

LD 1941 (Seed capital tax credit) technical concerns:

- The bill should clarify whether the exclusion for tourism or hospitality businesses making sales outside the state applies to all investments or only with respect to private venture capital funds.
- Section 13 of the bill should be amended to end after the word “refundable” (page 6 of the bill, line 3) because a special requirement for the taxpayer to file a tax return to claim the credit is not needed.
- Section 14 of the bill will, for the same investor, result in some investments during the tax year being limited to 50% of the taxpayer’s tax liability and some investments not being subject to the limitation, depending on when the related tax credit certificate is issued.
- Despite the bill Summary, the bill does not provide for a financial penalty in the case a credit certificate is revoked for failure to report.
- Extending credit eligibility to principal owners may result in a duplication of income tax benefits. For example, an investment by the principal owner might qualify for both the seed capital investment credit and the research expense credit, employment tax increment financing reimbursement, or some other business tax benefit.
- It is unclear why an application for a tax credit certificate must be submitted in the same legislative biennium as the investment (see Sections 5 and 10 of the bill). This restriction would place an additional hardship on applicants making investments during May and June, giving them less than 60 days to file an application for a tax credit certificate. The restriction does not seem to be for purposes of cost containment in that the fiscal impact of an eligible investment is most often incurred by the State during the fiscal year/biennium during which the taxpayer files the return to claim the credit, which may not coincide with the fiscal year/biennium of the investment.

Thank you,
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