



Ohio Revised Code

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

Effective: September 13, 2022

Legislation: Senate Bill 225

(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 one of the following, as applicable:

(a) For a taxpayer, the taxpayer's taxable year that includes the first day of a calendar year during



which the Ohio qualified opportunity fund in which the credit eligible investment was made invests in a project located in an Ohio opportunity zone;

(b) For a person that is not a taxpayer but is subject to federal income taxation, the person's federal taxable year that includes the first day of a calendar year during which an Ohio qualified opportunity fund in which the credit eligible investment was made invests in a project located in an Ohio opportunity zone;

(c) For any other person, the calendar year during which an Ohio qualified opportunity fund in which the credit eligible investment was made invests in a project located in an Ohio opportunity zone.

(5) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.

(6) "Investment period" means the six-month period from the first day of January to the thirtieth day of June, or from the first day of July to the thirty-first day of December.

(B) A person that invests in one or more Ohio qualified opportunity funds may apply to the director of development 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. The director shall accept and review applications submitted under this section during two annual periods, the first of which begins on the tenth day of January and ends after the first day of February, and the second of which begins on the tenth day of July and ends after the first day of August. If any of those dates fall on a day that is not a business day, then the application period begins on or ends after the next business day, as applicable. The credit shall equal ten per cent of the amount of the person's investment in the fund that the fund invested during the immediately preceding investment period in projects located in Ohio opportunity zones.

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

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



(2) A statement from an employee or officer of each Ohio qualified opportunity fund identified by the person under division (B)(1) of this section certifying the amount of the person's investment in the fund and the amount of that investment the fund invested in projects located in Ohio opportunity zones during the immediately preceding investment period. The statement shall describe each project funded by the investment and state each project's location and the portion of the person's investment invested in each such project. Unless the fund demonstrates otherwise to the director's satisfaction, the amount of a person'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 person'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 and process 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 last day on which an application may be submitted for that application period, a tax credit certificate to the person identified with a unique number and listing the amount of credit the director determines is eligible to be claimed or transferred.

(2) The total amount of tax credits issued by the director shall not exceed:

(a) Seventy-five million dollars for the fiscal biennium beginning July 1, 2021, and ending June 30, 2023;

(b) Fifty million dollars for fiscal year 2024;

(c) Twenty-five million dollars for each fiscal year thereafter.

The director shall not issue certificates to a single applicant in any fiscal biennium in an amount that exceeds two 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 by a taxpayer 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. A person that is not a taxpayer shall not claim the credit but if the person is the applicant to which the certificate was initially issued, the person may transfer the right to claim the credit under division (E) of this 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 person that holds a wholly or partially unclaimed certificate issued under this section may transfer the right to claim all or part of the remaining credit to any other person. To effectuate the transfer, the transferor must notify the tax commissioner, in writing, that the transferor is transferring the right to claim all or part of the remaining credit stated on the certificate. The transferor shall identify in that notification the certificate's number, the name and the tax identification number of the transferee, the amount of remaining credit transferred to the transferee, and, if applicable, the amount of remaining credit retained by the transferor. The transferee may claim the amount of credit received under this division pursuant to and in the manner required under divisions (C)(3) and (D) of this section. Transferring a credit under this division does not extend the taxable years in which the credit may be claimed or number of years for which the unclaimed credit amount may be carried forward under division (C)(3) of this section.

Any person to which a credit has been transferred under this division may transfer the right to claim all or part of the transferred credit amount to any other person, in the same manner prescribed by this division for the initial transfer, including that any such transfer be reported by the transferor to the tax commissioner as described in this division.

(F) On or before the first day of August each year, the director of development 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 persons 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 persons 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.