

R.I. Gen. Laws § 42-64.33-2

Current through Chapter 24 of the 2024 Session

*General Laws of Rhode Island > Title 42 State Affairs and Government (Chs. 1 — 42-165) > Chapter 64.33
The Rhode Island Small Business Development Fund (§§ 42-64.33-1 — 42-64.33-9)*

42-64.33-2. Definitions.

(a) As used in this chapter:

- (1) “Affiliate” means an entity that directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with another entity. For the purposes of this chapter, an entity is “controlled by” another entity if the controlling entity holds, directly or indirectly, the majority voting or ownership interest in the controlled entity or has control over the day-to-day operations of the controlled entity by contract or by law.
- (2) “Applicable percentage” means zero percent (0%) for the first three (3) credit allowance dates, and twenty-one and one-half percent (21.5%) for the fourth, fifth, and sixth credit allowance dates.
- (3) “Capital investment” means any equity or debt investment in a small business development fund by a small business fund investor that:
 - (i) Is acquired after July 5, 2019, at its original issuance solely in exchange for cash;
 - (ii) Has one hundred percent (100%) of its cash purchase price used by the small business development fund to make qualified investments in eligible businesses located in this state within three (3) years of the initial credit allowance date; and
 - (iii) Is designated by the small business development fund as a capital investment under this chapter and is certified by the corporation pursuant to § 42-64.33-4. This term shall include any capital investment that does not meet the provisions of § 42-64.33-4(a) if the investment was a capital investment in the hands of a prior holder.
- (4) “Corporation” means the Rhode Island commerce corporation.
- (5) “Credit allowance date” means the date on which a capital investment is made and each of the five (5) anniversary dates of the date thereafter.
- (6) “Eligible business” means a business that, at the time of the initial qualified investment in the company:
 - (i) Has less than two hundred fifty (250) employees;
 - (ii) Has not more than fifteen million dollars (\$15,000,000) in net income from the preceding tax year;

- (iii) Has its principal business operations in this state; and
- (iv) Is engaged in industries related to clean energy, biomedical innovation, life sciences, information technology, software, cyber physical systems, cybersecurity, data analytics, defense, shipbuilding, maritime, composites, advanced business services, design, food, manufacturing, transportation, distribution, logistics, arts, education, hospitality, tourism, or, if not engaged in the industries, the corporation makes a determination that the investment will be beneficial to the economic growth of the state.
- (7) “Eligible distribution” means:
- (i) A distribution of cash to one or more equity owners of a small business fund investor to fully or partially offset a projected increase in the owner’s federal or state tax liability, including any penalties and interest, related to the owner’s ownership, management, or operation of the small business fund investor;
- (ii) A distribution of cash as payment of interest and principal on the debt of the small business fund investor or small business development fund; or
- (iii) A distribution of cash related to the reasonable costs and expenses of forming, syndicating, managing, and operating the small business fund investor or the small business development fund, or a return of equity or debt to affiliates of a small business fund investor or small business development fund. The distributions may include reasonable and necessary fees paid for professional services, including legal and accounting services, related to the formation and operation of the small business development fund.
- (8) “Jobs created” means a newly created position of employment that was not previously located in the state at the time of the qualified investment in the eligible business and requiring a minimum of thirty five (35) hours worked each week, measured each year by subtracting the number of full-time, thirty-five hours-per-week (35) employment positions at the time of the initial qualified investment in the eligible business from the monthly average of full-time, thirty-five hours-per-week (35) employment positions for the applicable year. The number shall not be less than zero.
- (9) “Jobs retained” means a position requiring a minimum of thirty five (35) hours worked each week that existed prior to the initial qualified investment. Retained jobs shall be counted each year based on the monthly average of full-time, thirty-five hours-per-week (35) employment positions for the applicable year. The number shall not exceed the initial amount of retained jobs reported and shall be reduced each year if employment at the eligible business concern drops below that number.
- (10) “Minority business enterprise” means an eligible business which is certified by the Rhode Island office of diversity, equity and opportunity as being a minority or women business enterprise.
- (11) “Principal business operations” means the location where at least sixty percent (60%) of a business’s employees work or where employees who are paid at least sixty percent (60%) percent of the business’s payroll work. A business that has agreed to relocate employees using the proceeds of a qualified investment to establish its principal business operations in a new location shall be deemed to have its principal business operations in the new location if it

satisfies these requirements no later than one hundred eighty (180) days after receiving a qualified investment.

(12) “Purchase price” means the amount paid to the small business development fund that issues a capital investment that shall not exceed the amount of capital investment authority certified pursuant to § 42-64.33-4.

(13) “Qualified investment” means any investment in an eligible business or any loan to an eligible business with a stated maturity date of at least one year after the date of issuance, excluding revolving lines of credit and senior secured debt unless the eligible business has a credit refusal letter or similar correspondence from a depository institution or a referral letter or similar correspondence from a depository institution referring the business to a small business development fund; provided that, with respect to any one eligible business, the maximum amount of investments made in the business by one or more small business development funds, on a collective basis with all of the businesses’ affiliates, with the proceeds of capital investments shall be twenty percent (20%) of the small business development fund’s capital investment authority, exclusive of investments made with repaid or redeemed investments or interest or profits realized thereon. An eligible business, on a collective basis with all of the businesses’ affiliates, is prohibited from receiving more than four million dollars (\$4,000,000) in investments from one or more small business development funds with the proceeds of capital investments.

(14) “Small business development fund” means an entity certified by the corporation under § 42-64.33-4.

(15) “Small business fund investor” means an entity that makes a capital investment in a small business development fund.

(16) “State” means the state of Rhode Island.

(17) “State tax liability” means any liability incurred by any entity under § 44-17-1 et seq.

History

P.L. 2019, ch. 88, art. 12, § 10.