

**261—115.5(15E) Certification of qualifying businesses.**

**115.5(1) Application for certification.** Within 120 days from the first date on which the equity investments qualifying for investment tax credits have been made, a qualifying business shall apply to the authority for certification as a qualifying business as prescribed by the authority. Investments made more than 120 days prior to receipt by the authority of a substantially complete application for certification shall not be eligible for a tax credit. The application for certification will include the following information:

*a.* A description of the general nature of the business's 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 that reflects the qualifying business's assets, liabilities and owner's equity as of the close of the most recent month or quarter;

*c.* A description of the manner in which the business satisfies one of the business experience requirements set forth in paragraph 115.5(2) "c";

*d.* The names, addresses, shares or equity interests issued, consideration paid for the shares or equity interests, and amounts of any tax credits of all shareholders or equity holders who may initially qualify for the tax credits and the date on which the investment was made. The application shall contain a commitment by the qualifying business to amend its list of investors 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. Applications for tax credits for investments that are not reflected on the most recent listing of investors provided to the authority shall not be eligible for tax credits until an amended list is provided by the qualifying business;

*e.* A signed statement from an officer, director, manager, member, or general partner of the qualifying business certifying the accuracy of the information provided; and

*f.* Any other information as the authority may reasonably require to determine the business's eligibility for certification as a qualifying business and its investors' eligibility to receive tax credits.

**115.5(2) Eligibility for certification as a qualifying business.** A business shall meet all of the following criteria to be eligible for certification as a qualifying business:

*a.* The principal business operations of the business are located in the state of Iowa;

*b.* The business has been in operation for six years or less, as measured from the date of the investment for which a credit is claimed;

*c.* The business is participating in an entrepreneurial assistance program. The authority may waive this requirement if a business establishes that its owners, directors, officers, and employees have an appropriate level of experience such that participation in an entrepreneurial assistance program would not materially change the prospects of the business. The authority may consult with outside service providers in consideration of such a waiver;

*d.* The business is not a business engaged primarily in retail sales, real estate, or the provision of health care services or other services requiring a professional license. In determining whether a business is primarily engaged in retail sales, factors the authority will consider include, but are not limited to, the sources of the business's revenue, whether the business manufactures a product it sells, and whether the business owns intellectual property associated with a product it sells;

*e.* The business does not have a net worth that exceeds \$10 million as of the date of the investment for which the credit is claimed; and

*f.* The business shall have secured all of the following at the time of application for tax credits:

(1) At least two investors.

(2) Total equity financing, binding equity investment commitments, or some combination thereof, equal to at least \$500,000 from investors. For the purposes of determining whether a business has secured at least \$500,000 from investors, convertible debt shall only be considered equity as of the date of conversion.

For purposes of paragraph 115.5(2) "f," "investor" includes a person that executes a binding investment commitment to a business.

**115.5(3) Authority review and notice of certification.**

*a.* Upon the authority's receipt of the information and documentation necessary to demonstrate satisfaction of the criteria set forth in subrule 115.5(2), the authority shall, within a reasonable period of time, determine whether a business shall be certified as a qualifying business and, if applicable, issue written notification to the qualifying business that such business has been certified with the authority for the purpose of issuing investment tax credits. The notice shall indicate that such certification is subject to revocation or expiration pursuant to subrule 115.5(4). The authority will indicate in its written notice the first date investments are eligible for a tax credit based on the date of application for certification and the date the authority expects the certification to expire based on the date the business began operations.

*b.* The authority will only accept applications for investment tax credits from investors in qualifying businesses that have received a written notice of certification.

**115.5(4)** *Revocation and expiration of certification.*

*a.* A certified qualifying business must notify the authority as soon as it becomes aware of any changes in its eligibility as a qualifying business or in the eligibility of its investors to receive tax credits. A certified qualifying business shall provide any information as the authority may reasonably request to confirm the business's continued eligibility for certification as a qualifying business and the eligibility of its investors to receive tax credits.

*b.* If a qualifying business fails to meet or maintain any requirement set forth in this chapter, the authority shall revoke the business's certification as a qualifying business by issuing written notification of revocation to the business. If applicable, the notification shall identify the last date on which the business was eligible to be certified as a qualifying business. Investments made after the identified date will not be eligible for a tax credit.

*c.* If a business continues to satisfy all eligibility requirements until it has been in operations for more than six years, the business's certification will expire on the date identified as the expected date of expiration pursuant to paragraph 115.5(2)"*a.*" Investments made after the identified date will not be eligible for a tax credit.

[ARC 6242C, IAB 3/9/22, effective 4/13/22]