

CAPITAL INVESTMENT BOARD, IOWA[123]

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CHAPTER 1

IOWA CAPITAL INVESTMENT BOARD – ADMINISTRATION

- 1.1(15E) Mission of the board
- 1.2(15E) Membership of the board
- 1.3(15E) Powers of the board
- 1.4(15E) Correspondence and communications
- 1.5(15E) Meetings of the board
- 1.6(15E) Duties of the board

CHAPTER 2

TAX CREDIT FOR INVESTMENTS IN QUALIFYING BUSINESSES AND COMMUNITY-BASED SEED CAPITAL FUNDS

- 2.1(15E) Tax credit for investments in qualifying businesses and community-based seed capital funds
- 2.2(15E) Definitions
- 2.3(15E) Taxpayers eligible for the investment tax credit
- 2.4(15E) Application for the investment tax credit
- 2.5(15E) Verification of qualifying businesses and community-based seed capital funds
- 2.6(15E) Issuance and distribution of investment tax credits
- 2.7(15E) Claiming the tax credits
- 2.8(15E) Notification to the department of revenue
- 2.9(15E) Rescinding the tax credits
- 2.10(15E) Additional information
- 2.11(15E) Transfer of responsibilities for administration of the program

CHAPTER 3

TAX CREDIT FOR INVESTMENTS IN VENTURE CAPITAL FUNDS

- 3.1(15E) Tax credit for investments in venture capital funds
- 3.2(15E) Definitions
- 3.3(15E) Verification of venture capital funds
- 3.4(15E) Application for the investment tax credit
- 3.5(15E) Issuance and distribution of investment tax credits
- 3.6(15E) Claiming the tax credits
- 3.7(15E) Notification to the department of revenue
- 3.8(15E) Additional information
- 3.9(15E) Repeal of the tax credit

CHAPTER 4

INVESTMENT TAX CREDITS RELATING TO INVESTMENTS IN A FUND OF FUNDS ORGANIZED BY THE IOWA CAPITAL INVESTMENT CORPORATION

- 4.1(15E) Contingent tax credits relating to investments in Iowa fund of funds
- 4.2(15E) Definitions
- 4.3(15E) Report of the Iowa capital investment corporation
- 4.4(15E) Allocation and issuance of certificates
- 4.5(15E) Procedures for verification of tax credits
- 4.6(15E) Contractual nature of certificates; irrevocability of tax credits
- 4.7(15E) Transfer of tax credit certificates
- 4.8(15E) Cancellation of tax credits upon receipt of scheduled return
- 4.9(15E) Lost or mutilated tax credit certificates
- 4.10(15E) Claiming the tax credits

4.11(15E) Notification to the department of revenue
4.12(15E) Other provisions

CHAPTER 1
IOWA CAPITAL INVESTMENT BOARD – ADMINISTRATION

123—1.1(15E) Mission of the board. The Iowa capital investment board (board) was established by an Act of the general assembly (2002 Iowa Acts, House File 2078). The Iowa capital investment board is created as a state governmental board. The purpose of the board shall be to mobilize venture equity capital for investment that will result in a significant potential to create jobs and to diversify and stabilize the economy of the state of Iowa.

123—1.2(15E) Membership of the board. The Iowa capital investment board shall consist of five voting members and two nonvoting advisory members. The five voting members shall be appointed by the governor and subject to confirmation by the senate. The five voting members shall be appointed to five-year staggered terms that shall be structured to allow the term of one member to expire each year.

One nonvoting member shall be appointed by the majority leader of the senate, and one nonvoting member shall be appointed by the speaker of the house. The nonvoting members shall be appointed for two-year terms which shall expire upon the convening of a new general assembly. Vacancies shall be filled in the same manner as the appointment of the original members.

123—1.3(15E) Powers of the board. The board shall have the power to engage consultants, expend funds, invest funds, contract, bond or insure against loss, or perform any other act necessary to carry out its purpose. However, the board shall not hire employees.

123—1.4(15E) Correspondence and communications. The office of the Iowa capital investment board is maintained in the office of the department of revenue. Correspondence and communications to the board shall be directed in care of the Iowa Department of Revenue, 1305 E. Walnut Street, Hoover State Office Building, Des Moines, Iowa 50319.

123—1.5(15E) Meetings of the board. Meetings of the board are subject to the open meetings provisions of Iowa Code section 21.3.

123—1.6(15E) Duties of the board. The primary duties of the board include the establishment of criteria and procedures for the issuance, transfer and redemption of contingent tax credits for investments made to the Iowa fund of funds as provided in Iowa Code section 15E.63.

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CHAPTER 2
TAX CREDIT FOR INVESTMENTS IN QUALIFYING BUSINESSES
AND COMMUNITY-BASED SEED CAPITAL FUNDS

123—2.1(15E) Tax credit for investments in qualifying businesses and community-based seed capital funds. For tax years beginning on or after January 1, 2002, a taxpayer may claim a tax credit against the taxpayer's tax liability for personal net income tax imposed under Iowa Code chapter 422, division II, for a portion of the taxpayer's equity investment in a qualifying business. For tax years beginning on or after January 1, 2004, a taxpayer may claim a credit against the taxpayer's tax liability for personal net income tax imposed under Iowa Code chapter 422, division II; business tax on corporations imposed under Iowa Code chapter 422, division III; taxation of financial institutions imposed under Iowa Code chapter 422, division V; insurance companies tax imposed under Iowa Code chapter 432; or taxation of credit unions imposed pursuant to 2007 Iowa Acts, Senate File 557, section 60, for a portion of a taxpayer's equity investment in a qualifying business. For tax years beginning on or after January 1, 2002, a taxpayer may claim a credit against the taxpayer's tax liability for personal net income tax imposed under Iowa Code chapter 422, division II; business tax on corporations imposed under Iowa Code chapter 422, division III; taxation of financial institutions imposed under Iowa Code chapter 422, division V; insurance companies tax imposed under Iowa Code chapter 432; or taxation of credit unions imposed pursuant to 2007 Iowa Acts, Senate File 557, section 60, for a portion of a taxpayer's equity investment in a community-based seed capital fund. For investments made prior to January 1, 2004, only natural persons shall be eligible for the investment tax credit provided for an investment in a qualifying business. For investments made prior to January 1, 2004, a natural person includes an individual taxed on income from a revocable trust. Natural persons and various types of legal entities including, but not limited to, corporations, limited liability companies, partnerships (both general and limited), trusts and estates shall be eligible for the investment tax credit provided for an investment in a community-based seed capital fund and for investments made on or after January 1, 2004, in a qualifying business. If the taxpayer that is entitled to an investment tax credit for an investment in a community-based seed capital fund or a qualifying business is a pass-through entity electing to have its income taxed directly to its individual owners, such as a partnership, limited liability company, S corporation, estate or trust, the pass-through entity shall allocate the allowable credit to each of the individual owners of the entity on the basis of each owner's pro rata share of the earnings of the entity, and the individual owners may claim their respective credits on their individual income tax returns. For investments made prior to January 1, 2004, an individual shall not separately claim a tax credit for an investment in a qualifying business for any tax credit allocated to such individual by a pass-through entity as described in the immediately preceding sentence.

123—2.2(15E) Definitions. The following definitions are applicable to this chapter:

"Affiliate" means a spouse, child, or sibling of an investor or a corporation, partnership, or trust in which an investor has a controlling equity interest or in which an investor exercises management control. For purposes of these rules, "controlling equity interest" means ownership of more than 50 percent of the outstanding equity interests of a corporation, partnership, limited liability company or trust. "Management control" means holding more than 50 percent voting power on any board of directors or trustees, any management committee or any other group managing a corporation, partnership, limited liability company or trust.

"Board" means the Iowa capital investment board created under 2002 Iowa Acts, House File 2078, section 3.

"Community-based seed capital fund" means a fund that meets the following criteria:

1. Is organized as a limited partnership or limited liability company;
2. Has, on or after January 1, 2002, a total of capital commitments from both investors and investments in qualifying businesses of at least \$125,000, but not more than \$3 million. If the fund is either a rural business investment company under the rural business investment program of the federal Farm Security and Rural Investment Act of 2002, or an Iowa-based seed capital fund with at least

40 percent of its committed capital subscribed by community-based seed capital funds, the fund may have more than \$3 million of capital commitments from both investors and investments in qualifying businesses; and

3. Has no fewer than five investors who are not affiliates, with no single investor and affiliates of that investor together owning a total of more than 25 percent of the ownership interests outstanding in the fund.

“*Investor*” means an individual making a cash investment in a qualifying business prior to January 1, 2004, or an individual taxed on income from a revocable trust’s cash investment in a qualifying business prior to January 1, 2004, or a person making a cash investment in a community-based seed capital fund or investments in a qualifying business made on or after January 1, 2004. “Investor” does not include a person who is a current or previous owner, member, partner (limited or general) or shareholder in a qualifying business for investments made prior to January 1, 2004. “Investor” does not include a person that holds at least a 70 percent ownership interest as an owner, member, or shareholder in a qualifying business for investments made on or after January 1, 2004.

“*Near equity*” means debt that may be converted to equity at the option of the debt holder, and royalty agreements.

“*Person*” means an individual, corporation, limited liability company, business trust, estate, trust, partnership or association, or any other legal entity.

“*Professional services*” include, but are not limited to, services provided by professions listed in Iowa Code section 496C.2(4).

“*Qualifying business*” means a business that meets the following criteria:

1. The principal business operations of the business are located in the state of Iowa;
2. The business has been in operation for three years or less from the date of the investment for which a credit is claimed for investments made prior to July 1, 2005, or the business has been in operation for six years or less from the date of the investment for which a credit is claimed for investments made on or after July 1, 2005;
3. The business has an owner who has successfully completed one of the following:
 - An entrepreneurial venture development curriculum, such as programs developed by a John Pappajohn Entrepreneurial Center, or a holistic training program recognized by the Iowa department of economic development which generally encompasses the following areas: entrepreneurial training, management team development, intellectual property management, market research and analysis, sales and distribution development, financial planning and management and strategic planning;
 - Three years of relevant business experience;
 - A four-year college degree in business management, business administration or a related field;
 - Other training or experience sufficient to increase the probability of success of the qualifying business;
4. The business is not a business engaged primarily in retail sales, real estate or the provision of health care or other professional services;
5. The business shall not have a net worth that exceeds \$3 million at the date of the investment for which the credit is claimed for investments made prior to July 1, 2005, or the business shall not have a net worth that exceeds \$10 million for which a credit is claimed for investments made on or after July 1, 2005; and
6. Within 24 months from the first date on which the equity investments qualifying for investment tax credits have been made, the business shall have secured total equity or near equity financing equal to at least \$250,000.

123—2.3(15E) Taxpayers eligible for the investment tax credit. A taxpayer who is a natural person and an investor in a qualifying business or community-based seed capital fund is eligible to apply to the board for an investment tax credit applicable against such taxpayer’s personal net income tax liability imposed under Iowa Code chapter 422, division II. An individual receiving income from a revocable trust’s investment in a qualifying business may claim the tax credit against the taxes imposed under Iowa Code chapter 422, division II, for a portion of the revocable trust’s equity investment in a

qualifying business. A taxpayer that is a legal entity, such as a corporation, limited liability company, partnership (general or limited), trust or estate, and is an investor in a community-based seed capital fund or an investor in a qualifying business for investments made on or after January 1, 2004, is eligible to apply to the board for an investment tax credit applicable against such taxpayer's tax liability under the business tax on corporations imposed under Iowa Code chapter 422, division III; the taxation of financial institutions imposed under Iowa Code chapter 422, division V; the insurance companies tax imposed under Iowa Code chapter 432; or the taxation of credit unions imposed pursuant to 2007 Iowa Acts, Senate File 557, section 60. The taxpayer's investment must be made in the form of cash to purchase equity in a qualifying business or community-based seed capital fund.

123—2.4(15E) Application for the investment tax credit. A taxpayer that desires to receive an investment tax credit for an equity investment in a qualifying business or community-based seed capital fund must submit an application to the board for approval and provide such other information and documentation as may be requested by the board. Application forms for the investment tax credit may be obtained by contacting the Iowa capital investment board at the Iowa Department of Revenue, 1305 E. Walnut Street, Hoover State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-3204. Application forms may also be obtained by contacting a Small Business Development Center in the applicant's geographic location. The board shall coordinate with Small Business Development Centers throughout the state to provide uniform application forms to Small Business Development Centers and to disseminate information regarding the investment tax credits. The board shall provide a summary of the investment tax credits to Small Business Development Centers by either supplying the Small Business Development Centers with a copy of these rules or delivering substantially similar information in any other format approved by the board. The board shall make itself accessible to Small Business Development Centers for assistance with questions concerning completion of applications or any other questions pertaining to the investment tax credits. Applications shall be submitted to the board in care of the department of revenue at the address identified above. Applications shall be date- and time-stamped by the department of revenue in the order in which such applications are received. Applications for the investment tax credit shall be accepted by the board until March 31 of the year following the calendar year in which the taxpayer's equity investment was made.

EXAMPLE 1: A taxpayer makes an equity investment in a qualifying business on December 31, 2002. The taxpayer has until March 31, 2003, to apply to the board for an investment tax credit.

EXAMPLE 2: A taxpayer makes an equity investment in a qualifying business on July 1, 2003. The taxpayer has until March 31, 2004, to apply to the board for an investment tax credit.

123—2.5(15E) Verification of qualifying businesses and community-based seed capital funds.

2.5(1) Qualifying businesses. Within 120 days from the first date on which the equity investments qualifying for investment tax credits have been made (or, for investments made during the 2002 calendar year, by the later of 120 days from the first date on which the investments have been made or March 31, 2003), a qualifying business shall provide to the board the following information as a prerequisite to the board's issuance of any investment tax credits to investors in such qualifying business:

a. A signed statement, from an officer, director, manager, member, or general partner of the qualifying business, that contains a description of the general nature of its business operations, the location of the principal business operations, the date on which the business was formed, and the date on which the business commenced operations;

b. A balance sheet, certified by the chief executive officer and the chief financial officer of the qualifying business, that reflects the qualifying business's assets, liabilities and owners' equity as of the close of the most recent month or quarter;

c. A signed statement, from an owner of the business, that describes the manner in which such owner satisfies one of the training requirements set forth in the definition of a qualifying business under rule 123—2.2(15E);

d. A signed statement, from an officer, director, manager, member or general partner of the qualifying business, that states the names, addresses, shares or equity interests issued, consideration

paid for the shares or equity interests, and the amounts of any tax credits, of all shareholders or equity-holders who may initially qualify for the tax credits, and the earliest year in which the tax credits may be redeemed. The statement shall contain a commitment by the qualifying business to amend its statement as may be necessary from time to time to reflect new equity interests or transfers in equity among current equity-holders or as any other information on the list may change; and

e. A certificate of existence of a business plan for the qualifying business which details the business's growth strategy, management team, production/management plan, marketing plan, financial plan and other standard elements of a business plan.

Upon the board's receipt of the information and documentation necessary to demonstrate satisfaction of the criteria set forth herein, the board shall, within a reasonable period of time, determine whether a business is a qualifying business. If the board verifies that the business is a qualifying business, the board shall register the qualifying business on a registry of such qualifying businesses. The board shall maintain the registry and use it to authorize the issuance of further investment tax credits to taxpayers who make equity investments in qualifying businesses registered with the board. The board shall issue written notification to the qualifying business and the applicant that such business has been registered as a qualifying business with the board for the purpose of issuing investment tax credits but that such registration is subject to removal and rescission under rule 123—2.9(15E) for any failure of the business to continuously satisfy the requirements necessary for verification and registration as a qualifying business.

2.5(2) Community-based seed capital funds. Within 120 days from the first date on which the equity investments qualifying for investment tax credits have been made (or, for investments made during the 2002 calendar year, by the later of 120 days from the first date on which the investments have been made or March 31, 2003), a community-based seed capital fund shall provide to the board information as a prerequisite to the board's issuance of investment tax credits to investors in such community-based seed capital fund. Funds which could not meet the threshold of \$500,000 in capital commitments but are able to meet the threshold of \$125,000 of capital commitments as set forth in 2004 Iowa Acts, chapter 1148, shall have until December 31, 2004, to provide information to the board. A community-based seed capital fund cannot invest in the Iowa fund of funds organized by the Iowa capital investment corporation under Iowa Code section 15E.65, but may invest up to 60 percent of its committed capital in an Iowa-based seed capital fund with at least 40 percent of its committed capital subscribed by community-based seed capital funds. The following information must be provided:

a. A copy of the fund's certificate of limited partnership, limited partnership agreement, articles of organization or operating agreement or both certified by the chief executive officer of the community-based seed capital fund.

b. A signed statement, from an officer, director, manager, member or general partner of the fund, that states the total amount of capital contributions or capital commitments from investors and the total number of individual investors that are not affiliates and the ownership interest of each individual investor in the fund.

c. A signed statement, from an officer, director, manager, member or general partner of the fund, that states the names, addresses, equity interests issued, consideration paid for the interests and the amounts of any tax credits, of all limited partners or members who may initially qualify for the tax credits, and the earliest year in which the tax credits may be redeemed. The statement shall also contain a commitment by the fund to amend its statement as may be necessary from time to time to reflect new equity interests or transfers in equity among current equity-holders or as any other information on the list may change.

Upon the board's receipt of the information and documentation necessary to demonstrate a community-based seed capital fund's satisfaction of the criteria set forth herein, the board shall, within a reasonable period of time, determine whether a fund is a community-based seed capital fund. If the board verifies that the fund is a community-based seed capital fund, the board shall register the community-based seed capital fund on a registry of such community-based seed capital funds. The board shall maintain the registry and use it to authorize the issuance of further investment tax credits to taxpayers that make equity investments in the community-based seed capital funds registered with

the board. The board shall issue written notification to the community-based seed capital fund and the applicant that such fund has been registered as a community-based seed capital fund with the board for the purpose of issuing investment tax credits but that such registration is subject to removal and rescission under rule 123—2.9(15E) for any failure of the community-based seed capital fund to continuously satisfy the requirements necessary for verification and registration as a community-based seed capital fund.

123—2.6(15E) Issuance and distribution of investment tax credits. Upon verification and registration by the board of a qualifying business or community-based seed capital fund and approval of the taxpayer's application, the board shall issue a tax credit certificate to the applicant, provided, however, that such tax credit certificate shall be subject to rescission by the board pursuant to rule 123—2.9(15E). The tax credit certificate shall be in a form approved by the board and shall contain the taxpayer's name, address, and tax identification number, the amount of credit, the name of the qualifying business or community-based seed capital fund, the year in which the credit may be redeemed and any other information that may be required by the department of revenue. In addition, the tax credit certificate shall contain the following statement:

The Iowa Capital Investment Board has not recommended or approved this investment or passed on the merits or risks of such investment. Investors should rely solely on their own investigation and analysis and seek investment, financial, legal and tax advice before making their own decision regarding investment in this enterprise.

A tax credit shall equal 20 percent of the taxpayer's equity investment in a qualifying business or community-based seed capital fund. The maximum amount of a tax credit for an investment by an investor in any one qualifying business shall be \$50,000. Each year, an investor and all affiliates of the investor shall not claim tax credits under this rule for more than five different investments in five different qualifying businesses. An investor in a community-based seed capital fund shall receive a tax credit pursuant to this rule only for the investor's investment in the community-based seed capital fund and shall not receive any additional tax credit for the investor's share of investments in a qualifying business made by the community-based seed capital fund or in an Iowa-based seed capital fund with at least 40 percent of its committed capital subscribed by community-based seed capital funds. However, an investor in a community-based seed capital fund may receive a tax credit under this rule with respect to a separate direct investment made by the investor in the same qualifying business in which the community-based seed capital fund invests.

The aggregate amount of tax credits issued pursuant to this rule shall not exceed a total of \$10 million. The total amount of tax credits issued during the fiscal year beginning July 1, 2002, shall not exceed \$3 million. The total amount of tax credits issued during the fiscal year beginning July 1, 2003, shall not exceed \$3 million. The total amount of tax credits issued during the fiscal year beginning July 1, 2004, shall not exceed \$4 million. Any amount of the \$10 million of total tax credits that have not been issued by June 30, 2005, may be issued for a fiscal year beginning July 1, 2005, and for any other subsequent fiscal years until the \$10 million limitation is met. No more than \$3 million of tax credits may be issued for any one fiscal year beginning July 1, 2005, and for any subsequent fiscal year. If, during any fiscal year during which tax credits are to be issued under this rule, applications are approved for more than the amount of credits authorized by 2002 Iowa Acts, chapter 1006, section 3(4), the applicants shall receive tax credit certificates on a first-come, first-served basis, until the amount of credits authorized for issuance has been exhausted. Any tax credits approved but unissued shall be carried over to the next fiscal year, and the board shall, during the next fiscal year, give priority to applicants' tax credits carried over from a prior fiscal year by (1) issuing tax credit certificates to the taxpayers for such carryover tax credits before issuing any new tax credits; and (2) applying the aggregate amount of the credits carried over against the total amount of tax credits to be issued during such fiscal year before approving or issuing new tax credits.

123—2.7(15E) Claiming the tax credits. A taxpayer shall not claim the tax credit prior to the third tax year following the tax year in which the investment is made. An investment shall be deemed to have

been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. An investment made prior to January 1, 2002, shall not qualify for a tax credit under this rule. A tax credit shall not be redeemed during any tax year beginning prior to January 1, 2005. A tax credit shall not be transferable to any other taxpayer. 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. Notwithstanding the foregoing, any tax credit carried over pursuant to rule 123—2.6(15E) and issued for the tax year immediately following the tax year in which the investment was made may be claimed by the taxpayer and credited to the taxpayer's tax liability for the third tax year following the tax year in which the tax credit is issued. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit. In the case of a tax credit allowed under Iowa Code chapter 422, division II, where the taxpayer died prior to redeeming the tax credit, the remaining credit can be redeemed on the decedent's final income tax return.

123—2.8(15E) Notification to the department of revenue. Upon the issuance and distribution of investment tax credits for each tax year, the board shall notify the department of revenue by providing copies of the tax credit certificates issued for such tax year to the department of revenue. Such notification shall also include, but not be limited to, the aggregate number and amount of tax credits issued for such tax year.

123—2.9(15E) Rescinding the tax credits. Within 24 months from the first date on which the equity investments qualifying for investment tax credits have been made, a qualifying business shall provide to the board information and documentation sufficient to demonstrate that the business has secured total equity or near equity financing equal to at least \$250,000. Examples of sufficient information and documentation include, but are not limited to, corporate, partnership or limited liability company-certified resolutions setting forth the names of individuals or entities making capital contributions and the amounts of such capital contributions or certified corporate, partnership, or limited liability company minutes reflecting the names of individuals or entities making capital contributions and the amounts of such capital contributions. On or by the last day of the 24-month period described herein, a qualifying business shall certify to the board, by a statement signed by an officer, director, member, manager, or general partner of the qualifying business, that it has secured the requisite amount of equity financing required by this rule within the time period prescribed by this rule and shall recertify to the board that the qualifying business continues to meet the requirements set forth in 123—subrule 2.5(1). In the event that a qualifying business fails to meet or maintain any requirement set forth in this rule, including, without limitation, timely filing of the certifications described in the preceding sentence of this rule, the board shall rescind any tax credit certificates issued to those taxpayers and shall notify the department of revenue that it has done so, and the tax credit certificates shall be null and void. In addition, the board shall remove such qualifying business from its registry and shall issue written notification of such removal to the qualifying business and the applicants.

A community-based seed capital fund shall have invested at least 33 percent of its invested capital in one or more separate qualifying businesses on or by the last day of the 48-month period that commences with the fund's investing activities. On or by the last day of the 48-month period described under this rule, a community-based seed capital fund shall certify to the board, by a statement signed by an officer, director, member, manager, or general partner of the community-based seed capital fund, that it has met the requirements of this rule within the time period prescribed by this rule and shall recertify to the board that the community-based seed capital fund continues to meet the requirements set forth in 123—subrule 2.5(2). In the event that a community-based seed capital fund fails to meet or maintain any requirement set forth in this rule, including, without limitation, timely filing of the certifications described in the preceding sentence of this paragraph, the board shall rescind any tax credit certificates issued to limited partners or members and shall notify the department of revenue that it has done so, and the tax credit certificates shall be null and void. In addition, the board shall remove such community-based seed capital fund from its registry and shall issue written notification of such removal to the community-based seed capital fund and the applicants. Notwithstanding the foregoing, a community-based seed capital fund

may apply to the board for a one-year waiver from the requirements of this rule. The board shall, upon review of a community-based seed capital fund's application for waiver, exercise reasonable discretion in granting or denying such waiver. In the event that the board grants to a community-based seed capital fund a one-year waiver from the requirements of this rule, the board shall defer any rescission of the tax credit certificates until the expiration of such one-year waiver period. If the community-based seed capital fund meets the requirements of this rule by the expiration of such one-year waiver period, the tax credit certificates shall not be rescinded, but the tax credit certificates shall be rescinded at the end of such one-year waiver period if such requirements have not been met.

In the event a taxpayer has claimed an investment tax credit for an investment in a qualifying business under 2002 Iowa Acts, chapter 1006, section 3(1) "a," or for an investment in a community-based seed capital fund under 2002 Iowa Acts, chapter 1006, section 3(1) "b," and such tax credit has been rescinded under the provisions of this rule, the department of revenue shall assess a deficiency against the taxpayer for the tax credit claimed upon receipt of written notice of the rescission of such tax credit by the board.

123—2.10(15E) Additional information. The board retains the authority to request additional information and documentation from a qualifying business or community-based seed capital fund regarding the operations, job creation and economic impact of such qualifying business or community-based seed capital fund, and the board may use such information in preparing and publishing any reports to be provided to the governor and the general assembly.

123—2.11(15E) Transfer of responsibilities for administration of the program. Effective for tax years beginning and investments made on or after January 1, 2011, the responsibility for administering the tax credits for investments in qualifying businesses and community-based seed capital funds has been transferred from the Iowa capital investment board to the economic development authority.

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CHAPTER 3
TAX CREDIT FOR INVESTMENTS IN VENTURE CAPITAL FUNDS

123—3.1(15E) Tax credit for investments in venture capital funds. For tax years beginning on or after January 1, 2002, a taxpayer may claim a tax credit against the taxpayer's tax liability for personal net income tax imposed under Iowa Code chapter 422, division II; business tax on corporations imposed under Iowa Code chapter 422, division III; taxation of financial institutions imposed under Iowa Code chapter 422, division V; insurance companies tax imposed under Iowa Code chapter 432; or taxation of credit unions imposed pursuant to 2007 Iowa Acts, Senate File 557, section 60, for a portion of a taxpayer's equity investment in a venture capital fund. Natural persons and various types of legal entities, including but not limited to corporations, limited liability companies, partnerships (both general and limited), trusts and estates, shall be eligible for the investment tax credit provided for an investment in a venture capital fund. If the taxpayer that is entitled to an investment tax credit for an investment in a venture capital fund is a pass-through entity electing to have its income taxed directly to its individual owners, such as a partnership, limited liability company, S corporation, estate or trust, the pass-through entity shall allocate the allowable credit to each of the individual owners of the entity on the basis of each owner's pro rata share of the earnings of the entity, and the individual owners may claim their respective credits on their individual income tax returns. A taxpayer shall not claim an investment tax credit for an investment in a venture capital fund if the taxpayer is a venture capital investment fund allocation manager for the Iowa fund of funds described in Iowa Code section 15E.65, an investor that receives a tax credit for the same investment in a community-based seed capital fund as described in Iowa Code section 15E.45, or an investor that receives a tax credit for the same investment in a qualifying business as described in Iowa Code section 15E.44 for investments made on or after January 1, 2004. The taxpayer's equity investment must be made in the form of cash to purchase equity in a venture capital fund.

123—3.2(15E) Definitions. The following definitions are applicable to this chapter:

"Board" means the Iowa capital investment board created under Iowa Code section 15E.63.

"Physical presence in Iowa" includes, but is not limited to, having an office or other business location in Iowa, or having employees or representatives present in Iowa on a regular and continuing basis.

"Venture capital fund" means a private seed and venture capital partnership or entity fund that has been certified by the Iowa capital investment board.

123—3.3(15E) Verification of venture capital funds. A venture capital fund shall provide to the board information as a prerequisite to the board's issuance of any investment tax credits to investors in such venture capital funds. The venture capital fund must provide this information within 120 days from the first date on which the equity investments qualifying for the investment tax credit have been made (or, for investments made during the 2002 calendar year, by the later of 120 days from the first date on which the investments have been made or March 31, 2003).

Application forms setting forth the information required to verify the eligibility of a venture capital fund may be obtained by contacting the Iowa capital investment board at the Iowa Department of Revenue, 1305 E. Walnut Street, Hoover State Office Building, Des Moines, Iowa 50319. The telephone number is (515)281-3204. Applications shall be submitted to the board in care of the department of revenue at the address identified above.

The information required by the board to verify an eligible venture capital fund is set forth below:

1. A copy of the fund's certificate of limited partnership, limited partnership agreement, articles of organization or operating agreement certified by the chief executive officer of the venture capital fund.
2. A signed statement, from an officer, director, manager, member or general partner of the fund, stating that the fund maintains a physical presence within Iowa.
3. A signed statement, from an officer, director, manager, member or general partner of the fund, stating that a commitment has been made by the fund to consider equity investments in businesses located within Iowa.

Upon the board's receipt of the information and documentation necessary to demonstrate satisfaction of the criteria set forth herein, the board shall, within a reasonable period of time, determine whether a certification will be issued for the venture capital fund. If the board certifies the venture capital fund, the board shall register the fund on a registry that shall be maintained by the board. The board shall use such registry to authorize the issuance of further investment tax credits to taxpayers who make equity investments in the venture capital funds registered with the board. The board shall issue written notification to the venture capital fund that such fund has been registered as a venture capital fund with the board for the purpose of issuing investment tax credits.

123—3.4(15E) Application for the investment tax credit. Upon verification and registration by the board of a venture capital fund, a taxpayer who desires to receive an investment tax credit for an equity investment in a venture capital fund must submit an application to the board for approval and provide such other information and documentation as may be requested by the board. Application forms for the investment tax credit may be obtained by contacting the Iowa capital investment board at the Iowa Department of Revenue, 1305 E. Walnut Street, Hoover State Office Building, Des Moines, Iowa 50319. Applications shall be submitted to the board in care of the department of revenue at the address identified above. Each application shall be date- and time-stamped by the department of revenue in the order in which such applications are received. Applications for the investment tax credit shall be accepted by the board until March 31 of the year following the calendar year in which the taxpayer's equity investment is made.

123—3.5(15E) Issuance and distribution of investment tax credits. Upon verification and registration by the board of a venture capital fund, the board shall issue a tax credit certificate to the applicant. The tax credit certificate shall be in a form approved by the board and shall contain the taxpayer's name, address, and tax identification number, the amount of credit, the name of the venture capital fund, the year in which the credit may be redeemed and any other information that may be required by the department of revenue. In addition, the tax credit certificate shall contain the following statement:

The Iowa Capital Investment Board has not recommended or approved this investment or passed on the merits or risks of such investment. Investors should rely solely on their own investigation and analysis and seek investment, financial, legal and tax advice before making their own decision regarding investment in this enterprise.

A tax credit is equal to 6 percent of the taxpayer's equity investment in the venture capital fund. The aggregate amount of tax credits issued pursuant to this rule shall not exceed a total of \$5 million. The applicants shall receive tax credit certificates on a first-come, first-served basis, until the amount of credits authorized for issuance has been exhausted.

123—3.6(15E) Claiming the tax credits. A taxpayer shall not claim the tax credit prior to the third tax year following the tax year in which the investment is made. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. A tax credit shall not be redeemed during any tax year beginning prior to January 1, 2005. A tax credit shall not be transferable to any other taxpayer. 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 redeems the tax credit.

123—3.7(15E) Notification to the department of revenue. Upon the issuance and distribution of investment tax credits for each tax year, the board shall notify the department of revenue by providing copies of the tax credit certificates issued for such tax year to the department of revenue. Such notification shall also include, but not be limited to, the aggregate number and amount of tax credits issued for such tax year.

123—3.8(15E) Additional information. The board retains the authority to request additional information and documentation from the venture capital fund regarding the investments made by the venture capital fund in businesses located in Iowa.

123—3.9(15E) Repeal of the tax credit. The tax credit for investments in venture capital funds is repealed for investments made after July 1, 2010. Any tax credit certificates issued for investments made on or before July 1, 2010, are valid and can be claimed on tax returns beginning with the third tax year following the tax year the investment was made in accordance with rule 123—3.6(15E).

[ARC 9030B, IAB 8/25/10, effective 9/29/10]

These rules are intended to implement Iowa Code section 15E.51 as amended by 2010 Iowa Acts, Senate File 2380.

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CHAPTER 4
INVESTMENT TAX CREDITS RELATING TO INVESTMENTS IN A FUND OF FUNDS
ORGANIZED BY THE IOWA CAPITAL INVESTMENT CORPORATION

123—4.1(15E) Contingent tax credits relating to investments in Iowa fund of funds. Contingent tax credits are available for designated investors in the Iowa fund of funds organized by the Iowa capital investment corporation in accordance with Iowa Code section 15E.65. Tax credit certificates related to the contingent tax credits will be issued by the Iowa capital investment board. If the tax credit certificates are redeemed, a taxpayer may claim a credit against the taxpayer's tax liability for personal net income tax imposed under Iowa Code chapter 422, division II; business tax on corporations imposed under Iowa Code chapter 422, division III; taxation of financial institutions imposed under Iowa Code chapter 422, division V; taxation of insurance companies imposed under Iowa Code chapter 432; or taxation of credit unions imposed under Iowa Code section 533.24.

123—4.2(15E) Definitions. The following definitions are applicable to this chapter:

"Act" means Iowa Code sections 15E.61 through 15E.69.

"Actual return" means the actual aggregate amount of moneys or the fair market value of property received from a fund of funds by a designated investor, with respect to an investment amount for which a certificate is issued, including amounts received as returns of invested capital or returns on invested capital and amounts received in excess of invested capital, in whatever form received for the period from the date of the closing to the applicable maturity date.

"Board" means the Iowa capital investment board created under Iowa Code section 15E.63.

"Certificate" or *"tax credit certificate"* means a document constituting a contract between the state of Iowa and a holder and evidencing a tax credit that has been issued and, subject to the contingencies described on the certificate, that may become available to the holder.

"Certificate register" means the register to be maintained by the department recording the name, address, and taxpayer identification number of each holder and the maximum potential amount of the tax credits represented by each certificate issued to each holder.

"Closing" means a time when a certificate is issued to a designated investor in exchange for a commitment to contribute cash to the capital of a fund of funds.

"Commitment" or *"commits"* means either a binding obligation undertaken at a closing to invest in a fund of funds in the future or an actual investment made in a fund of funds, but without counting the same amount twice.

"Contingencies" shall mean the conditions under which a tax credit may be claimed and shall include each of the following:

1. The condition that the tax credits may only be used to the extent that the actual return on the investment amount associated with the certificate is less than the applicable scheduled return on such investment amount, and then only to the extent such tax credit becomes a verified tax credit;

2. The condition that the amount of the total verified tax credits represented by such certificate that first may be claimed during any redemption year will be limited to the amount verified by the board to the department;

3. The condition that no amount of the tax credit may be claimed prior to a maturity date stated on the certificate; and

4. The condition that receipt by the designated investor of an actual return on the investment amount associated with the certificate equal to the scheduled return on such investment amount will result in the cancellation of the tax credit certificate.

"Day" means any weekday Monday through Friday that is not a legal holiday in the state of Iowa.

"Department" means the Iowa department of revenue.

"Designated investor" means a natural person or an entity, other than the Iowa capital investment corporation or the revolving fund, that has committed to contribute capital to a fund of funds, and such person's or entity's successors and assignees.

"Fiscal year" means the fiscal year for the state of Iowa.

“*Fund of funds*” means any private, for-profit limited partnership or limited liability company established by the Iowa capital investment corporation to which a designated investor commits to make a capital contribution.

“*Holder*” means a holder of a tax credit certificate, either as a designated investor or as a transferee of a designated investor, as reflected on the certificate register.

“*Investment amount*” means the amount of cash contributed by a designated investor to a fund of funds with respect to which a certificate has been issued.

“*Iowa capital investment corporation*” means the private, nonprofit corporation created pursuant to Iowa Code section 15E.64.

“*Maturity date*” means a specific date or dates specified in a certificate, representing the earliest date on which a holder of the certificate may use it to satisfy tax liabilities.

“*Percentage of return*” means the percentage represented by the quotient of (1) the actual return for a designated investor on the investment amount associated with a certificate divided by (2) the scheduled return for such designated investor on such investment amount.

“*Portfolio entity*” means a venture capital fund or direct investment entity in which a fund of funds makes an investment.

“*Redeem*” means, with respect to a certificate, to present such certificate to the department as payment for tax liabilities due or to become due on or after the date of such presentation.

“*Redemption year*” means each calendar year for which verified tax credits associated with a certificate may first be utilized to reduce tax liabilities.

“*Revolving fund*” means the private, for-profit limited liability company established by the Iowa capital investment corporation as a revolving fund of funds pursuant to Iowa Code section 15E.65.

“*Scheduled return*” means the scheduled return, whether in money or property, (including returns of and returns on investment) with respect to an investment amount associated with a certificate issued to a designated investor in a fund of funds determined in accordance with the limited partnership agreement or the operating agreement of such fund of funds for the period from the date of the closing to the applicable maturity date. If relevant for determining the amount of the scheduled return, the board shall presume that a verified tax credit will be transferred at 100 percent of the amount stated on the verified tax credit. It shall be the burden of a designated investor to show that the verified tax credit cannot be transferred without discounting the amount stated on such credit.

“*Tax credit*” means a contingent tax credit authorized pursuant to Iowa Code section 15E.66 that is available against tax liabilities up to the amount stated on the certificate for such tax credit.

“*Tax liabilities*” means those tax liabilities identified in rule 123—4.1(15E).

“*Verified tax credits*” means tax credits that have been verified by the board to the department and to the holder of the certificate that represents such tax credits. In the event that the verified tax credits are different from the amount certified by the Iowa capital investment corporation, the amount verified by the board shall control.

[ARC 0076C, IAB 4/4/12, effective 4/4/12]

123—4.3(15E) Report of the Iowa capital investment corporation. No less than ten days prior to each closing, the Iowa capital investment corporation shall deliver a written report to the board and to the department containing the following information:

1. A copy of the certificate of limited partnership or articles of organization of the fund of funds for which the closing is scheduled, certified by the Iowa secretary of state;
2. A summary of the terms of the anticipated investments in such fund of funds as contained in the limited partnership agreement or the operating agreement of the fund of funds; and
3. A statement of the anticipated date of the closing.

No less than two days prior to each closing, the Iowa capital investment corporation shall deliver to the board a signed statement of an officer of the Iowa capital investment corporation certifying the names, addresses and taxpayer identification numbers of the persons expected to be designated investors at the closing, the total amount of the capital commitments expected to be received at the closing, the maximum amount of tax credits to be represented by each certificate to be issued at the closing, the date

of the anticipated closing, the maturity date or dates for each certificate to be issued at the closing, the contingencies applicable to the tax credits, and the calculation formula for determining the scheduled return.

123—4.4(15E) Allocation and issuance of certificates. Certificates shall be issued only by the board and only with respect to an actual capital commitment to a fund of funds.

Following receipt of the certification of the Iowa capital investment corporation pursuant to rule 123—4.3(15E), the board shall issue a certificate to each such designated investor at the closing. The maximum amount of tax credits represented by each certificate shall be calculated in accordance with the limited partnership agreement or operating agreement of the applicable fund of funds. The board shall not issue certificates if, in the aggregate, the maximum amount of tax credits represented by all issued and uncanceled certificates at any time would exceed \$60 million (less the aggregate amount of any tax credits that have been used to reduce tax liabilities) calculated in accordance with Iowa Code section 15E.66.

A tax credit certificate shall contain, or incorporate by reference to another document, each of the following:

1. The name, address, and tax identification number of the holder;
2. The investment amount committed upon issuance of that certificate and (if applicable) the class of interests issued to the designated investor that has committed to make such investment amount;
3. All of the contingencies applicable to the tax credits;
4. The date of issue of the certificate;
5. The maximum amount of the tax credit represented by the certificate;
6. The maturity date or dates of the certificate;
7. The calculation formula for determining the scheduled return;
8. The calculation formula for determining the amount of the tax credit that may be used to reduce tax liabilities;
9. If the certificate is issued upon a transfer after verification in accordance with 123—4.5(15E), the amount of the verified tax credits represented by such certificate and the redemption year(s) for which they may be used to reduce tax liabilities; and
10. A statement that, although the certificate is not considered a security pursuant to Iowa Code chapter 502, the certificate constitutes a security as such term is defined in Iowa Code section 554.8102(1)“o” solely for purposes of the creation, perfection, priority and enforcement of security interests.

[ARC 9030B, IAB 8/25/10, effective 9/29/10]

123—4.5(15E) Procedures for verification of tax credits.

4.5(1) At any time after the applicable maturity date for a certificate, the holder may present such certificate to the Iowa capital investment corporation for certification. Within ten days after receipt of such certificate, the Iowa capital investment corporation shall certify to the board the percentage of return for the designated investor for such certificate. If the percentage of return is less than 100 percent, the Iowa capital investment corporation shall certify the resulting total amount of tax credits to be verified for use by the holder of such certificate in accordance with the terms of the limited partnership agreement or the operating agreement of the fund of funds. The Iowa capital investment corporation shall give notice of such percentage of return and such amount of tax credits to the holder of such certificate at the holder's address as it appears on the certificate register.

4.5(2) The Iowa capital investment corporation, and any entity with which the corporation has entered into agreements pursuant to the investments and financial transactions described in Iowa Code chapter 15E, division VII, shall provide all documents that the board finds are, or may become, necessary for the board to verify the amount of tax credits to be issued pursuant to this chapter. Such documents include but are not limited to the following:

- a.* Financial transactions related to the Iowa capital investment corporation, the Iowa fund of funds, designated investors, lenders, or portfolio entities.

b. Financial documents, loan agreements, and security instruments to which any of the Iowa capital investment corporation, the Iowa fund of funds, designated investors, lenders, or a portfolio entity is a party.

c. Investment agreements to which any of the Iowa capital investment corporation, the Iowa fund of funds, designated investors, lenders, or a portfolio entity is a party.

d. All legal documents and correspondence related to the documents described in paragraphs 4.5(2) “*a*” through 4.5(2) “*c*” to which any of the Iowa capital investment corporation, the Iowa fund of funds, designated investors, lenders, or a portfolio entity is a party.

e. All documents and financial information necessary to calculate the actual return, the scheduled return, and the percentage of return.

f. Any other documents the board deems necessary to assess compliance with Iowa Code chapter 15E, division VII, or this chapter or to correctly verify the amount of tax credits related to a certificate issued pursuant to this chapter.

4.5(3) Within 30 days of the receipt of all documents and information pursuant to subrule 4.5(2), the board shall establish and verify the amount of tax credits related to that certificate, if any, that may be initially used in each redemption year so that no more than \$20 million in tax credits, in the aggregate, may become useable to reduce tax liabilities in any fiscal year (provided that such \$20 million limitation shall not limit the carryforward of tax credits otherwise authorized by the Act or these rules). Except to the extent specifically required by the \$20 million annual limitation, all tax credits relating to a verified certificate shall be useable to satisfy tax liabilities for a tax year beginning on or after the maturity date and ending at the expiration of the carryforward period specified in rule 123—4.10(15E).

4.5(4) The board shall issue to the holder of such certificate a verification setting forth (a) the amount of verified tax credits represented by such certificate (if any) and (b) the amount of verified tax credits represented by such certificate that may first become useable to reduce tax liabilities in any redemption year (if any).

4.5(5) If the verified certificate has more than one maturity date, the board shall issue to the holder a certificate for the verified tax credits. The verified certificate will contain no contingencies. The board shall issue one or more balance certificates for any maturity dates for which tax credits are not then being verified.

4.5(6) Certificates being verified for a maturity date shall be verified pro rata with all other certificates being verified for the same maturity date.

4.5(7) If a contingent certificate has more than one maturity date, the most recent maturity date prior to the date on which the certificate was presented to the board for verification shall be the maturity date used for purposes of verification under this rule.

[ARC 0076C, IAB 4/4/12, effective 4/4/12]

123—4.6(15E) Contractual nature of certificates; irrevocability of tax credits. Upon the issuance of a certificate, the entitlement of a holder to use the tax credits represented by the certificate shall be final and permanent, subject only to the contingencies expressly stated or incorporated by reference in the certificate, and such entitlement shall not be subject to any further condition, reduction, modification, amendment, change, revocation, or recapture.

The entitlement of a holder to claim tax credits represented by a certificate shall constitute a contract between the state of Iowa on the one hand and such holder and the holder’s successors and assignees on the other hand which shall not be subject to modification, amendment, change or rescission without prior written consent of the holder as of the date of any such purported action. No such modification, amendment, change or rescission to which a holder may have agreed shall be binding upon any of the successors or assignees of such holder unless it is stated in the text of the certificate issued to such successor or assignee.

The entitlement of a holder to claim tax credits represented by such certificate shall not be affected in any way or become subject to forfeiture or recapture by:

1. Action or inaction of the holder or designated investor;

2. The transfer by the designated investor of all or any portion of the designated investor's interest in a fund of funds;
3. The determination after the closing that a fund of funds was not organized or did not make its investments in accordance with the requirements of the Act or these rules;
4. The invalidity or illegality for any reason of the existence or functions of the board, the revolving fund, a fund of funds or the Iowa capital investment corporation or the investments made by a fund of funds or one or more of the portfolio entities;
5. The bankruptcy, insolvency, reorganization, merger, consolidation, dissolution or liquidation of the board, the revolving fund, any fund of funds, the Iowa capital investment corporation or any portfolio entity for any reason; or
6. The level, timing, or degree of success of any fund of funds or any portfolio entities, or the extent to which venture capital funds that are portfolio entities are invested in Iowa venture capital projects, or are successful in accomplishing any economic development objective.

If the legal existence of the board, the revolving fund, a fund of funds, the Iowa capital investment corporation or the department is ended or some or all of its respective functions are transferred to another entity at any time prior to the full use of 100 percent of the tax credits that could potentially be represented by all of the certificates, the board or its successor (or the state of Iowa if the legal existence of the board ends or the board ceases to have the requisite authority and there is no successor with such authority) shall adopt such rules as may be necessary to ensure the continuity and effectiveness of the entitlement of each holder to use the tax credits represented by such holder's certificate.

Upon the closing, a certificate shall be binding on the board, the department, and the state of Iowa, and the tax credits represented thereby shall not be modified, terminated, or rescinded or subject to recapture.

123—4.7(15E) Transfer of tax credit certificates. Certificates shall be transferable by the holders and any subsequent holders to any transferee or transferees.

Transfer of a certificate may be effected only by the holder's surrender of the certificate to the board with an endorsement in favor of the transferee, or transferees, and a statement containing the name, address and tax identification number of the transferee, and a written request for the board to issue a replacement certificate or certificates in the name of the transferee(s) (as well as, in any case where the transferor requests that more than one replacement certificate be issued, a statement by the transferor that sets forth the aggregate amount of tax credits represented by the transferred certificate that are to be represented by each replacement certificate).

Within ten days after the surrender and endorsement of a certificate, the board shall issue a replacement certificate or certificates in the name of the transferee(s). Once a transferor of a certificate has surrendered a certificate to the board, such transferor may no longer use the tax credits represented by such certificate.

A holder shall have the right to pledge and grant security interests in certificates and tax credits held by such holder as collateral for loans to or other obligations of such holder.

123—4.8(15E) Cancellation of tax credits upon receipt of scheduled return. Tax credits represented by a certificate are subject to cancellation only as provided in the certificate and upon receipt by the designated investor of an actual return equal to the designated investor's scheduled return with respect to such certificate. At the time of each distribution to a designated investor in a fund of funds, the Iowa capital investment corporation shall determine the amount of tax credits related to each certificate that have been canceled and have become null and void by reason of such distribution, if any, and shall certify such amount to the board. After any such certification, the board shall certify to the holder of each such certificate, at the holder's address as shown on the certificate register, and to the department the amount of tax credits that are deemed to have been canceled and to be null and void. If at any time prior to a verification of a certificate the actual return of a designated investor shall equal the designated investor's scheduled return with respect to such certificate, and all other conditions for cancellation contained in the certificate have been met, the Iowa capital investment corporation shall so certify to the board. After any

such certification, the board shall certify to such holder at the holder's address as shown on the certificate register and to the department that such certificates shall be deemed to have been canceled and to be null and void. Tax credits that are canceled may be reissued with respect to the same or another fund of funds.

123—4.9(15E) Lost or mutilated tax credit certificates. Upon receipt of evidence satisfactory to the board of the loss, theft, destruction or mutilation of any certificate, and in case of any such loss, theft or destruction, upon delivery of any indemnity agreement satisfactory to the board, or in case of any such mutilation, upon surrender and cancellation of such certificate, the board shall issue and deliver to the holder a replacement certificate within ten days.

123—4.10(15E) Claiming the tax credits. The holder shall attach a copy of the verification or (if the applicable certificate has been transferred after the date of such verification) a copy of the certificate issued to such holder to any tax return in which verified tax credits are used to reduce tax liabilities. Verified tax credits may be carried forward by the holder for use in any of the seven calendar years following the initial redemption year. Verified tax credits may be used to make estimated tax payments insofar as the holder may take the amount of the tax credit into account in calculating the holder's estimated annual tax liability, thus reducing or eliminating the amount of estimated tax that would otherwise be payable. Verified tax credits not used after the expiration of such seven-calendar-year period shall be deemed to have been canceled and to be null and void and may be reissued in respect to the same or another fund of funds.

The following nonexclusive examples illustrate how this rule applies:

EXAMPLE 1: Holder X has redeemed Holder X's tax credit certificate and received verification from the board authorizing the use of the following amounts of tax credits to reduce tax liabilities in the indicated years: 2010: \$700,000; 2011: \$140,000; 2012: \$70,000. Holder X has zero Iowa tax liability in 2010, \$900,000 of tax liabilities in 2011 and \$100,000 of tax liabilities in 2012. Holder X may carry forward the \$700,000 in tax credits that were first useable in 2010. Holder X may use up to \$840,000 of tax credits in 2011 and \$70,000 in 2012.

EXAMPLE 2: Holder X has redeemed Holder X's tax credit certificate and received verification from the board authorizing the use of tax credits to reduce tax liabilities that are the same as in Example 1. Holder X has zero in Iowa taxable income in each of the years 2010 through 2014. Holder X may carry forward the \$700,000 of tax credits attributable to 2010 and use such tax credits in years 2015, 2016 and 2017 (i.e., up to seven tax years after 2010). To the extent that the \$700,000 of tax credits attributable to 2010 is not used by 2017, Holder X may no longer use such tax credits. Holder X may carry forward the \$140,000 of tax credits attributable to 2011 and use such tax credits in years 2015, 2016, 2017 and 2018 (i.e., up to seven tax years after 2011). To the extent that the \$140,000 of tax credits attributable to 2011 is not used by 2018, Holder X may no longer use such tax credits. Holder X may carry forward the \$70,000 of tax credits attributable to 2012 and use such tax credits in years 2015, 2016, 2017, 2018 and 2019 (i.e., up to seven tax years after 2012). To the extent that the \$70,000 of tax credits attributable to 2012 is not used by 2019, Holder X may no longer use such tax credits.

EXAMPLE 3: Holder X has redeemed Holder X's tax credit certificate and received verification from the board authorizing the use of tax credits to reduce tax liabilities that are the same as in Example 1. In 2011, Holder X actually uses \$840,000 of tax credits to reduce an equal amount of tax liabilities (reducing Holder X's tax liabilities in 2011 to zero). In 2014, as a result of an audit, Holder X's tax liabilities for 2011 are changed to \$700,000. That adjustment creates \$140,000 in tax credits that were not actually useable in 2011. Holder X may use this \$140,000 of tax credits in years 2012 through 2018.

If a holder is a partnership (whether general, limited or limited liability), limited liability company that has not elected to be taxed as a corporation for federal income tax purposes, or a corporation for which a valid Iowa "S" election is in effect, and such holder has no tax liability because only the partners, members or shareholders of such holder are subject to the tax liabilities imposed by the state of Iowa and described in section 15E.62(6) of the Act, the holder may allocate the tax credits represented by the holder's certificate among the holder's partners, members or shareholders. Such allocation shall be

made on the basis of the pro rata share of earnings from the partnership, limited liability company, or S corporation calculated in accordance with the organizational documents of the holder.

If a holder is an estate or trust, the tax credits represented by the holder's certificate shall be allocated to such estate or trust or to such other person to whom the income of such estate or trust is taxed in proportion to each such person's actuarial interest in such estate or trust.

123—4.11(15E) Notification to the department of revenue. Upon the issuance, distribution, redemption, or transfer of tax credit certificates, the board shall provide copies of the tax credit certificates or replacement certificates to the department of revenue.

123—4.12(15E) Other provisions. The department shall maintain the certificate register at its principal office. The certificate register shall be open to inspection by holders during the department's normal business hours. The department shall, upon request, issue confirmation as to the ownership of a certificate or entitlement to tax credits. The certificate registry is the conclusive record of holders and their entitlements to tax credits.

All notices, requests, and submissions required to be sent to the board shall be sent to the Iowa Capital Investment Board in care of the Iowa Department of Revenue, 1305 E. Walnut Street, Hoover State Office Building, Des Moines, Iowa 50319.

Each fund of funds shall principally make investments in venture capital funds managed by investment managers who have made a commitment to consider equity investments in businesses located within the state of Iowa and who have committed to maintain a physical presence within the state of Iowa. For purposes of this requirement, a physical presence in Iowa includes, but is not limited to, having an office or other business location in Iowa or having employees or representatives present in Iowa on a regular and continuing basis.

123—4.13(15E) Redemption date and priority of tax credits with respect to limited partnership interests in the Iowa fund of funds, Fund A. Rescinded IAB 4/13/05, effective 3/25/05.

123—4.14(15E) Scheduled return and tax credits represented by certificates issued with respect to Class C limited partnership interests in Fund A. Rescinded IAB 4/13/05, effective 3/25/05.

123—4.15(15E) Scheduled return and tax credits represented by certificates issued with respect to Class A limited partnership interests in the Iowa fund of funds, Fund A. Rescinded IAB 4/13/05, effective 3/25/05.

123—4.16(15E) Scheduled return and tax credits represented by certificates issued with respect to Class D limited partnership interests in Fund A. Rescinded IAB 4/13/05, effective 3/25/05.

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