.
- b. At least fifty percent of the issuer's full-time employees are not located in this state.
- c. At least eighty percent of the net proceeds of the offering are not going to be used in connection with the operations of the issuer in this state.
- d. If the issuer is a seed or venture capital fund, at least fifty percent of the moneys received from the sale of the securities will not be used to make seed or venture capital investments in this state.

Sec. 4. NEW SECTION. 502.207B LEGISLATIVE REVIEW AND OVERSIGHT.

The director of revenue and finance and the administrator of the securities bureau of the insurance division shall each report on an annual basis to the senate's and house of representatives' committees on ways and means concerning issuers using the seed capital tax credit, as authorized for personal taxpayers by section 422.11D and for corporate taxpayers by section 422.33, subsection 8, and the expedited filing by registration system provided by section 502.207A.

Sec. 5. Section 502.611, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This chapter may be construed and implemented to effectuate its general purpose to protect investors, and consistent with that purpose, to encourage capital formation, job creation, and free and competitive securities markets and to minimize regulatory burdens on issuers and persons subject to this chapter, especially small businesses.

Sec. 6.

Sections 1, 3, and 5 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 7.

Section 2 of this Act takes effect July 1, 1991, and applies to eligible investments made on or after that date.

Sec. 8.

Section 1 of this Act is repealed January 1, 1993.

Sec. 9.

Section 2 of this Act is repealed January 1, 1994.