

DEPARTMENT OF TAXATION

2013 Fiscal Impact Statement

1. **Patron** Jennifer L. McClellan

2. **Bill Number** HB 1872

House of Origin:

 Introduced

 Substitute

 Engrossed

3. **Committee** Passed House and Senate

4. **Title** Investments Eligible for Tax Credits

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. Summary/Purpose:

This bill would allow any investment by a taxpayer that is transacted via an online general solicitation, an online broker, or a funding portal to be eligible for any income tax credit for which it qualifies.

The effective date of this bill is not specified.

6. Budget amendment necessary: No.

7. No Fiscal Impact (See Line 8.)

8. Fiscal implications:

Administrative Costs

The Department considers implementation of this bill as routine, and is not requesting additional funding.

Revenue Impact

This bill would have no impact on General Fund revenue.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Qualified Equity and Subordinated Debt Investments Tax Credit

The Qualified Equity and Subordinated Debt Investments Tax Credit allows an individual income tax credit equal to 50 percent of a taxpayer's qualified investments. No such tax credit is allowed to any taxpayer that has committed capital under management in excess of \$10 million and engages in the business of making debt or equity investments in private businesses, or to any taxpayer that is allocated a tax credit as a partner, shareholder, member, or owner of an entity that engages in such business.

The aggregate amount of the tax credit for each taxpayer may not exceed the lesser of the amount of tax imposed on them for such taxable year or \$50,000. Any tax credit that is not usable in the taxable year in which the tax credit was first allowed, may be carried over for the next fifteen succeeding taxable years or until the total amount of the tax credit has been taken, whichever occurs first.

The total amount of tax credits is capped at \$4 million for Taxable Year 2013. One-half of the amount of available tax credits must be allocated exclusively for tax credits for commercialization investments. However, if the amount of tax credits requested for commercialization investments is less than one-half of the total amount of available tax credits, then the balance of such tax credits must be allocated for non-commercialization investments.

If a taxpayer fails to hold equity received in connection with a qualified investment for at least three full calendar years following the calendar year for which a tax credit for a qualified investment is allocated, then the taxpayer will be required to forfeit both the used and unused tax credits and to pay the Department of Taxation interest on the total allowed tax credits from the date the tax credits were allocated to the taxpayer. Exceptions include transfers of such equity that were the result of (i) the liquidation of the qualified business issuing such equity, (ii) the merger, consolidation, or other acquisition of such business with or by a party not affiliated with such business, or (iii) the death of the taxpayer.

Proposed Legislation

This bill would allow any investment by a taxpayer that is transacted via an online general solicitation, an online broker, or a funding portal to be eligible for any income tax credit for which it qualifies.

"Funding portal" would be defined as a website that (i) allows accredited investors to participate in general solicitation transactions by an issuer that meet the requirements of § 4(a)(6) of the Securities Act of 1933, P.L. 112-106, or (ii) is an online broker or funding portal registered with the federal Securities Exchange Commission pursuant to § 4A(a) of the Securities Act of 1933, P.L. 112-106.

This bill would require the Department of Taxation to develop guidelines that would facilitate the submission of electronic documents required to be submitted by a taxpayer to document or verify that an investment eligible for a tax credit has been made.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 2/20/2013 MTH
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