

**Department of Economic and Community Development
Insurance Reinvestment Program
Public Act 10-75, sec. 14**

**Questions and Answers – Attachment 4
Updated 7/9/10**

Question: Section (6)(B) of the Public Act provides that in order to maintain certification, a Insurance Reinvestment Fund (“IRF”) must “be in compliance with the revenue impact assessment provided in the application demonstrating that the IRF’s business plan continues to have a revenue neutral or positive impact on the state.” It is unclear how the commissioner will test compliance with this requirement.

Response: DECD will utilize the initial Revenue Impact Assessment (“RIA”) and associated assumptions and data that were provided to demonstrate that an IRF’s plan is revenue neutral/positive for the state. This will become the baseline for comparison with the actual performance outlined in an IRF’s annual report. An IRF can apply to the commissioner to amend its plan based on unavoidable or reasonably unanticipated changes to conditions (e.g. economic climate, technology, etc.).

Question: Section (7) of the Public Act provides that “[i]n the annual report due *in* the third, fifth, seventh and ninth years after its allocation date, each IRF shall also report to the commissioner its compliance with the investment parameters set forth in its business plan and the revenue impact assessment provided in the application demonstrating that the IRF’s business plan continues to have a revenue neutral or positive impact on the state.” [*emphasis added*] Annual reports are due not later than January 31. It is unclear which annual reports must contain these additional compliance reports.

Response: The following is an outline of the reporting requirements and the time in which they are due, assuming investments start in 2010. DECD will also need to include its own requirements in order verify actual dollars invested, jobs, business eligibility, etc. The reports due in the 3rd, 5th, 7th, and 9th year refer to reports of data for the prior year (see table), not the subsequent year, as they propose above. Take for example the report due 1/31/2015 (year 5). This report will be providing an update on year 4 investments (the preceding year), which is also the year in which fund managers are to have invested up to 60% of their allocation.

Tax Year	Report Year	Report Due	Requirements
1	2010	1/31/2011	A, B, C, D, F
2	2011	1/31/2012	A, B, C, D, F
3	2012	1/31/2013	A, B, C, D, E, F
4	2013	1/31/2014	A, B, C, D, F
5	2014	1/31/2015	A, B, C, D, E, F
6	2015	1/31/2016	A, B, C, D, F

7	2016	1/31/2017	A, B, C, D, E, F
8	2017	1/31/2018	A, B, C, D, F
9	2018	1/31/2019	A, B, C, D, E, F
10	2019	1/31/2020	A, B, C, D, F

- (A) The amount of eligible capital remaining at the end of the preceding year;
- (B) Each investment in an eligible business during the preceding year and, with respect to each eligible business, its location and North American Industrial Classification System code;
- (C) The percentage of eligible capital invested in green technology businesses and preseed investments;
- (D) Distributions made by the IRF in the preceding year.
- (E) The annual report due in the third, fifth, seventh and ninth years after its allocation date, each IRF shall also report to the commissioner its compliance with the investment parameters set forth in its business plan and the revenue impact assessment provided in the application demonstrating that the IRF's business plan continues to have a revenue neutral or positive impact on the state.
- (F) Each IRF shall provide to the commissioner annual audited financial statements.

Question: The Public Act mandates that the Department of Economic and Community Development (“DECD”) test whether IRFs have invested in “eligible businesses” within four and ten years of their allocation date but has no mechanism by which IRFs can confirm that a business meets the definition of “eligible business” prior to investment. This creates an administrative problem for the DECD, and investors in IRFs need some level of comfort that IRFs are indeed investing in eligible businesses.

Response: It is the department’s intent to offer an IRF the opportunity to have DECD pre-screen their proposed investments for purposes of determining if they are an “eligible business” as defined under the Public Act. The IRF application contains information outlining what documentation will need to be provided in order to assist DECD in its determination of eligibility. DECD anticipates being able to complete these reviews in 15 business days provided all relevant documentation has been provided to adequately determine eligibility.

Question: Section (5) of the Public Act imposes a \$25,000 penalty on IRFs and taxpayers that do not close on an allocation of eligible capital within five business days after the IRF’s notice of certification. It is unclear whether this penalty would apply to failure to close on a reallocation of eligible capital.

Response: DECD intends to provide notice to existing certified IRFs when a reallocation of eligible capital has been made available. Based upon this notice, an IRF will be able to submit an updated application and related documents to reflect this new level of eligible capital for which they are applying to receive an additional allocation of tax credits. No additional application fee will be required, if the IRF is all ready certified by DECD.

Question: The Public Act does not address the interplay between the DECD and the Department of Revenue.

Response: As with many of DECD's programs that include a tax component, DECD would anticipate sharing information with DRS on the participants in the program.

Question: Section (1)(B) of the Public Act defines "eligible business" as "a business that has its principal business operations in Connecticut, has fewer than two hundred fifty employees at the time of investment and not more than ten million dollars in net income in the previous year." The Public Act does not address investments of follow-on capital in such businesses.

Response: After DECD determines that a business is an eligible business it does not intend to continue monitoring the business for eligibility beyond the time of investment by the IRF.

Question: May a IRF receive a written confirmation from the DECD that future tax credits to be claimed with respect to the IRF are no longer subject to forfeiture under the law?

Response: Pending submission of an IRF's annual report that demonstrates that at least 60% of its eligible capital has been invested in an eligible business, DECD will issue written confirmation to an IRF that future tax credits are not subject to forfeiture based on the current law. DECD will not accept interim reports to demonstrate compliance as we believe the existing Annual Report requirements are sufficient.

Question: What, if any, are the implications of a decertification after Year 4 if 60% of the Eligible Capital was invested by the fourth anniversary and no credits were forfeited?

Response: Based on the current language of the Public Act, forfeiture of future credits only occurs before the fourth anniversary of the fund's allocation date.

Added 7/9/2010

Question: Section 3 of the business plan, requires a three digit NAICS code be used as part of the Revenue Impact Assessment, can a two digit NAICS code be used for the Revenue Impact Assessment ("RIA"), as opposed to a three digit code?

Response: DECD will allow for the use of a two digit NAICS code for the purposes of the RIA, understanding that there is a significant variation in the multipliers within a two-digit category. This means that a REMI analysis could over- or under-estimate the economic and fiscal effects of the proposed investments.

Question: The RIA asks for information on type, terms and uses of the investment capital that will be provided to a business. Given this investment could be several years in the future, this would be complete guesswork, can we just identify the type of investment (debt or equity) for modeling purposes?

Response: Yes, the fund manager can just identify the type of investment (debt or equity). Recognizing that these investments occur over time, DECD asks that the fund manager estimate as accurately and completely the types of investments to be made (debt or equity) as each one will have different consequences for modeling with the understanding that the fund manager will later need to report on actual portfolio investment types, amounts, targets, uses and other information useful in determining revenue neutrality. It is important to include all assumptions and input data used in the economic model, which will allow DECD to verify revenue neutrality or better.

Additional questions and answers will be added as they are received by DECD.