

Charles J. Robertson

From: Charles J. Robertson
Sent: Thursday, February 11, 2010 1:02 PM
To: Monty Bivens
Subject: FW: Attached Image -
Attachments: 2058_001.pdf

Monty,

I have not received a response from Dawn or anyone else on this email. Is there any specific action you want me to take with regard to the amended 2008 filing or the 2009 filing?

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From: Charles J. Robertson
Sent: Wednesday, January 20, 2010 3:09 PM
To: Dawn Cash
Cc: Monty Bivens; James Fourcade; Mike Kaufmann; Lisa Haws; Joan Korthanke
Subject: FW: Attached Image -

Dawn,

I am sending this at Mike's instruction and have discussed it with him and Joan. Today I received (" ") Forms 518 for the 2009 tax year. This was a little surprising because I thought all of us were on the same page that the 2357.7 credit had a sunset date of 12/31/2008 and there wouldn't be any filings beyond this date. Unlike the capital companies, the venture capital credit was triggered when the investment was made into the venture capital company – it was not dependent on the money being invested in an Oklahoma business venture. This changed in 2006 when 2357.7(C) was amended to require investment in an Oklahoma business venture to generate the credits. In spite of this change, the filing methodology that employed for all tax years through 12/31/2008 was to generate the credits based on investment in the venture capital company (see original 2008 filing attached).

For the 2009 filing, they have changed their filing position and are now generating credits based on when the funds are invested in an Oklahoma business venture (invested in 2009). On the attachment to the 518-A for 2009 they note: "Investments in the Venture Capital Company was completed before January 1, 2009 per Oklahoma statute 2357.7. Credits are generated based on investments by the Venture Capital Company into Oklahoma business ventures." At first glance, this would indicate that they are generating credits that had already been claimed when the money was invested in . But then I received an "amended" filing for 2008 that indicated an additional invested in on 12/31/2008 that was not reported on the original filing. The Statement of Changes provides: "Line 2: A year-end investment was omitted from Section A. This investment was not used to generate any credits in 2008, but will be used to fund venture capital loans in 2009 and thereafter." Since the additional 2008 investment will generate of additional credits, I wanted to make sure everyone was aware of this situation. Also, based on the email Joan forwarded to me yesterday, I knew you had been talking to the people.

What is hard to understand is how they "omitted" the investment in 2008 and how it took over a year to realize the error they made. is a public company that issues audited financial statements each year with related party footnotes that should deal with this type of activity. If there was a bust in the 2008 filing, it should have been detected by March 1, 2009.

The amended statute seems to clearly indicate that no credits can be generated in taxable years beginning after 12/31/2008. Obviously, they are interpreting the same statute differently and I don't understand or agree with their interpretation. Hopefully, you can shed some light on this if they discussed it with you previously. Please let me know if there is any specific action you want me to take with respect to the 2009 filing or the amended 2008 filing.

Charlie Robertson, CPA
 Oklahoma Tax Commission

04/01/10