

CHAPTER 117

INNOVATION FUND INVESTMENT TAX CREDIT

H.F. 615

AN ACT relating to the innovation fund investment tax credit and including effective date and retroactive applicability provisions.

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

Section 1. Section 2.48, subsection 3, Code 2013, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. In 2017, the innovation fund investment tax credit available under section 15E.52.

Sec. 2. Section 15E.52, subsection 3, Code 2013, is amended to read as follows:

3. The amount of a tax credit allowed under this section shall equal ~~twenty~~ twenty-five percent of the taxpayer's equity investment in an innovation fund.

Sec. 3. Section 15E.52, subsection 5, Code 2013, is amended to read as follows:

5. a. To receive a tax credit, a taxpayer must submit an application to the board. The board shall issue certificates under this section on a first-come, first-served basis, which certificates may be redeemed for tax credits. The board shall issue such certificates so that not more than the amount allocated for such tax credits under section 15.119, subsection 2, may be claimed. ~~The certificates shall not be transferable.~~ The board shall not issue a certificate before September 1, 2014.

b. If in a fiscal year the aggregate amount of tax credits applied for exceeds the amount allocated for that fiscal year under section 15.119, subsection 2, the board shall establish a wait list for certificates. Applications that were approved but for which certificates were not issued shall be placed on the wait list in the order the applications were received by the board and shall be given priority for receiving certificates in succeeding fiscal years.

c. The board shall not issue a certificate to a taxpayer for an equity investment in an innovation fund until such fund has been certified as an innovation fund pursuant to subsection 7.

b. d. The board shall, in cooperation with the department of revenue, establish criteria and procedures for the allocation and issuance of tax credits by means of certificates issued by the board. The criteria shall include the contingencies that must be met for a certificate to be redeemable in order to receive a tax credit. The procedures established by the board, in cooperation with the department of revenue, shall relate to the procedures for the issuance and transfer of the certificates and for the redemption of a certificate and related tax credit.

e. A certificate and related tax credit issued pursuant to this section shall be deemed a vested right of the original holder or any transferee thereof, and the state shall not cause either to be redeemed in such a way that amends or rescinds the certificate or that curtails, limits, or withdraws the related tax credit, except as otherwise provided in this section or upon consent of the proper holder. A certificate issued pursuant to this section cannot pledge the credit of the state and any such certificate so pledged to secure the debt of the original holder or a transferee shall not constitute a contract binding the state.

Sec. 4. Section 15E.52, subsection 6, Code 2013, is amended to read as follows:

~~6. A taxpayer shall not redeem a certificate and related tax credit prior to the third tax year following the tax year in which the investment is made.~~ Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

Sec. 5. Section 15E.52, subsection 7, Code 2013, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. The fund proposes to provide multiple rounds of funding and early-stage private sector funding to innovative businesses with a high growth potential, and

proposes to focus such funding on innovative businesses that show a potential to produce commercially viable products or services within a reasonable period of time.

NEW PARAGRAPH. e. The fund proposes to evaluate all prospective innovative businesses using a rigorous approach and proposes to collaborate and coordinate with the authority and other state and local entities in an effort to achieve policy consistency.

NEW PARAGRAPH. f. The fund proposes to collaborate with the regents institutions of this state and to leverage relationships with such institutions in order to potentially commercialize research developed at those institutions.

NEW PARAGRAPH. g. The fund proposes to obtain at least fifteen million dollars in binding investment commitments and to invest a minimum of fifteen million dollars in companies that have a principal place of business in the state.

Sec. 6. Section 15E.52, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 8. The board shall not certify an innovation fund after June 30, 2018.

NEW SUBSECTION. 9. An innovation fund shall collect and provide to the board the information required in subsection 10, paragraphs “e” and “f”, in the manner and form prescribed by the board. An innovation fund failing to comply with this subsection may have its certification revoked by the board.

NEW SUBSECTION. 10. On or before January 31 of each year, the board, in cooperation with the department of revenue, shall submit to the general assembly and the governor a report describing the activities of the innovation funds during the preceding fiscal year. The report shall at a minimum include the following information:

a. The amount of tax credit certificates issued to equity investors in each innovation fund.

b. The amount of approved tax credit applications that were placed on the wait list for certificates.

c. The amount of tax credits claimed.

d. The amount of tax credits transferred to other persons.

e. The amount of investments in each innovation fund.

f. For each investment by an innovation fund in a business:

(1) The amount of the investment.

(2) The name and industry of the business.

(3) The location or locations from which the business operates.

(4) The number of employees of the business located in Iowa and the number of employees of the business located outside Iowa on the date of the initial investment by the innovation fund in the business.

(5) The number of employees of the business located in Iowa and the number of employees of the business located outside Iowa at the close of the fiscal year which is the subject of the report.

NEW SUBSECTION. 11. Tax credit certificates issued pursuant to this section may be transferred, in whole or in part, to any person. A tax credit certificate shall only be transferred once. Within ninety days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee’s name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue.

NEW SUBSECTION. 12. Within thirty days of receiving the transferred tax credit certificate and the transferee’s statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate. A replacement tax credit certificate may designate a different tax than the tax designated on the original tax credit certificate. A tax credit shall not be claimed by a transferee under this section until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

NEW SUBSECTION. 13. The transferee may use the amount of the tax credit transferred against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of

the tax credit shall not be included as income under chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V.

Sec. 7. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 8. RETROACTIVE APPLICABILITY. The sections of this Act amending section 15E.52 apply retroactively to January 1, 2013, for tax years beginning on or after that date and for equity investments in an innovation fund made on or after that date.

Approved May 24, 2013