

CHAPTER 116  
TAX CREDITS FOR INVESTMENTS IN CERTIFIED INNOVATION FUNDS

**261—116.1(84GA,SF517) Tax credit for investments in certified innovation funds.**

**116.1(1) *Tax credit allowed.*** For tax years beginning on or after January 1, 2011, a taxpayer may claim a tax credit for a portion of the taxpayer's equity investment in a certified innovation fund. The tax credit may be claimed against the taxpayer's tax liability for any of the following taxes:

- a. The personal net income tax imposed under Iowa Code chapter 422, division II.
- b. The business tax on corporations imposed under Iowa Code chapter 422, division III.
- c. The franchise tax on financial institutions imposed under Iowa Code chapter 422, division V.
- d. The tax on the gross premiums of insurance companies imposed under Iowa Code chapter 432.
- e. The tax on moneys and credits imposed under Iowa Code section 533.329.

**116.1(2) *Treatment of pass-through entities.*** If the taxpayer that is entitled to an investment tax credit for an investment in an innovation 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.

**116.1(3) *Credits for certain investments disallowed.*** A taxpayer shall not claim an investment tax credit for an investment in an innovation 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.

**116.1(4) *Cash investments required.*** The taxpayer's equity investment must be made in the form of cash to purchase equity in an innovation fund.

**116.1(5) *Amount of credit.*** The taxpayer may claim a tax credit in an amount equal to 20 percent of the taxpayer's equity investment in a certified innovation fund.

[ARC 0009C, IAB 2/8/12, effective 3/14/12]

**261—116.2(84GA,SF517) Definitions.** For purposes of this chapter, unless the context otherwise requires:

*"Authority"* means the economic development authority created in 2011 Iowa Acts, House File 590.

*"Board"* means the same as defined in Iowa Code section 15.102 as amended by 2011 Iowa Acts, House File 590, section 3.

*"Equity"* means common or preferred corporate stock or warrants to acquire such stock, membership interests in limited liability companies, partnership interests in partnerships, or near equity. Equity shall be limited to securities or interests acquired only for cash and shall not include securities or interests acquired at any time for services, contributions of property other than cash, or any other non-cash consideration.

*"Innovation fund"* means a private, early-stage capital fund that has been certified by the board.

*"Innovative business"* means a business applying novel or original methods to the manufacture of a product or the delivery of a service. "Innovative business" includes but is not limited to a business engaged in advanced manufacturing, biosciences, or information technology.

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**261—116.3(84GA,SF517) Verification of innovation funds.**

**116.3(1)** An innovation fund shall provide to the authority information as a prerequisite to the issuance of any investment tax credits to investors in such innovation funds. The innovation 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 2011 calendar year, by the later of 120 days from the first date on which the investments have been made or March 31, 2012).

**116.3(2)** Application forms setting forth the information required to verify the eligibility of an innovation fund may be obtained by contacting the Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. The telephone number is (515)725-3000. Applications shall be submitted to the authority at the address identified above.

**116.3(3)** The following information must be submitted to the authority in order for an eligible innovation fund to be verified:

*a.* 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 innovation fund.

*b.* A signed statement, from an officer, director, manager, member or general partner of the fund, stating the following:

(1) That the fund will make investments in promising early-stage companies which have a principal place of business in the state.

(2) That the fund proposes to make investments in innovative businesses which have a principal place of business in the state.

(3) That the fund seeks to secure private funding sources for investment in such businesses.

**116.3(4)** Upon the authority's receipt of the information and documentation necessary to demonstrate satisfaction of the criteria set forth herein, the authority shall, within a reasonable period of time, determine whether a certification will be issued for the innovation fund. If the authority certifies the innovation fund, the authority shall register the fund on a registry that shall be maintained by the authority. The authority shall use the registry to authorize the issuance of further investment tax credits to taxpayers who make equity investments in the innovation funds registered with the authority. The authority shall issue written notification to the innovation fund that the fund has been registered as an innovation fund with the authority for the purpose of issuing investment tax credits.

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**261—116.4(84GA,SF517) Application for the investment tax credit.** Upon verification and registration by the authority of an innovation fund, a taxpayer who desires to receive an investment tax credit for an equity investment in an innovation fund must submit an application to the authority for approval by the board and provide such other information and documentation as may be requested by the authority. Application forms for the investment tax credit may be obtained by contacting the Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. Applications shall be submitted to the authority at the address identified above. Each application shall be date- and time-stamped by the authority in the order in which such applications are received. Applications for the investment tax credit shall be accepted by the authority until March 31 of the year following the calendar year in which the taxpayer's equity investment is made.

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**261—116.5(84GA,SF517) Approval, issuance and distribution of investment tax credits.**

**116.5(1) Approval and issuance.** Upon verification and registration by the authority of an innovation fund, the authority, upon approval by the board, shall issue a tax credit certificate to the applicant. Applicants shall receive tax credit certificates on a first-come, first-served basis until the maximum aggregate amount of credits authorized for issuance has been reached for any fiscal year.

**116.5(2) Carry forward.** If, during any fiscal year during which tax credits are to be issued under this chapter, applications totaling more than the maximum aggregate amount are received and approved, the applications will be carried forward and prioritized to receive tax credit certificates on a first-come, first-served basis in subsequent fiscal years.

When carrying forward and prioritizing such applications, the authority shall (1) issue tax credit certificates to the taxpayers for such carryover tax credits before issuing any new tax credits to later applicants, and (2) apply the aggregate amount of the credits carried over against the total amount of tax credits to be issued during the subsequent fiscal year before approving or issuing additional tax credits.

**116.5(3) Preparation of the certificate.** The tax credit certificate shall be in a form approved by the authority and shall contain the taxpayer's name, address, and tax identification number, the amount of credit, the name of the innovation 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:

Neither the authority nor the board has 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.

**116.5(4) *Credit amount.*** A tax credit for investment in an innovation fund is equal to 20 percent of the taxpayer's equity investment in the fund.

**116.5(5) *Maximum aggregate limitation.*** The maximum aggregate amount of tax credits issued pursuant to this chapter shall not exceed the amount allocated by the board pursuant to Iowa Code section 15.119, subsection 2. For fiscal year 2012 and all subsequent fiscal years, that amount is \$8 million.

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**261—116.6(84GA,SF517) *Claiming the tax credits.*** To claim a tax credit under this chapter, a taxpayer must attach to that taxpayer's tax return a certificate issued pursuant to this chapter when the return is filed with the department of revenue. For more information on claiming tax credits, see department of revenue rule 701—42.22(15E,422).

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**261—116.7(84GA,SF517) *Notification to the department of revenue.*** Upon the issuance and distribution of investment tax credits for a tax year, the authority shall promptly 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 the tax year.

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**261—116.8(84GA,SF517) *Additional information.*** The authority may at any time request additional information and documentation from an innovation fund regarding the operations, job creation and economic impact of the fund, and the authority may use such information in preparing and publishing any reports to be provided to the governor and the general assembly.

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These rules are intended to implement 2011 Iowa Acts, Senate File 517.

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