

261—82.3(15E) Application and review process for tax credits.

82.3(1) Annual business application. A qualified business shall make its best efforts to submit its annual application for a tax credit no later than 90 days after the date its federal return is filed and accepted. The application shall be submitted no later than January 31 following the most recently filed and accepted federal tax return. A qualified business shall apply for tax credits on behalf of all entities in a consolidated group for state or federal tax filing purposes and include all application information for all such entities that incurred eligible expenditures. The annual application submitted by qualified businesses will include:

a. A report from the business of any changes to the information provided in the application for certification pursuant to subrule 82.2(3).

b. Documentation of the amount of the eligible expenditures that were included in Section F of Internal Revenue Form 6765 that was submitted with the qualified business's most recently filed and accepted federal tax return.

c. Verification of eligible expenditures by an independent CPA authorized to practice in this state, described on a form prescribed by authority.

(1) The procedures used by the independent CPA to conduct the verification should allow the independent CPA to conclude that, in the independent CPA's professional judgment, the expenditures claimed are, more likely than not, eligible pursuant to the agreement entered pursuant to Iowa Code section 15.523(3); Iowa Code chapter 15, subchapter II, part 35; and all rules adopted pursuant to Iowa Code chapter 15, subchapter II, part 35, and 2025 Iowa Acts, Senate File 657, in all material respects. The verification shall include but not be limited to the following:

1. The qualified research and development and eligible expenditures are supported by the qualified business's underlying books and records.

2. The qualified business claimed a federal research credit under Section 41 of the Internal Revenue Code for its eligible expenditures for the same tax year for which the business has applied for a tax credit under the program.

3. The qualified business's methodology for identifying eligible expenditures accurately identifies qualified research and development projects and activities and accurately calculates qualified research expenses under Section 41 of the Internal Revenue Code that occurred in Iowa.

4. The wages included as eligible expenditures are limited to wages paid for the performance, direct supervision, or direct support of qualified research and development, and such services were physically performed in Iowa by individuals legally authorized to work in Iowa.

5. Any amounts included as eligible expenditures that were paid to unrelated third parties were for qualified research and development performed on behalf of the qualified business, and the qualified business retained substantial rights in the results and bore the financial risk of failure of the qualified research and development performed by a third party.

6. Any amounts included as eligible expenditures that were paid to unrelated third parties were for qualified research and development physically performed in Iowa by individuals authorized to work in Iowa.

7. Only 65 percent of eligible contract research expenses were included as eligible expenditures.

8. Only nondepreciable tangible property used directly in the conduct of qualified research and development was included as eligible expenditures.

9. Only supplies used or consumed in Iowa in the conduct of qualified research and development were included as eligible expenditures.

10. Only rental or lease costs for computers or cloud computing resources used in qualified research were included as eligible expenditures, and such resources were operated by third-party providers and not primarily used by the qualified business.

11. Amounts included as eligible expenditures relate only to computers physically located in Iowa, or, for cloud computing resources, an allocation methodology reasonably attributes usage to Iowa-based qualified research and development activities.

12. Expenditures were captured and allocated to qualified research and development activities at the business component or project level.

13. The qualified research and development activities associated with eligible expenditures met all four statutory tests under Section 41(d) of the Internal Revenue Code: permitted purpose, elimination of uncertainty, process of experimentation, and technological in nature.

14. No expenditures were included for research to the extent funded by another person, grant, or governmental entity.

(2) For each item in subparagraph 82.3(1)“c”(1), the independent CPA shall describe the information and documentation relied upon to verify each item. The independent CPA may consider and incorporate documentation generated in connection with an Internal Revenue Service examination of the taxpayer’s federal credit for increasing research activities under Section 41 of the Internal Revenue Code. Reliance on such materials does not relieve the independent CPA of the obligation to address each verification item required by subparagraph 82.3(1)“c”(1).

(3) The independent CPA shall represent that the verification procedures were performed in a manner consistent with applicable tax practice standards and that, based on information provided by the qualified business and consistent with applicable law, the independent CPA reasonably concluded that the information is, more likely than not, accurate and complete. The CPA will not provide an audit, review, or attestation opinion for the purposes of this paragraph.

(4) Within 30 business days of a request by the authority, the qualified business shall make available to the authority the documents reviewed by the independent CPA unless good cause is shown.

d. A signed statement from an officer, director, manager, member, or general partner of the qualified business certifying the accuracy of the information provided.

e. Any other information as the authority may reasonably require to determine the business’s continued eligibility for certification as a qualified business and whether the business continues to be actively engaged in qualified research and development.

82.3(2) Staff review. Authority staff will verify the continued eligibility of qualified businesses and the amount of eligible expenditures incurred by qualified businesses prior to approval of tax credits by the director.

82.3(3) Tax credit calculation. The annual tax credit award for each qualified business shall equal its unadjusted credit or its adjusted credit, whichever is less.

a. Unadjusted credit. The unadjusted credit for a qualified business equals its eligible expenditures multiplied by the tax credit rate provided in the agreement, not to exceed 3.5 percent.

b. Adjusted credit. To calculate the adjusted credit for a qualified business, first divide the qualified business’s eligible expenditures by the total eligible expenditures incurred by all qualified businesses with approved tax credit applications for the fiscal year. Next, multiply that quotient by the amount of tax credits available pursuant to Iowa Code section 15.119 for the fiscal year after reduction for the set aside, if any, of tax credits for additional awards pursuant to subrule 82.3(4). That product, plus any additional tax credits awarded to the qualified business for the fiscal year pursuant to subrule 82.3(4), equals a qualified business’s adjusted credit.

EXAMPLE: For purposes of this example, assume that the total available tax credits for the fiscal year is \$40,000,000 and the authority does not set aside any of that amount for additional awards pursuant to subrule 82.3(4). Also assume that the total eligible expenditures incurred by all qualified businesses with approved tax credit applications for the fiscal year is \$2,000,000,000. A qualified business submits an annual tax credit application with \$10,000,000 of eligible expenditures, and the tax credit rate in its agreement is 3.5 percent. The qualified business’s unadjusted credit equals \$350,000 ($\$10,000,000 \times 0.035$). The qualified business’s adjusted credit equals \$200,000 ($(\$10,000,000 / \$2,000,000,000) \times \$40,000,000$). Therefore, the qualified business’s annual tax credit award will be \$200,000.

82.3(4) Set aside of tax credits for additional awards. The authority may set aside up to 5 percent of the amount of tax credits available pursuant to Iowa Code section 15.119 for the fiscal year to be awarded as additional tax credits to qualified businesses that demonstrate an increase in eligible expenditures.

a. Additional tax credits from the set aside described in this subrule may be awarded based on the annual applications submitted by qualified businesses pursuant to subrule 82.3(1). The authority may request additional information from qualified businesses to establish that a qualified business demonstrates

an increase in eligible expenditures and that additional tax credits are warranted pursuant to the factors in paragraph 82.3(4)“c.”

b. Each fiscal year, the authority will determine the total amount of the set aside, if any, prior to making an initial apportionment of tax credits based on the total amount of qualified expenditures incurred by all qualified businesses that are eligible for a tax credit.

c. Factors the authority will consider in determining whether to award additional tax credits to a qualified business include but are not limited to whether the qualified business recently located in or expanded in Iowa and the economic impact of the qualified business, its facility or facilities in Iowa, and the qualified research and development.

82.3(5) *Application decisions.* The director may approve, deny, or defer an application for tax credits. Applications for tax credits may be denied under the following circumstances:

a. The qualified business has not continued to engage in the qualified research and development proposed in its application for certification.

b. The qualified business experiences a business closure or experiences a mass layoff for which notice is required under Iowa Code chapter 84C.

c. The authority determines the qualified business has a record of violations of the law that over a period of time tends to show a consistent pattern or that establishes intentional, criminal, or reckless conduct in violation of such laws.

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