

701—42.22 (15E,422) Venture capital credits.

42.22(1) *Investment tax credit for an equity investment in a qualifying business or community-based seed capital fund.* See rule 123—2.1(15E) for the discussion of the investment tax credit for an equity investment in a qualifying business or community-based seed capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board, for equity investments made before January 1, 2011. For equity investments made on or after January 1, 2011, see 261—Chapter 115 for information regarding eligibility for qualifying businesses and community-based seed capital funds, applications for the investment tax credit for equity investments in a qualifying business or community-based seed capital fund, and the issuance of tax credit certificates by the economic development authority.

The department of revenue will be notified by the Iowa capital investment board or the economic development authority when the tax credit certificates are issued. The credit is equal to 20 percent of the taxpayer's equity investment in a qualifying business or community-based seed capital fund. 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. For investments made prior to January 1, 2014, a taxpayer shall not claim the tax credit prior to the third tax year following the tax year in which the investment is made. For investments made in qualifying businesses on or after January 1, 2014, the credit can be claimed in the year of the investment. However, for investments made in qualifying businesses during the 2014 calendar year, the credit cannot be redeemed prior to January 1, 2016. For example, if an individual taxpayer whose tax year ends on December 31, 2012, makes an equity investment during the 2012 calendar year, the individual taxpayer cannot claim the tax credit until the tax year ending December 31, 2015. However, if the taxpayer dies prior to redeeming the tax credit, the remaining tax credit may be redeemed on the decedent's final income tax return. For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed \$2 million. The tax credit certificate must be included with the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the \$2 million cap has been reached, the tax credit may be claimed by the taxpayer for the third tax year following the tax year for which the credit is issued. For example, if an individual taxpayer makes an equity investment in December 2012 and the \$2 million cap for the fiscal year ending June 30, 2013, had already been reached, the tax credit will be issued for the tax year ending December 31, 2013, and cannot be redeemed until the tax year ending December 31, 2016.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. The tax credit is not transferable to any other taxpayer.

For equity investments made in a community-based seed capital fund or equity investments made in a qualifying business on or after January 1, 2004, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount 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, or estate or trust.

For equity investments made in a qualifying business prior to January 1, 2004, only direct investments made by an individual are eligible for the investment tax credit. Individuals receiving income from a revocable trust's investment in a qualifying business are eligible for the investment tax credit for the portion of the revocable trust's equity investment in a qualifying business.

42.22(2) *Investment tax credit for an equity investment in a venture capital fund.* See rule 123—3.1(15E) for the discussion of the investment tax credit for an equity investment in a venture capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board. This credit is repealed for investments in venture capital funds made after July 1, 2010.

The department of revenue will be notified by the Iowa capital investment board when the tax credit certificates are issued. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

For equity investments made in a venture capital fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount 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, or estate or trust.

42.22(3) *Contingent tax credit for investments in Iowa fund of funds.* See rule 123—4.1(15E) for the discussion of the contingent tax credit available for investments made in the Iowa fund of funds organized by the Iowa capital investment corporation. Tax credit certificates related to the contingent tax credits will be issued by the Iowa capital investment board.

The department of revenue will be notified by the Iowa capital investment board when these tax credit certificates are issued and, if applicable, when they are redeemed. If the tax credit certificate is redeemed, the certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

If the tax credit certificate is redeemed, any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until used, whichever is the earlier.

If the tax credit certificate is redeemed, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount 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, or estate or trust.

42.22(4) *Innovation fund investment tax credit.* See 261—Chapter 116 for information regarding eligibility for an innovation fund, applications for the investment tax credit for investments in an innovation fund, and the issuance of tax credit certificates by the economic development authority.

The department of revenue will be notified by the economic development authority when the tax credit certificates are issued. The credit is equal to 20 percent of the taxpayer's equity investment in the form of cash in an innovation fund for tax years beginning and investments made on or after January 1, 2011, and before January 1, 2013. For tax years beginning and investments made on or after January 1, 2013, the taxpayer may claim a tax credit equal to 25 percent of the taxpayer's equity investment in the form of cash in an innovation fund. 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 taxpayer shall claim the tax credit for the tax year in which the investment is made. For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed \$8 million. No tax credit certificates will be issued prior to September 1, 2014. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the investment was made as stated on the tax credit certificate.

If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the \$8 million cap has been reached, the tax credit may be claimed by the taxpayer for the tax year following the tax year for which the credit is issued. For example, if an individual taxpayer makes an equity investment in December 2013 and the \$8 million cap for the fiscal year ending June 30, 2014, had already been reached, the tax credit will be issued for the tax year ending December 31, 2014, and can be redeemed for the tax year ending December 31, 2014.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

The innovation fund tax credit certificate may be transferred once to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days

of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the innovation fund tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

For equity investments made in an innovation fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, estate or trust electing to have the income directly taxed to the individual. The amount 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, or estate or trust.

This rule is intended to implement Iowa Code sections 15E.51, 15E.52, 15E.66, 422.11F, and 422.11G and section 15E.43 as amended by 2014 Iowa Acts, Senate File 2359.

[**ARC 8702B**, IAB 4/21/10, effective 5/26/10; **ARC 9104B**, IAB 9/22/10, effective 10/27/10; **ARC 9966B**, IAB 1/11/12, effective 2/15/12; **ARC 1102C**, IAB 10/16/13, effective 11/20/13; **ARC 1665C**, IAB 10/15/14, effective 11/19/14]