

701—52.28 (15) High quality job creation program. Effective for tax periods ending on or after July 1, 2005, for programs approved on or after July 1, 2005, but before July 1, 2009, a business which qualifies under the high quality job creation program is eligible to receive tax credits. The high quality job creation program replaces the new jobs and income program and the new capital investment program. An eligible business under the high quality job creation program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code section 15.329. The administrative rules for the high quality job creation program for the Iowa department of economic development may be found at 261—Chapter 68.

The high quality job creation program was repealed on July 1, 2009, and has been replaced with the high quality jobs program. See rule 701—52.40(15) for information on the investment tax credit and additional research activities credit under the high quality jobs program. Any investment tax credit and additional research activities credit earned by businesses approved under the high quality job creation program prior to July 1, 2009, remains valid and can be claimed on tax returns filed after July 1, 2009.

52.28(1) Research activities credit. An eligible business approved under the high quality job creation program is eligible for an additional research activities credit as subrule described in 52.7(4).

Research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable energy generation components are not eligible for the federal credit for increasing research activities. For purposes of this subrule, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate capacity. The research activities credit related to renewable energy generation components under the high quality job creation program and the enterprise zone program shall not exceed \$1 million in the aggregate.

These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in this subrule and are not applicable to the research activities credit set forth in subrule 52.7(3). The research activities credit is subject to the threshold amounts of qualifying investment set forth in Iowa department of economic development 261—subrule 68.4(7).

52.28(2) Investment tax credit.

a. General rule. An eligible business can claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business. The percentage is equal to the amount provided in Iowa department of economic development 261—subrule 68.4(7). New investment directly related to new jobs created by the location or expansion of an eligible business includes the following:

(1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1(1), paragraphs “e” and “j,” purchased for use in the operation of the eligible business. The purchase price shall be depreciated in accordance with generally accepted accounting principles.

(2) The purchase price of real property and any buildings and structures located on the real property.

(3) The cost of improvements made to real property which is used in the operation of the eligible business.

In addition, certain lease payments made by eligible businesses to a third-party developer will be considered to be new investment for purposes of computing the investment tax credit. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. The investment tax credit is based on the annual base rent paid to a third-party developer by the eligible business for a period not to exceed ten years. The total costs of the annual base rent payments for the ten-year period cannot exceed the cost of the land and the third-party developer’s cost to build or renovate the building used by the eligible business. The annual base rent is defined as the total lease payment less taxes, insurance and operating and maintenance expenses.

The investment tax credit can be claimed in the tax year in which the qualifying assets are placed in service. The investment tax credit will be amortized over a five-year period. Any credit in excess of the tax liability for the tax period may be carried forward seven years or until used, whichever is the earlier.

EXAMPLE: An eligible business which files tax returns on a calendar-year basis earned \$100,000 of investment tax credits for new investment made in 2006. The business can claim \$20,000 of investment tax credits for each of the years from 2006 through 2010. The \$20,000 of investment tax credit that can be claimed in 2006 can be carried forward to the 2007-2013 tax years if the entire credit cannot be claimed on the 2006 return. Similarly, the \$20,000 investment tax credit that can be claimed in 2007 can be carried forward to the 2008-2014 tax years if the entire credit cannot be claimed on the 2007 return.

If the business is a partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount of the credit claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to an individual.

EXAMPLE: An eligible business which files tax returns on a calendar-year basis was awarded \$500,000 in investment tax credits in December 2008. The credits were amortized over a five-year period, with \$100,000 of investment tax credits being available for the fiscal years ending June 30, 2009, through June 30, 2013. This equates to the investment tax credit being available for the 2008-2012 calendar year returns since the due date of these returns range from April 30, 2009, through April 30, 2013, which falls within the fiscal years ending June 30, 2009, through June 30, 2013. The eligible business placed the qualifying assets in service during the 2010 calendar year. The eligible business can claim \$300,000 of investment tax credit for 2010, \$100,000 of investment tax credit for 2011 and \$100,000 of investment tax credit for 2012. Of the \$300,000 claimed for the 2010 tax year, \$100,000 can be carried forward until the 2015 tax year, \$100,000 can be carried forward to the 2016 tax year, and \$100,000 can be carried forward to the 2017 tax year. The seven-year carryforward period is determined by the amortization schedule, not the initial year in which the investment tax credit can be claimed on an Iowa tax return.

b. Investment tax credit—value-added agricultural products or biotechnology-related processes. An eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund for all or a portion of an unused investment tax credit. An eligible business includes a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol.

Eligible businesses that elect to receive a refund shall apply to the Iowa department of economic development for tax credit certificates between May 1 and May 15 of each fiscal year through the fiscal year ending June 30, 2009. The election to receive a refund of all or a portion of an unused investment tax credit is no longer available beginning with the fiscal year ending June 30, 2010. Only those businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate. The Iowa department of economic development shall not issue tax credit certificates for more than \$4 million during a fiscal year to eligible businesses for this program and the enterprise zone program described in subrule 52.14(2). If applications are received for more than \$4 million, the applicants shall receive certificates for a prorated amount.

The economic development authority shall issue tax credit certificates within a reasonable period of time. Tax credit certificates are valid for the tax year following project completion. The tax credit certificate must be included with the tax return for the tax year during which the tax credit is claimed. The tax credit certificate shall not be transferred, except for a cooperative described in Section 521 of the Internal Revenue Code whose project primarily involves the production of ethanol, as provided in subrule 52.10(4). For value-added agricultural projects involving ethanol, the cooperative must submit a list of

its members and the share of each member's interest in the cooperative. The economic development authority shall issue a tax credit certificate to each member on the list.

c. Repayment of benefits. If an eligible business fails to maintain the requirements of the high quality job creation program, the taxpayer may be required to repay all or a portion of the tax incentives taken on Iowa returns. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the tax credits may have expired, the department may proceed to collect the tax incentives forfeited by failure of the eligible business to maintain the requirements of the high quality job creation program because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability. Details on the calculation of the repayment can be found in 261—subrule 187.5(4) of the administrative rules of the economic development authority. If the business is a partnership, limited liability company, S corporation, estate or trust where the income of the taxpayer is taxed to the individual owner(s) of the business, the department may proceed to collect the tax incentives against the partners, members, shareholders or beneficiaries to whom the tax incentives were passed through. See Decision of the Administrative Law Judge in *Damien & Colette Trebilcock, et al.*, Docket No. 11DORF 042-044, June 11, 2012.

An eligible business in the high quality job creation program may also be required to repay all or a portion of the tax incentives received on Iowa returns if the eligible business experiences a layoff of employees in Iowa or closes any of its facilities in Iowa.

If, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which a tax credit was claimed under this subrule, the income tax liability of the eligible business shall be increased by one of the following amounts:

- (1) One hundred percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within one full year after being placed in service.
- (2) Eighty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within two full years after being placed in service.
- (3) Sixty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within three full years after being placed in service.
- (4) Forty percent of the tax credit claimed if the property ceases to be eligible for the tax credit within four full years after being placed in service.
- (5) Twenty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within five full years after being placed in service.

52.28(3) Determination of tax credit amounts. The amount of tax credit claimed under the high quality job creation program shall be based on the number of high quality jobs created and the amount of qualifying investment made as determined by the Iowa department of economic development.

a. If the high quality jobs have a starting wage, including benefits, equal to or greater than 130 percent of the average county wage but less than 160 percent of the average county wage, see Iowa department of economic development 261—paragraph 68.4(7)“a” for the amount of tax credits that may be claimed.

b. If the high quality jobs have a starting wage, including benefits, equal to or greater than 160 percent of the average county wage, see Iowa department of economic development 261—paragraph 68.4(7)“b” for the amount of tax credits that may be claimed.

c. An eligible business approved under the high quality job creation program is not eligible for the wage-benefits tax credit set forth in rule 701—52.25(15H).

This rule is intended to implement Iowa Code Supplement chapter 15.