

15.333 Investment tax credit.

1. An eligible business may claim a tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business under the program. The tax credit shall be amortized equally over five calendar years. The tax credit shall be allowed against taxes imposed under chapter 422, division II, III, or V, and against the moneys and credits tax imposed in section 533.24. If the business is a partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust. The percentage shall be determined as provided in section 15.335A. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first.

Subject to prior approval by the department of economic development, in consultation with the department of revenue, an eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund of all or a portion of an unused tax credit. For purposes of this subsection, such an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return, and whose project primarily involves the production of ethanol. The refund may be applied against a tax liability imposed under chapter 422, division II, III, or V, and against the moneys and credits tax imposed in section 533.24. If the business is a partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust.

2. For purposes of this subsection, *"new investment directly related to new jobs created by the location or expansion of an eligible business under the program"* means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, the purchase price of real property and any buildings and structures located on the real property, and the cost of improvements made to real property which is used in the operation of the eligible business. *"New investment directly related to new jobs created by the location or expansion of an eligible business under the program"* also means the annual base rent paid to a third-party developer by an eligible business for a period not to exceed ten years, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the eligible business. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. If, however, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which tax credit was claimed under this section, the tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

- a. One hundred percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within one full year after being placed in service.
- b. Eighty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within two full years after being placed in service.
- c. Sixty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax

credit within three full years after being placed in service.

d. Forty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within four full years after being placed in service.

e. Twenty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within five full years after being placed in service.

3. *a.* An eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes, which elects to receive a refund of all or a portion of an unused tax credit, shall apply to the department of economic development for tax credit certificates. Such an eligible business shall not claim a tax credit refund under this subsection unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's tax return for the tax year for which the tax credit refund is claimed. For purposes of this subsection, an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return, and whose project primarily involves the production of ethanol. For purposes of this subsection, an eligible business also includes a cooperative described in section 521 of the Internal Revenue Code which is required to file an Iowa corporate income tax return and whose project primarily involves the production of ethanol. Such cooperative may elect to transfer all or a portion of its tax credit to its members. The amount of tax credit transferred and claimed by a member shall be based upon the pro rata share of the member's earnings of the cooperative.

b. A tax credit certificate issued under this subsection shall not be valid until the tax year following the date of the capital investment project completion. A tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of the tax credit, and other information required by the department of revenue. The department of economic development shall not issue tax credit certificates under this subsection which total more than four million dollars during a fiscal year. If the department receives and approves applications for tax credit certificates under this subsection in excess of four million dollars, the applicants shall receive certificates for a prorated amount. The tax credit certificates shall not be transferred except as provided in this subsection for a cooperative described in section 521 of the Internal Revenue Code which is required to file an Iowa corporate income tax return and whose project primarily involves the production of ethanol. For a cooperative described in section 521 of the Internal Revenue Code, the department of economic development shall require that the cooperative submit a list of its members and the share of each member's interest in the cooperative. The department shall issue a tax credit certificate to each member contained on the submitted list.

94 Acts, ch 1008, §10; 99 Acts, ch 172, §1; 2000 Acts, ch 1213, §1, 10; 2001 Acts, ch 123, §1; 2001 Acts, ch 141, §1, 8; 2002 Acts, ch 1119, §5; 2002 Acts, 2nd Ex, ch 1001, §47, 49, 52; 2003 Acts, ch 125, §8; 2003 Acts, ch 145, §286; 2003 Acts, ch 150, §13; 2004 Acts, ch 1003, § 4, 12; 2005 Acts, ch 135, §103; 2005 Acts, ch 150, §48, 68, 69

2005 amendments to this section apply to tax years ending on or after July 1, 2005; continuation of contracts under new jobs and income program; 2005 Acts, ch 150, §68, 69