

**Application for Designation as a Qualified Business for the
Qualified Equity and Subordinated Debt Investments Tax Credit**

For calendar year

See the instructions for when and where to apply.

Name	Official Use Only
Trading As	
Street Address	Federal Employee Identification Number
City, State and ZIP Code	Virginia Account Number
Principal business activity code: IRS _____ VA Dept. of Taxation: _____	Date Incorporated

Use this form to apply for designation as a qualified business for purposes of issuing equity or subordinated debt instruments which qualify for the Virginia Qualified Equity and Subordinated Debt Investments Tax Credit. The credit provides individuals and estates and trusts a credit for making investments in a qualifying business that is primarily engaged in business or does substantially all of its production in Virginia. **IMPORTANT:** This application must be completed and timely filed by the issuing entity prior to the issuance of any equity or subordinated debt instruments; otherwise, such issuances will not qualify for the tax credit. A Department of Taxation determination that an entity is a qualified business will be valid only during the calendar year of issuance. Proposed regulation 23 VAC 10-110-225 et. seq. provides additional information on this credit. Additionally, see instructions for investor information.

BUSINESS ENTITY IDENTIFICATION (Attach a separate page if additional space is needed.)

TYPE (check one): Corp S Corp Partnership Limited Liability Co.

- See "Qualified business" in instructions or Code of Virginia § 58.1-339.4.
- Is the business domiciled in Virginia? **Yes** **No** If No, STOP; the business does not qualify
- Is Virginia where the business entity is primarily engaged in business or does substantially all of its production? **Yes** **No** If No, STOP; the business does not qualify
- Were the business' annual gross revenues for the most recent fiscal year \$5,000,000 or less? **Yes** **No** If No, STOP; the business does not qualify
If yes, what were the gross annual revenues? _____
- Briefly describe the type of business or activities in which the entity is primarily engaged or primarily organized to engage.

ISSUANCE INFORMATION

6. Describe the type of instrument the business entity is planning to issue for purposes of this tax credit.

TYPE:	ANTICIPATED AMOUNT	ANTICIPATED DATE OF FIRST ISSUANCE:
Equity: _____	Amount \$ _____	Date: _____
Subordinated debt: _____	Amount \$ _____	Date: _____

Declaration: I, the undersigned officer or other person authorized to act on behalf of the business entity, have read and understand the limitations and restrictions set forth for this application and the associated tax credit.

Authorized signature _____	Title _____	Date _____	Phone number _____
Printed Name _____			
FAX Number: _____		e-mail address: _____	

Where to Get Help: Write to **Department of Taxation, P. O. Box 715, Richmond, VA 23218-0715** or call **804-786-2992**. To order forms or proposed regulations call **1-888-268-2829 (toll free outside Richmond), 804-236-2760 or 236-2761**. Visit **www.tax.state.va.us** for most Virginia tax forms and additional tax information. Forms are available from your

Instructions for the Qualified Business Designation Application - Form QBA Qualified Equity and Subordinated Debt Investments Tax Credit

Pursuant to *Code of Virginia* § 58.1-339.4, this credit is effective for taxable years beginning on and after January 1, 1999. Proposed Regulation 23 VAC 10-110-225 et seq. provides additional information on this credit, including definitions of terms used in this application. For a copy of this regulation or additional forms, see Where to Get Help at bottom of Form QBA.

Commissioner of the Revenue, Director of Finance, or
Director of Tax Administration.

General Information Concerning this Credit

The Qualified Equity and Subordinated Debt Investments Tax Credit is allowable to taxpayers making a qualified investment in the form of equity or subordinated debt from a qualifying business which is engaged in business or does substantially all of its production in Virginia. The credit equals 50% of the amount of qualifying investments made during the taxable year. The total amount of credit that may be used per taxable year is the lesser of the tax imposed or \$50,000. The credit is nonrefundable. Excess credits may be carried forward for up to 15 years. If total annual requests for this credit exceed \$5 million, the Department of Taxation will prorate the allowable credit for each taxpayer.

Equity received in connection with a qualified business investment must be held by the taxpayer for at least five full calendar years following the calendar year for which the tax credit is allocated except in the following instances: the liquidation of the qualified business issuing such equity; the merger, consolidation or other acquisition of such business with or by a party not affiliated with such business; or the death of the taxpayer.

If the five calendar year holding period is not met, the taxpayer forfeits the unused credit amount and will be assessed for the credit used, to which shall be added a 100% penalty plus interest, computed at the rate of one percent per month, compounded monthly from the date the tax credits were claimed.

Who must File this Application, Form QBA

Businesses who want to sell equity and subordinated debt investments for which taxpayers may claim credit for the Qualified Equity and Subordinated Debt Investments Tax Credit must file. The qualification is valid for the calendar year of the application. Therefore, a separate application is required for each year the business wants to be eligible to offer this credit to its investors.

When to File This Application, Form QBA

File Form QBA to apply for designation as a qualified business at least 90 days before issuing any equity or subordinated debt instruments; otherwise, the issuance will not qualify for the tax credit. The Department of Taxation will issue a certificate of qualification if it determines the business entity is qualified.

Where to File this Application, Form QBA

File Form QBA with the **Department of Taxation, P.O. Box 715, Richmond, VA 23218-0715.**

Information to Be Provided to Taxpayers (Investors)

Upon issuance of equity or subordinated debt, the qualified business must provide each taxpayer with a statement containing:

- A copy of the qualified business certification from the Department of Taxation, a description of each investment

by amount and type (i.e., equity or subordinated debt), and verification that the investment meets the definition of a qualified investment for purposes of claiming the tax credit.

- If an equity investment, the statement must say the issuance is original, providing new capital to the qualified business and that it is not required, or subject to an option, that the issuer redeem the issuance within five years of issuance date.
- In a subordinated debt investment, the statement must say that the issuance is original, providing new capital to the qualified business and that, by its terms, requires no repayment of principal for three years after issuance, is not guaranteed nor secured by assets of the issuer nor by any other person or entity, and is subordinate to all issuer's indebtedness and obligations to national or state chartered banking or savings and loan institutions.

The taxpayer is required to attach this statement to their Qualified Equity and Subordinated Debt Investments Tax Credit Application (Form EDC).

Overview of the Application Process For the Taxpayer

The Qualified Equity and Subordinated Debt Investments Tax Credit may be claimed against the individual income tax and the estate and trust tax (*Code of Virginia* §§ 58.1-320 and 58.1-360). The credit attributable to a partnership, small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, as they may determine.

Calendar year taxpayers making a qualified investment during the taxable year shall apply using Form EDC for credits by April 1. Taxpayers making qualifying investments in qualified businesses must apply to the Department of Taxation for tax credits.

All eligible taxpayers shall be notified by June 30 as to the allowable credit amount that may be claimed for the qualified investment. Upon receiving such notification, taxpayers may claim the tax credit on the applicable Virginia income tax return and compute any carryover credit amount.

IMPORTANT: Taxpayers who will not receive the notification of allowable credit amounts prior to the due date of the Virginia income tax return must file the appropriate return extension request or file an amended tax return to claim the tax credit within the applicable statute of limitations.

Pass-Through Entity Identification

The Virginia Department of Taxation will notify each partnership, S corporation or limited liability company qualifying to claim a portion of this credit by issuing a credit certificate specifying the amount of credit authorized.

Each S corporation qualifying for this credit must attach to their tax return a copy of the certificate along with a schedule listing the name, address, social security number and credit amount for each individual shareholder to whom the credit is distributed. All pass through entities qualifying for this credit must return a copy of the credit certificate and the same partner or member information directly to the **Virginia Department of Taxation, ATTN: Qualified**

Equity and Subordinated Debt Investments Tax Credit, P. O. Box 715, Richmond, Virginia 23218-0715 within 30 days of making the distribution.

Each partnership, shareholder and limited liability company distributing this credit to its partners, shareholders and members also provide a copy of the credit certificate and statement specifying the amount and percentage of the credit distributed.

The partner, shareholder or member claiming the credit must attach to the tax return a copy of the credit certificate and statement received in order for the credit to be allowed.

Definitions

“Equity” means common stock or preferred stock, regardless of class or series, of a corporation; a partnership interest in a limited partnership; or a membership interest in a limited liability company, any of which is not required or subject to an option on the part of the taxpayer to be redeemed by the issuer within five years from the date of issuance.

“Subordinated debt” means indebtedness of a corporation, general or limited partnership, or limited liability company that (i) by its terms requires no repayment of principal for the first three years after issuance; (ii) is not guaranteed by any other person or entity, or secured by any assets of the issuer or any other person or entity; and (iii) is subordinated to all indebtedness and obligations of the issuer to national or state-chartered banking or savings and loan institutions.

“Qualified investment” means a cash investment in a qualified business in the form of equity or subordinated debt. An investment shall not be qualified, however, if the taxpayer who holds such investment, or any of such taxpayer’s family members, or any entity affiliated with such taxpayer, receives or has received compensation from the qualified business in exchange for services provided to such business as an employee, officer, director, manager, independent contractor or otherwise in connection with or within one year before or after the date of such investment. For purposes hereof, reimbursement of reasonable expenses incurred shall not be deemed to be compensation. A qualified investment shall not include existing investments or instruments that have been purchased, transferred, or otherwise obtained without providing new capital to a qualified business.

“Qualified business” means a business which (i) has annual gross revenues of no more than five million dollars in its most recent tax year, (ii) is commercially domiciled in the Commonwealth, (iii) is primarily engaged in business or does substantially all of its production in the Commonwealth, and (iv) is not primarily engaged, or is not primarily organized to engage, in any of the following types of businesses:

1. Banks;
2. Savings and loan institutions;
3. Credit or finance;
4. Financial, broker or investment;
5. Businesses organized for the primary purpose of rendering professional services as defined in Chapter 7 (§ 13.1-542 et seq.) of Title 13.1;
6. Accounting;
7. Government, charitable, religious or trade institutions or organizations;
8. Conventional coal, oil and gas, and mineral explora-

tion;

9. Insurance;
10. Real estate design or engineering;
11. Construction or construction contracting;
12. Business consulting or business brokering;
13. Residential housing, real estate brokerage, sale or leasing businesses, or real estate development; or
14. Any business which is in violation of the law.

“Commercial domicile” means the state where the principal office from which the business affairs of the corporation are normally directed or managed. See 23 VAC 10-120-140 D.

“Primarily engaged in business in the Commonwealth” means 50% or more of the entity’s gross receipts are derived from sources within Virginia.”Substantially all of its production in the Commonwealth” means 80% or more of the entity’s expenses are incurred within Virginia.