

Effective 5/4/2022

63N-4-302 Definitions.

As used in this part:

- (1)
 - (a) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.
 - (b) For the purposes of this part, a person controls another person if the person holds, directly or indirectly, the majority voting or ownership interest in the controlled person or has control over the day-to-day operations of the controlled person by contract or by law.
- (2) "Claimant" means a resident or nonresident person that has state taxable income.
- (3) "Closing date" means the date on which a rural investment company collects:
 - (a) all of the investments described in Subsection 63N-4-303(7) related to phase one investment authority; or
 - (b) all of the investments described in Subsection 63N-4-303(7) related to phase two investment authority.
- (4)
 - (a) "Credit-eligible contribution" means an investment of cash by a claimant in a rural investment company that is or will be eligible for a tax credit as evidenced by notification issued by the office under Subsection 63N-4-303(5)(c).
 - (b) The investment shall purchase an equity interest in the rural investment company or purchase, at par value or premium, a debt instrument issued by the rural investment company that has a maturity date at least five years after the closing date.
- (5) "Eligible small business" means a business that at the time of an initial growth investment in the business by a rural investment company:
 - (a) has fewer than 150 employees;
 - (b) has less than \$10,000,000 in net income for the preceding taxable year;
 - (c) maintains the business's principal business operations in the state; and
 - (d) is engaged in an industry related to:
 - (i) aerospace;
 - (ii) defense;
 - (iii) energy and natural resources;
 - (iv) financial services;
 - (v) life sciences;
 - (vi) outdoor products;
 - (vii) software development;
 - (viii) information technology;
 - (ix) manufacturing; or
 - (x) agribusiness.
- (6)
 - (a) "Excess return" means the difference between:
 - (i) the present value of all growth investments made by a rural investment company on the day the rural investment company applies to exit the program under Section 63N-4-309, including the present value of all distributions and gains from the growth investments; and
 - (ii) the sum of the amount of the original growth investment and an amount equal to any projected increase in the equity holder's federal or state tax liability, including penalties and interest, related to the equity holder's ownership, management, or operation of the rural investment company.

- (b) If the amount calculated in Subsection (6)(a) is less than zero, the excess return is equal to zero.
- (7) "Federally licensed rural business investment company" means a person licensed as a rural business investment company under 7 U.S.C. Sec. 2009cc.
- (8) "Federally licensed small business investment company" means a person licensed as a small business investment company under 15 U.S.C. Sec. 681.
- (9)
 - (a) "Full-time employee" means an employee that throughout the year works at least 30 hours per week or meets the customary practices accepted by that industry as full time.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish additional hour or other criteria to determine what constitutes a full-time employee.
- (10)
 - (a) "Growth investment" means any capital or equity investment in an eligible small business or any loan made from the investment authority to an eligible small business with a stated maturity at least one year after the date of issuance.
 - (b) "Growth investment" does not include, with respect to phase two investment authority:
 - (i) a secured loan or a revolving line of credit to an eligible small business, unless the eligible small business sought and was denied similar financing from a commercial bank, as established by an affidavit from the president or chief executive officer of the eligible small business; or
 - (ii) any portion of an investment, including any amount reinvested, in an eligible small business that, when added to existing investments in the eligible small business from all rural investment companies under phase two investment authority, exceeds \$15,000,000.
- (11)
 - (a) "High wage" means a wage that is at least 100% of the county average wage.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish additional criteria to determine what constitutes a high wage.
- (12) "Investment authority" means the minimum amount of investment a rural investment company must make in eligible small businesses in order for credit-eligible contributions to the rural investment company to qualify for a rural job creation tax credit under Section 59-7-621 or 59-10-1038.
- (13)
 - (a) "New annual jobs" means the difference between:
 - (i)
 - (A) the monthly average of full-time employees that are paid a high wage at an eligible small business for the preceding calendar year; or
 - (B) if the preceding calendar year contains the initial growth investment, the monthly average of full-time employees that are paid a high wage at an eligible small business for the months including and after the initial growth investment and before the end of the preceding calendar year; and
 - (ii) the number of full-time employees that are paid a high wage at the eligible small business on the date of the initial growth investment.
 - (b) If the amount calculated in Subsection (13)(a) is less than zero, the new annual jobs amount is equal to zero.
- (14) "Phase one investment authority" means investment authority the office grants a rural investment company based on an application submitted under Subsection 63N-4-303(1)(b)(i).

- (15) "Phase two investment authority" means investment authority the office grants a rural investment company based on an application submitted under Subsection 63N-4-303(1)(b)(ii).
- (16)
- (a) "Principal business operations" means the location where at least 60% of a business's employees work or where employees that are paid at least 60% of a business's payroll work.
- (b) For the purposes of this part, an out-of-state business that agrees to relocate employees to this state to establish the business's principal business operations in this state using the proceeds of a growth investment is considered to have the business's principal business operations in this state if the business satisfies the requirements of Subsection (16)(a) within 180 days after receiving the growth investment, unless the office agrees to a later date.
- (17) "Program" means the provisions of this part applicable to a rural investment company.
- (18) "Rural county" means:
- (a) with respect to phase one investment authority, any county in this state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties; or
- (b) with respect to phase two investment authority, any county in this state except Salt Lake, Utah, Davis, and Weber counties.
- (19) "Rural investment company" means a person approved by the office under Section 63N-4-303.
- (20)
- (a) "State reimbursement amount" means the difference between:
- (i) 50% of the rural investment company's credit-eligible capital contributions; and
- (ii) the product of:
- (A) the total sum of new annual jobs reported to the office; and
- (B) \$20,000 with respect to phase one investment authority, or \$15,000 with respect to phase two investment authority.
- (b) If the amount calculated in Subsection (20)(a) is less than zero, the state reimbursement amount is equal to zero.
- (21) "Tax credit" means a rural job creation tax credit created by Section 59-7-621 or 59-10-1038.
- (22) "Tax credit certificate" means a certificate issued by the office that:
- (a) lists the name of the person to which the office authorizes a tax credit;
- (b) lists the person's taxpayer identification number;
- (c) lists the amount of tax credit that the office authorizes the person to claim for the taxable year; and
- (d) may include other information as determined by the office.

Amended by Chapter 195, 2022 General Session