

261—115.9 (84GA,SF517) Rescinding tax credits.**115.9(1) Rescission of credits for investments in qualifying businesses.**

a. Within 24 months from the first date on which the equity investments qualifying for investment tax credits have been made, a qualifying business shall have secured total equity or near equity financing equal to at least \$250,000. The business shall provide to the authority information and documentation sufficient to demonstrate that the business has secured total equity or near equity financing equal to at least \$250,000 and that such financing was secured within the 24 months required by this rule and shall do so by the equity deadline. For purposes of this subrule, the “equity deadline” shall be the next June 30 following the end of the calendar year in which the qualifying business is required to have secured total equity or near equity financing equal to at least \$250,000. For example, a qualifying business in which equity investments qualifying for investment tax credits were made in 2011 shall have an equity deadline of June 30, 2014. Examples of sufficient information and documentation include, but are not limited to, the following:

- (1) Corporate, partnership or limited liability company-certified resolutions setting forth the names of individuals or entities making capital contributions and the amounts of such capital contributions;
- (2) Certified corporate, partnership, or limited liability company minutes reflecting the names of individuals or entities making capital contributions and the amounts of such capital contributions.

b. On or by the equity deadline, a qualifying business shall certify to the authority, by a statement signed by an officer, director, member, manager, or general partner of the qualifying business, that it secured the requisite amount of equity financing required by this rule within 24 months from the date on which the equity investments qualifying for investment tax credits were made and shall recertify to the authority that the qualifying business continues to meet the requirements set forth in subrule 115.5(1).

c. In the event that a qualifying business fails to meet or maintain any requirement set forth in this rule, including, without limitation, timely filing of the certifications described in paragraph 115.9(1) “*b*,” the authority, upon action by the board, shall rescind any tax credit certificates issued to those taxpayers and shall notify the department of revenue that it has done so. A tax credit certificate that has been rescinded by the authority shall be null and void, and the department of revenue will not accept the tax credit certificate. In addition, the authority shall remove the qualifying business from the registry and shall issue written notification of such removal to the qualifying business and the applicants.

115.9(2) Rescission of credits for investments in community-based seed capital funds.

a. A community-based seed capital fund shall have invested at least 33 percent of its invested capital in one or more separate qualifying businesses on or by the last day of the 48-month period that commences with the fund’s investing activities.

b. On or by the last day of the 48-month period described in paragraph 115.9(2) “*a*,” a community-based seed capital fund shall certify to the board, by a statement signed by an officer, director, member, manager, or general partner of the community-based seed capital fund, that it has met the requirements of this rule within the time period prescribed by this subrule and shall recertify to the board that the community-based seed capital fund continues to meet the requirements set forth in subrule 115.5(2).

c. In the event that a community-based seed capital fund fails to meet or maintain any requirement set forth in this subrule, including, without limitation, timely filing of the certifications described in paragraph 115.9(2) “*b*,” the authority, upon action of the board, shall rescind any tax credit certificates issued to limited partners or members and shall notify the department of revenue that it has done so. A tax credit certificate that has been rescinded by the authority shall be null and void, and the department of revenue will not accept the tax credit certificate. In addition, the authority shall remove such community-based seed capital fund from the registry and shall issue written notification of such removal to the community-based seed capital fund and the applicants.

d. Notwithstanding paragraphs 115.9(2) “*a*” to “*c*,” a community-based seed capital fund may apply to the authority for a one-year waiver from the requirements of this rule. The authority shall, upon review of a community-based seed capital fund’s application for waiver, exercise reasonable discretion

in granting or denying such waiver. In the event that the authority grants to a community-based seed capital fund a one-year waiver from the requirements of this rule, the authority shall defer any rescission of the tax credit certificates until the expiration of such one-year waiver period. If the community-based seed capital fund meets the requirements of this rule by the expiration of such one-year waiver period, the tax credit certificates shall not be rescinded. However, the tax credit certificates shall be rescinded at the end of such one-year waiver period if such requirements have not been met.

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