

<b>Alabama New Market Tax Credits</b>	
Program	New Markets Development Tax Credit
Enacting Legislation	<a href="#">ACT NUMBER 2012-483</a>
CDE Application Process	The applying entity needs to be a CDE for federal purposes and needs to be authorized to serve businesses in Alabama. The CDE shall submit an application to the Department of Commerce to certify a proposed investment as a qualified investment. The qualified community development entity must issue the qualified investment in exchange for cash within 180 days after it receives certification approving an investment as a qualified investment (this includes a 90-day cure period), otherwise the certification is void.
Annual State CAP limits	\$20,000,000 of tax credits in any tax year based on the scheduled utilization of tax credits without regard to the potential for taxpayers to carry forward tax credits to later tax years
Transaction CAP limits	A qualified active low income community business may not receive more than a total of \$10,000,000 in qualified low income community investments under this program
What is the credit	50 percent of the taxpayer's equity investment
How is the credit claimed	Years 1-0%, Year 2-7: 8.33%
Credit period (compliance)	7 years (same as federal)
QALICB requirements	Same as federal; QALICBs are any for-profit or non-profit corporation or partnership if: <ul style="list-style-type: none"> <li>i. At least 50% of the total gross income of that business is derived from the active conduct of its business within any QLIC,</li> <li>ii. A substantial portion (defined as at least 40%) of the use of the tangible property of that business (whether owned or leased) is within any QLIC,</li> <li>iii. Substantial portion (defined as at least 40%) of the services performed by that business' employees are performed in any QLIC; the business is not primarily holding collectibles.</li> </ul> If (ii) or (iii) are 50% or more than (i) is deemed to have been met.
Recapture	The following events cause recapture: <ol style="list-style-type: none"> <li>1) the federal new market tax credits associated with a QEI are recaptured (recapture amount proportionate to the federal recapture);</li> <li>2) the CDE fails to issue the qualified equity investment in the amount of the certified amount within 90 days after receiving notice of certification, (recapture amount equal to all credits claimed); 180 days reinvestment period permitted after which the certification shall lapse;</li> <li>3) the qualified community development entity fails to invest at least 85 percent of the purchase price in qualified low-income community investments within 12 months after the issuance of a qualified investment;</li> <li>4) the CDE redeems or makes a principal payment with respect to a QEI</li> </ol>

	<p>prior to the 7th anniversary of a QEI (recapture amount proportionate to the amount of redemption or repayment);</p> <p>5) the CDE fails to provide the office with information, reports, or documentation required by the New Markets Development Program Act;</p> <p>6) the department determines that a taxpayer received tax credits to which the taxpayer was not entitled; or</p> <p>7) The qualified community development entity fails to maintain 85 percent of the purchase price in qualified low-income community investments until the last credit allowance date for a qualified investment.</p> <p>The office shall provide notice to the qualified community development entity and the Department of Revenue or the Department of Insurance, as applicable, of a proposed recapture of a tax credit. The entity shall have 90 days following the receipt of the notice to cure a deficiency identified in the notice and avoid recapture. The final order of recapture shall be provided to the entity, the department, and a taxpayer otherwise authorized to claim the tax credit. Only one correction is permitted for each qualified equity investment during the 7-year credit period. Recaptured funds shall be deposited into the General Revenue Fund.</p>
Other	<p>1) Qualified investment into CDE can be an equity investment or a long-term debt security instrument (and in the case of a long-term debt security QI, “a qualified community development entity may not make cash interest payments on a long-term debt security that is a qualified investment in excess of the entity’s operating income for 6 years following the issuance of the security).</p> <p>2) An insurance company that is subject to the insurance premium tax must apply the tax credit against the insurance premium tax.</p> <p>3) The Alabama statute indicates that the Qualified Investment (QEI) is deemed to be state financial assistance and therefore the CDE is subject to auditing, testing and reporting of compliance and internal controls.</p> <p>4) The amount of the tax credit claimed may not exceed the amount of the taxpayer's state tax liability for the tax year for which the tax credit is claimed; however, the excess tax credits available can be carried forward to any of the taxpayer's subsequent taxable years.</p> <p>5) Tax credits claimed under this act are not saleable or transferable.</p> <p>6) Tax credits earned by a "pass-through" entity may be allocated to the partners, members, or shareholders of that entity.</p> <p>7) Any business that derives or expects to derive 15% or more of its annual revenue from the rental or sale of real estate is not considered a QALICB.</p>
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