

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts new Chapter 47, "Endow Iowa Tax Credits," Iowa Administrative Code. Notice of Intended Action was published in the Iowa Administrative Bulletin on October 1, 2003, as **ARC 2797B**.

The rules implement the Endow Iowa Tax Credits Program as authorized by 2003 Iowa Acts, First Extraordinary Session, House File 683. The rules establish application procedures, evaluation criteria, form of award, and the contractual and compliance components of the program.

A public hearing to receive comments about the rules was held on October 24, 2003. The following comments were received:

- The Director of the Community Vitality Center offered support for subrule 47.4(2). The Director of the Community Vitality Center suggested that 50 percent of the awarded tax credits be reserved for those counties designated as nonmetropolitan to help ensure urban-rural equity.
- The Director of the Greater Des Moines Foundation and Chairman of the Iowa Council of Foundations offered support for the rules as written, but encouraged the Department to be sensitive to the smaller donors and rural donors in the administration of the program. The Director also encouraged the Department to provide clear communication as to the start date of the Endow Iowa Tax Credits Program and expressed concern about the applicability dates set forth in the rules.

Based on these comments, minor changes have been made for clarification in subrules 47.3(2) and 47.3(7). The Iowa Department of Economic Development adopted these rules on November 20, 2003.

These rules are intended to implement 2003 Iowa Acts, First Extraordinary Session, House File 683, sections 83 to 89.

These rules will become effective on January 28, 2004.

The following **new** chapter is adopted.

CHAPTER 47**ENDOW IOWA TAX CREDITS**

261—47.1(80GA, HF683) Purpose. The purpose of endow Iowa tax credits is to encourage individuals, businesses, and organizations to invest in community foundations and to enhance the quality of life for citizens of this state through increased philanthropic activity.

261—47.2(80GA, HF683) Definitions.

"Act" means 2003 Iowa Acts, First Extraordinary Session, House File 683.

"Department" or "IDED" means the Iowa department of economic development.

"Endowment gift" means an irrevocable contribution to a permanent endowment held by a qualified community foundation.

"Permanent endowment fund" means a fund held in a qualifying community foundation to provide benefit to charitable causes in the state of Iowa. Endowed funds are intended to exist in perpetuity, and to implement an annual spend rate not to exceed 5 percent.

"Qualified community foundation" means a community foundation organized or operating in this state that meets or exceeds the national standards established by the National Council on Foundations.

"Tax credit" means the amount an individual may claim against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.24.

261—47.3(80GA, HF683) Allocation of funds. The department shall authorize tax credits to qualified individuals who provide an endowment gift to a qualified community foundation for a permanent endowment fund within the state of Iowa in accordance with the following provisions:

47.3(1) Approved tax credits shall be allowed against taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.24.

47.3(2) Approved tax credits will be equal to 20 percent of a taxpayer's gift to a permanent endowment held in a qualified community foundation.

47.3(3) The aggregate amount of tax credits authorized pursuant to this rule shall not exceed an aggregate total of \$2 million. The maximum amount of tax credits granted to a single taxpayer shall not exceed 5 percent of the aggregate amount of tax credits authorized. If the department receives applications for tax

credits in excess of the aggregate amount available, the applications shall be prioritized by the date the department received the applications.

47.3(4) Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever occurs first.

47.3(5) A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

47.3(6) A tax credit shall not be transferable to any other taxpayer.

47.3(7) Tax credits shall be authorized pursuant to this rule for gifts made to a permanent endowment held in a qualified community foundation after January 1, 2003, and before December 31, 2005.

261—47.4(80GA, HF683) Distribution process and review criteria. The department shall develop and make available a standardized application pertaining to the distribution of endow Iowa tax credits.

47.4(1) Ten percent of the aggregate amount available for tax credits shall be reserved for those permanent endowment gifts corresponding to the endow Iowa grants program. If by September 1, 2005, the entire 10 percent reserved for permanent endowment gifts corresponding to the endow Iowa grants program is not allocated, the amount remaining shall be available for other applicants.

47.4(2) Ten percent of the aggregate amount available for tax credits shall be reserved for those permanent endowment gifts totaling \$30,000 or less. If by September 1, 2005, the entire 10 percent reserved for permanent endowment gifts totaling \$30,000 or less is not allocated, the amount remaining shall be available for other applicants.

47.4(3) Applications will be accepted on an ongoing basis. The department will make public by June 1 and December 1 of each calendar year the total number of requests for tax credits and the total amount of requested tax credits that have been submitted. The department will review these requests and issue tax credits within a reasonable period of time following the June 1 and December 1 announcements.

261—47.5(80GA, HF683) Reporting requirements. By January 31 of each calendar year, the department shall publish an annual report of the activities conducted pursuant to these rules during the previous calendar year and shall submit the report to the governor and general assembly. The annual report shall include a detailed listing of endow Iowa tax credits authorized by the department.

These rules are intended to implement 2003 Iowa Acts, First Extraordinary Session, House File 683, sections 83 to 89.

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