WEST VIRGINIA CODE CHAPTER 5E ARTICLE 2

WV Legislature

§5E-2-1. Short title.

The article may be cited as the "West Virginia Venture Capital Act."

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§5E-2-2. Definitions.

As used in this article, the following terms have the meanings ascribed to them in this section, unless the context in which the term is used clearly requires another meaning or a specific different definition is provided:

(a) "Authority" means the West Virginia economic development authority, provided for in article fifteen, chapter thirty-one of this code.

(b) "State" means the State of West Virginia.

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§5E-2-3. Rules.

The authority shall propose rules for promulgation in accordance with article three, chapter twenty-nine-a of this code to carry out the policy and purposes of this article, to provide any necessary clarification of the provisions of this article and to efficiently provide for the general administration of this article.

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§5E-2-4. Tax credits.

(a) The total amount of tax credits which may be allocated by the authority pursuant to this article during any fiscal year is equal to the tax credits authorized by section eight, article one of this chapter but unallocated by the authority to qualified West Virginia capital companies during the first thirty days of the fiscal year.

(b) Any investor, including an individual, partnership, limited liability company, corporation or other entity, who makes an investment in a fund authorized by the authority for the investment of capital in the West Virginia economy, which is independently operated by qualified managers and is not directly or indirectly operated or managed by the investors, is entitled to a tax credit equal to no more than fifty percent of the investment in the fund. The percentage and other terms and conditions of the credit shall be established by the authority pursuant to rules promulgated in accordance with section three of this article.

(c) The tax credits allowed by this article shall be taken after all other credits allowed by chapter eleven of this code. They shall be taken against the same taxes and in the same order as set forth in subsections (c) through (i), inclusive, section five, article thirteen-c, chapter eleven of this code. The credit for investments by a partnership, a limited liability company, a corporation electing to be treated as a subchapter S corporation or any other entity which is treated as a pass through entity under federal and state income tax laws may be divided pursuant to election of the partners, members, shareholders or owners.

(d) The tax credit allowed under this section is to be credited against the taxpayer's tax liability for the taxable year in which the investment is made. If the amount of the tax credit exceeds the taxpayer's tax liability for the taxable year, the amount of the credit which exceeds the tax liability for the taxable year may be carried to succeeding taxable years until used in full, or until forfeited: Provided, That: (i) Tax credits may not be carried forward beyond fifteen years; and (ii) tax credits may not be carried back to prior taxable years. Any tax credit remaining after the fifteenth taxable year is forfeited.

(e) The tax credit provided for in this section is available only to those taxpayers whose investment occurs after July 1, 2001.

(f) The tax credit allowed under this section may not be used against any liability the taxpayer may have for interest, penalties or additions to tax.

(g) Notwithstanding any provision in this code to the contrary, the Tax Commissioner shall publish in the state register the name and address of every taxpayer and the amount, by category, of any credit asserted under this article. The categories by dollar amount of credit received are as follows:

(1) More than $1.00, but no more than $50,000;

(2) More than $50,000, but no more than $100,000;

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(3) More than $100,000, but no more than $250,000;

(4) More than $250,000, but no more than $500,000;

(5) More than $500,000, but no more than $1,000,000; and

(6) More than $1,000,000.

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§5E-2-5. Elimination of credit; effective date.

Notwithstanding any other provision of this article to the contrary, no entitlement to any tax credit under this article shall result from, and no tax credit shall be available to, any taxpayer for any venture capital investment made after December 31, 2006: Provided, That the provisions of this article shall continue to apply to the investments for which tax credits were authorized and allocated pursuant to the provisions of this article in effect prior to January 1, 2007.

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