141.432 Definitions for KRS 141.432 to 141.434.

As used in KRS 141.432 to 141.434, unless the context requires otherwise:

(1) "Applicable percentage" means zero percent (0%) for each of the first two (2) credit allowance dates, seven percent (7%) for the third credit allowance date, and eight percent (8%) for the next four (4) credit allowance dates;

(2) "Credit allowance date" means, with respect to any qualified equity investment:

(a) The date on which the investment is initially made; and

(b) Each of the six (6) anniversary dates of that date thereafter;

(3) "Long-term debt security" means any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven (7) years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features prior to its original maturity date. The qualified community development entity that issues the debt instrument may not make cash interest payments on the debt instrument during the period commencing with its issuance and ending on its final credit allowance date in excess of the cumulative operating income, as defined in the regulations promulgated under 26 U.S.C. sec. 45D, of the qualified community development entity for the same period. The foregoing shall in no way limit the holder's ability to accelerate payments on the debt instrument in situations where the qualified community development entity has defaulted on covenants designed to ensure compliance with KRS 141.432 to 141.434 or 26 U.S.C. sec. 45D;

(4) "Purchase price" means the amount paid to a qualified community development entity that issues a qualified equity investment for the qualified equity investment;

(5) "Qualified active low-income community business" has the same meaning given that term in 26 U.S.C. sec. 45D. A business shall be considered a qualified active low-income community business for the duration of the qualified community development entity's investment in, or loan to, the business if the entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being a qualified active low-income community business throughout the entire period of the investment or loan. The term excludes any business that derives or projects to derive fifteen percent (15%) or more of its annual revenue from the rental or sale of real estate. This exclusion does not apply to a business that is controlled by, or under common control with, another business if the second business:

(a) Does not derive or project to derive fifteen percent (15%) or more of its annual revenue from the rental or sale of real estate; and

(b) Is the primary tenant of the real estate leased from the first business;

(6) "Qualified community development entity" has the same meaning given that term in 26 U.S.C. sec. 45D; provided that the entity has entered into, or is controlled by an entity that has entered into, an allocation agreement with the Community Development Financial Institutions Fund of the United States Treasury Department with respect to credits authorized by 26 U.S.C. sec. 45D, which includes the Commonwealth of Kentucky within the service area set forth in such allocation agreement;

(7) "Qualified equity investment" means any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(a) Is acquired after June 4, 2010, at its original issuance solely in exchange for cash;

(b) Has at least eighty-five percent (85%) of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in the Commonwealth of Kentucky by the second anniversary of the initial credit allowance date; and

(c) Is designated by the issuer as a qualified equity investment under this subsection and is certified by the department as not exceeding the limitation contained in KRS 141.434. This term shall include any qualified equity investment that does not meet the provisions of paragraph (a) of this subsection if the investment was a qualified equity investment in the hands of a prior holder. The qualified community development entity shall keep sufficiently detailed books and records with respect to the investments made with the proceeds of the qualified equity investments to allow the direct tracing of the proceeds into qualified low-income community investments in qualified active low-income community businesses in the Commonwealth of Kentucky;

(8) "Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business made after June 4, 2010. With respect to any one (1) qualified active low-income community business, the maximum amount of qualified low-income community investments that may be made in the business, on a collective basis with all of its affiliates, with the proceeds of qualified equity investments that have been certified under KRS 141.433 shall be ten million dollars ($10,000,000) whether made by one (1) or several qualified community development entities;

(9) "Tax credit" means a nonrefundable credit against the taxes imposed by KRS 141.020, 141.040, 141.0401, 136.320, 136.330, 136.340, 136.350, 136.370, 136.390, or 304.3-270. For the credit against the taxes imposed by KRS 141.020, 141.040, or 141.0401, the ordering of the credits shall be as provided in KRS 141.0205. An insurance company claiming a tax credit against the insurance premium tax is not required to pay additional retaliatory tax levied pursuant to KRS 304.3-270; and

(10) "Taxpayer" means any individual or entity subject to the tax imposed by KRS 141.020, 141.040, 141.0401, 136.320, 136.330, 136.340, 136.350, 136.370, 136.390, or 304.3-270.

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