



Ohio Revised Code

Section 122.84 Tax credit for investors in multiple qualified opportunity funds.

Effective: October 17, 2019

Legislation: House Bill 166 - 133rd General Assembly

(A) As used in this section:

(1) "Ohio qualified opportunity fund" means a qualified opportunity fund that holds one hundred per cent of its invested assets in qualified opportunity zone property situated in an Ohio opportunity zone.

In the case of qualified opportunity zone property that is qualified opportunity zone stock or qualified opportunity zone partnership interest, the stock or interest is situated in an Ohio opportunity zone only if, during all of the qualified opportunity fund's holding period for such stock or interest, all of the use of the corporation's or partnership's tangible property was in an Ohio opportunity zone. In the case of qualified opportunity zone property that is qualified opportunity zone business property, the property is situated in an Ohio opportunity zone only if, during all of the fund's holding period for such property, all of the use of the property was in an Ohio opportunity zone.

All terms used in division (A) of this section have the same meaning as in 26 U.S.C. 1400Z-2, except that "all" shall be substituted for "substantially all" wherever "substantially all" appears in the definition of those terms or in the definition of terms used in those terms.

(2) "Ohio opportunity zone" means a qualified opportunity zone designated in this state under 26 U.S.C. 1400Z-1 before, on, or after the effective date of the enactment of this section by H.B. 166 of the 133rd general assembly.

(3) "Taxpayer" and "taxable year" have the same meanings as in section 5747.01 of the Revised Code.

(4) "Qualifying taxable year" means a taxpayer's taxable year that includes the first day of a calendar year during which an Ohio qualified opportunity fund in which the taxpayer invests makes an investment in a project located in an Ohio opportunity zone.



(B) A taxpayer that invests in one or more Ohio qualified opportunity funds may apply to the director of development services for a nonrefundable credit against the tax levied under section 5747.02 of the Revised Code. The application shall be made on forms prescribed by the director on or after the first day of January and on or before the first day of February of each year. The credit shall equal ten per cent of the amount of the taxpayer's investment in the fund that the fund invested during the preceding calendar year in projects located in Ohio opportunity zones.

The taxpayer shall include the following information with the taxpayer's application:

(1) The amount of the taxpayer's investment in Ohio qualified opportunity funds during the taxpayer's qualifying taxable year, arranged according to the amount invested in each such fund if the taxpayer invested in more than one such fund;

(2) A statement from an employee or officer of each Ohio qualified opportunity fund identified by the taxpayer under division (B)(1) of this section certifying the amount of the taxpayer's investment in the fund and the amount of that investment the fund invested in projects located in Ohio opportunity zones during the preceding calendar year. The statement shall describe each project funded by the investment and state each project's location and the portion of the taxpayer's investment invested in each such project. Unless the fund demonstrates otherwise to the director's satisfaction, the amount of a taxpayer's investment that the fund invested in a project located in an Ohio opportunity zone equals the same proportion of the amount of the fund's investment in the project as the taxpayer's investment in the fund bears to the total investment by all investors in that fund on the date the fund makes the investment in the project.

The director shall review applications in the order in which applications are received.

(C)(1) Subject to division (C)(2) of this section, if the director determines that the applicant qualifies for a credit under this section, the director shall issue, within sixty days after the receipt of a complete application under division (B) of this section, a tax credit certificate to the taxpayer identified with a unique number and listing the amount of credit the director determines the taxpayer is eligible to claim.



(2) The director shall not issue certificates in a total amount that would cause the tax credits claimed in any fiscal biennium to exceed fifty million dollars. The director shall not issue certificates to a single applicant in an amount that would cause the tax credits claimed in any fiscal biennium by that applicant, and any person to whom the applicant transfers the certificate under division (E) of this section, to exceed one million dollars.

The director may not issue a certificate under this section on the basis of any investment for which a small business investment certificate has been issued under section 122.86 of the Revised Code.

(3) The credit may be claimed for the taxpayer's qualifying taxable year or the next ensuing taxable year. The taxpayer shall claim the credit in the order prescribed by section 5747.98 of the Revised Code. Any unused amount may be carried forward for the following five taxable years. If the certificate is issued to a pass-through entity for an investment by the entity, any taxpayer that is a direct or indirect investor in the pass-through entity on the last day of the entity's qualifying taxable year may claim the taxpayer's proportionate or distributive share of the credit against the taxpayer's aggregate amount of tax levied under that section.

(D) A taxpayer claiming a credit under this section shall submit a copy of the certificate with the taxpayer's return or report.

(E) A taxpayer that holds an unclaimed certificate under this section may notify the tax commissioner, in writing, that the taxpayer is transferring the right to claim the credit stated on the certificate. The taxpayer shall identify in that notification the certificate's number and the name and the tax identification number of the transferee. Pursuant to division (D) of this section, the transferee may claim the credit stated on the certificate, subject to the limitations of this section. A transferee may not transfer the right to claim the credit to any other person.

(F) On or before the first day of August each year, the director of development services shall submit a report to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on the tax credit program authorized under this section. The report shall include the following information:

(1) The number of projects funded by investments for which a tax credit application was submitted



under this section during the preceding year, the Ohio opportunity zone in which each such project is located, the number of projects funded by investments for which certificates were allocated during the preceding year, a description of each such project, and the composition of an Ohio qualified opportunity fund's investments in each project funded by investments for which a tax credit application was submitted under this section;

(2) The number of taxpayers that invested in an Ohio qualified opportunity fund and applied for a tax credit based on the fund's investment in a project during the preceding year, the name of the fund in which each such investment was made, the number of taxpayers allocated a credit for such investments under this section, and the dollar amount of those credits;

(3) A map that shows the location of each Ohio opportunity zone and that indicates which zones include existing or pending projects that are, or will be, funded by tax credit-eligible investments.