

# Instructions for Virginia Venture Capital Account Investment Fund Registration and Certification Forms

Use these instructions to complete **Form VEN-1**, *Venture Capital Account Investment Fund Registration Application*; **Form VEN-2**, *Venture Capital Account Investment Fund Confirmation Application*; and **Form VEN-3**, *Venture Capital Account Investment Fund Investor Information Report*.

## General Information

For taxable years beginning on or after January 1, 2018 taxpayers may claim an individual and corporate income tax subtraction for income attributable to an investment in a Virginia venture capital account made on or after January 1, 2018, but before December 31, 2023. For the purposes of this subtraction, income includes, but is not limited to, investment services partnership interest income, otherwise known as investment partnership carried interest income.

In order for the subtraction to be claimed on the investors' income tax returns, the fund in which they invest must be certified by the Department as a Virginia venture capital account for the year of the investment.

### **To qualify as a Virginia venture capital account, the investment fund must**

- (i) invest at least 50% of its investments in a qualified portfolio company and
- (ii) employ at least 1 investor with at least 4 years' experience in venture capital investment, or substantially equivalent experience.

### **Investments do not qualify for the subtraction if:**

- The investment was made in a company that is owned or operated by a family member or affiliate of the taxpayer or, in the case of corporations, by a company that is owned or operated by an affiliate of the taxpayer,
- The same investment was used to claim the subtraction for certain long-term capital gains allowed under *Va. Code* §§ 58.1-322.02 24 (individuals) and 58.1-402 C.24 (corporations),
- The same investment was used to claim the subtraction for investments in certified Virginia real estate investment trusts allowed under *Va. Code* §§ 58.1-322.02 28 (individuals) and 58.1-402 C.26 (corporations) , or
- The same investment was used to claim the Qualified Equity and Subordinated Debt Investments Tax Credit (applies to individual taxpayers only).

If the Department determines that the investment fund meets the qualifications, the Department will certify the investment fund as a Virginia venture capital account when the investment fund actually invests at least 50% of the capital committed to its fund in qualified portfolio companies.

Regulations for this subtraction are provided in 23 VAC 10-110-145 (individuals) and 23 VAC 10-120-103 (corporations). See the "Where to Get Help" section of these instructions for information on obtaining these regulations.

## Definitions

**Affiliated** – a direct or indirect ownership interest of at least 80% in an entity. An indirect ownership interest includes, but is not limited to, direct ownership interests held by a taxpayer's family members or an entity affiliated with such taxpayer or family members, or any combination of these.

**Family member** – when applied with respect to an individual taxpayer, (i) spouse, (ii) children, (iii) grandchildren, (iv) parents, (v) spouse's parents, and (vi) grandparents.

**Investment services partnership interest income** – income from an investment partnership treated as carried interest income for federal income tax purposes.

**Professional experience** – full-time employment involving venture capital investment.

**Qualified portfolio company** – a company that:

- (i) has its principal place of business in the Commonwealth;
- (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and
- (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment.

A qualified portfolio company cannot be a company that is an individual or sole proprietorship.

**Substantially equivalent experience** – includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study, or a combination of professional experience totaling less than 4 years, professional training, and undergraduate education from an accredited college or university in economics, finance, or a similar field of study demonstrating competency in venture capital investing. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency.

**Virginia venture capital account** – an investment fund that has been certified by the Department as a Virginia venture capital account.

## How to Register & Certify the Fund

Registration and certification is a 3-step process.

### **STEP 1: Submit Form VEN-1**

Use **Form VEN-1**, Venture Capital Account Investment Fund Registration Application, to register the investment fund. To be registered, the fund must indicate that it intends to invest at least 50% of the capital committed to its fund in qualified portfolio companies and currently employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. With the application, you must provide documentation to demonstrate that the investor employed by the fund meets the education and experience requirements. Documentation includes, but is not limited to, proof of employment, certifications, and transcripts.

### **STEP 2: Submit Form VEN-2**

After the investment has been made, use **Form VEN-2**, Venture Capital Account Investment Fund Confirmation Application, to apply for certification as a Virginia venture capital account. You must include documentation to demonstrate at least 50% of the funds in the venture capital account have been invested in qualified portfolio companies. Documentation includes, but is not limited to account statements, receipts, and any other documents to demonstrate the investment.

### **STEP 3: Submit Form VEN-3**

Use **Form VEN-3**, Venture Capital Account Investment Fund Investor Information Report, to provide investor information to the Department. This information must be received before the investor is able to claim the subtraction on his/her income tax return.

### **Annual Certification Process**

Certification as a Virginia venture capital account is valid only for the year for which it was issued. The investment fund must complete Steps 1-3 for each year it desires certification as a Virginia venture capital account. If the fund is not certified by the Department for the taxable year during which an investment is made, income from the investment will not qualify for the subtraction.

## When to Submit Application

Submit **Forms VEN-1 VEN-2 and VEN-3** by **January 31st** of the year after the taxable year in which the income was earned. Form VEN-1 must be submitted first or at the same time as Form VEN-2 and Form VEN-3. All 3 forms must be submitted before investors may claim the subtraction on their income tax returns.

## Where to Submit Application

Submit forms and enclosures to **Virginia Department of Taxation, Tax Credit Unit, P.O. Box 715, Richmond, VA 23218-0715** or fax it to **(804) 774-3902**. Please do not do both.

## What to Expect from the Department

### **After the Form VEN-1 is submitted (Step 1):**

The Department will review the form and supporting documentation to determine if the fund meets the qualifications of a Virginia venture capital account. If the application is approved, you will receive a registration letter for the fund. If the fund does not meet the qualifications, you will receive a denial letter.

**Note:** A registration letter is not a guarantee that the fund meets the certification requirements that are reviewed in Step 2 of the application process.

### **After the Form VEN-2 is submitted (Step 2):**

The Department will determine whether the investment fund has met the certification requirements. If the fund qualifies, a certification letter will be issued to confirm that the fund is a Virginia venture capital account for purposes of the income tax subtraction. The certification is valid for 1 year.

If the fund does not meet the certification requirements, a denial letter will be issued and any income generated by investments made in the fund will not be eligible for the subtraction.

## Where to Get Help

Visit the Department's website, **[www.tax.virginia.gov](http://www.tax.virginia.gov)**, for most Virginia tax forms and tax information. You may also write to **Department of Taxation, Tax Credit Unit, P.O. Box 715, Richmond, VA 23218-0715** or call **(804) 786-2992**.

Regulations for this subtraction can be found at **[law.lis.virginia.gov](http://law.lis.virginia.gov)**. Select the link for Virginia Administrative Code and find Title 23 Taxation. Select Agency 10, Department of Taxation. You may also call **(804) 367-8037** to obtain these regulations or to order forms and instructions.