

**154.20-255 Tax credits available to investment fund -- Application for approval as manager -- Requirements for investment fund -- Agreement -- Total qualified investments made by fund.**

- (1) (a) The total amount of credits available to any single investment fund awarded credits under KRS 154.20-250 to 154.20-284 shall not exceed, in aggregate:
  1. For any calendar year beginning prior to January 1, 2022, eight million dollars (\$8,000,000) for all investors and all taxable years; and
  2. In any calendar year beginning on or after January 1, 2022, one million dollars (\$1,000,000).
- (b) The total credit available for all investors in all investment funds awarded under KRS 154.20-250 to 154.20-284 shall not exceed a total of three million dollars (\$3,000,000) in any calendar year beginning on or after January 1, 2021.
- (2) A person or entity seeking to be approved as an investment fund manager for the operation of one (1) or more investment funds shall make written application to the authority pursuant to KRS 154.20-256, in addition to complying with applicable state and federal securities laws and regulations.
- (3) Prior to the granting of any tax credits to investors of an investment fund, the committed cash contributions to an investment fund shall be not less than five hundred thousand dollars (\$500,000).
- (4) (a) An investment fund shall have no less than four (4) investors, and no investor or investment fund manager, including their closely related family members, and affiliates may own or have a capital interest in more than forty percent (40%) of the investment fund's capitalization.
- (b) As used in this subsection, "closely related" means any of the following in relation to the investor, the investor's spouse, the fund manager, or the fund manager's spouse:
  1. Parents or grandparents;
  2. Children or their spouses; or
  3. Siblings or their spouses.
- (5) Subsequent to approval of the investment fund and the investment fund manager, the authority and the investment fund manager, on behalf of itself and any investors in the investment fund, shall enter into an agreement with respect to the investment fund. The terms and provisions of each agreement shall be determined by negotiations between the authority and the investment fund manager. The effective date of the agreement shall be the date of approval of the investment fund and the investment fund manager by the authority. If an investment fund manager fails to comply with any of the obligations of the agreement, the authority may, at its option, do any one (1) or more of the following:
  - (a) Suspend the availability of the credits;
  - (b) Pursue any remedy provided under the agreement, including termination of the agreement; or

- (c) Pursue any other remedy at law to which it may be entitled.
- (6) Any investor shall be entitled to a tax credit as a result of its investment in an investment fund as provided in KRS 154.20-258.
- (7) Total qualified investments made by an investment fund, including initial and subsequent investments made by an investment fund, in any single small business using approved qualified investments, shall not exceed thirty percent (30%) of the committed cash contributions to the investment fund. This restriction shall not apply to investments of money by the investment fund that are not qualified investments.
- (8) The provisions of this section shall not prohibit an investment fund from investing in a business that is not a small business, including a business that is located outside of the Commonwealth; however, such investments shall not be eligible for the tax credit set forth in KRS 154.20-258.

**Effective:** June 29, 2021

**History:** Amended 2021 Ky. Acts ch. 185, sec. 113, effective June 29, 2021. -- Amended 2018 Ky. Acts ch. 207, sec. 99, effective April 27, 2018. -- Amended 2017 Ky. Acts ch. 80, sec. 8, effective June 29, 2017. -- Amended 2014 Ky. Acts ch. 102, sec. 27, effective July 15, 2014. -- Created 2002 Ky. Acts ch. 230, sec. 18, effective July 15, 2002.