

74-8401. Local seed capital pools; income tax credit for cash investment by corporations; limitations; definitions.

(a) There shall be allowed as a credit against the tax imposed by the Kansas income tax act on the Kansas taxable income of a taxpayer and against the tax imposed by K.S.A. 40-252, and amendments thereto, on insurance companies for cash investment in a certified local seed capital pool an amount equal to 25% of such taxpayer's cash investment in any such pool in the taxable year in which such investment is made and the taxable years following such taxable year until the total amount of the credit is used. The amount by which that portion of the credit allowed by this section exceeds the taxpayer's liability in any one taxable year may be carried forward until the total amount of the credit is used. If the taxpayer is a corporation having an election in effect under subchapter S of the federal internal revenue code or a partnership, the credit provided by this section shall be claimed by the shareholders of such corporation or the partners of such partnership in the same manner as such shareholders or partners account for their proportionate shares of the income or loss of the corporation or partnership.

(b) The total amount of credits allowable pursuant to this section and credits allowable pursuant to K.S.A. 74-8205, 74-8206 and 74-8304, and amendments thereto, shall be attributable to not more than \$50,000,000 of cash investments in Kansas venture capital companies, Kansas Venture Capital, Inc. and local seed capital pools. With respect to the additional amount of cash investments made eligible for tax credits by this act, \$10,000,000 of such amount shall be dedicated and reserved until December 31, 1990, for cash investments in a seed capital fund or funds in which the department of commerce is an investor. The \$50,000,000 amount of cash investments now eligible for the tax credits allowed pursuant to this section and K.S.A. 74-8205, 74-8206 and 74-8304, and amendments thereto, shall be reduced to the extent that the total amount of cash investments received by such seed capital fund or funds before January 1, 1991, is less than \$10,000,000. However, any such credits which were not claimed for investments made prior to January 1, 1991, may be allowed to a taxpayer for cash investment made in Kansas Venture Capital, Inc. pursuant to K.S.A. 74-8205 and 74-8206, and amendments thereto, not to exceed \$2,595,236 of the \$10,000,000 reserved under this subsection for investment in seed capital funds in which the department of commerce was an investor. A taxpayer may also be allowed a credit for cash investment made pursuant to K.S.A. 74-8304, and amendments thereto, not to exceed \$6,012,345 of the \$10,000,000 reserved under this subsection if such taxpayer first purchases the entire interest of the department of commerce in Kansas venture capital companies established prior to January 1, 1991. However, no credit shall be allowed for cash investment which results in the purchase of the interest of the Kansas technology enterprise corporation or its subsidiaries in Kansas venture capital companies established prior to January 1, 1991.

(c) As used in this section, (1) "local seed capital pool" means money invested in a fund established to provide funding for use by small businesses for any one or more of the following purposes: (A) Development of a prototype product or process; (B) a marketing study to determine the feasibility of a new product or process; or (C) a business plan for the development and production of a new product or process; and

(2) "Kansas business" means any small business owned by an individual, any partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, that does business primarily in Kansas or does substantially all of its production in Kansas.

(d) No credit from income tax liability shall be allowed for cash investment in a local seed capital pool unless: (1) The amount of private cash investment therein is \$200,000 or more; (2) the moneys necessary to administer and operate the pool are funded from sources other than the private and public cash investments; and (3) funds invested by the local seed capital pool shall be invested at 100% in Kansas businesses.

(e) Public funds may be invested in a local seed capital pool except that each dollar of public funds, other than that which may be used to administer and operate a pool, shall be matched by not less than \$2 of private cash investment. Public funds shall have a senior position to any private cash investment and may receive a lower rate of return than that allowable for a private cash investment.

(f) The provisions of this section, and amendments thereto, shall be applicable to all taxable years commencing after December 31, 1986.

(g) For tax year 2013 and all tax years thereafter, the income tax credit provided by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to subsection (c) of K.S.A. 79-32,110, and amendments thereto, and shall be applied only against such taxpayer's corporate income tax liability.

History: L. 1987, ch. 365, § 1; L. 1988, ch. 313, § 4; L. 1989, ch. 241, § 2; L. 1996, ch. 236, § 2; L. 1998, ch. 108, § 7; L. 1998, ch. 177, § 1; L. 2011, ch. 104, § 36; L. 2012, ch. 135, § 9; Jan. 1, 2013.