tax breaks for investors in an eclectic group of businesses, including some in old-line, slow-growth industries, but has failed to catch on among smaller start-up firms with the most potential to create jobs, the Journal Sentinel has found.

Jan. 15, 2013

A state plan to encourage investment in Wisconsin companies has so far provided tax breaks for investors in an eclectic group of businesses, including some in old-line, slow-growth industries, but has failed to catch on among smaller start-up firms with the most potential to create jobs, the Journal Sentinel has found.

The tax breaks, which can defer or even eliminate an investor's state capital gains tax, haven't been well-publicized, and the Wisconsin Economic Development Corp. took a year and a half to begin posting the list of companies that have been approved to receive the tax-advantaged investments.

So far, only companies certified through 2011 have been posted on the agency's website, and those didn't go online until Dec. 20, the same day a Journal Sentinel reporter inquired about the list.

The lack of information about the program means its tax benefits so far have probably gone to investors who would have put their money into in-state companies anyway, said economist Andy Reschovsky of the University of Wisconsin-Madison.

"For an incentive to really change behavior, presumably you have to know about it in advance," he said.

A total of just $40,500 in capital gains was deferred by investors in 2011, according to the state Revenue Department, which did not specify how much of those deferrals resulted from the new program.

The program, approved by Gov. Scott Walker and the Legislature in 2011, defers state

smaller companies also appear on the list, such as Liveyearbook Inc., a Neenah start-up that helps schools create digital yearbooks, and Lakeshore Baseball Holdings LLC, the Grafton operator of the Lakeshore Chinooks baseball team.

More than half of the companies are in northeastern Wisconsin, including Schenck SC, the Appleton accounting firm that the state called in to audit WEDC last fall.

Asked why it had taken so long to begin posting the list of companies approved for tax-advantaged investments, WEDC spokesman Tom Thieding said the agency had been certifying the companies earlier, but it had taken time to pull the list of companies into a report after the passage of the state budget, which created the program, in June 2011.

"This was new to us, so we're creating something new out of this," Thieding said.

He said it was a coincidence that the 2011 list of certified companies was posted online the same day a reporter inquired about it.

The low awareness and utilization of the program represent the latest in a series of questions raised about the operations of the WEDC, an agency created by Walker and legislative Republicans to replace the state Commerce Department.

The agency has been criticized for allowing routine and essential business to slip through the cracks. Most notably, it failed to systematically track more than $12 million in overdue loans for more than a year. Two independent audits criticized the agency's lack of financial controls, and corporate governance experts have also questioned the board's oversight.

The law authorizing capital gains tax deferments and exclusions required the WEDC to certify companies as qualified Wisconsin businesses and then "make the list available to the public" on the agency's website.

Last month, after an accountant told the Journal Sentinel he had been unable to find

2 separate programs

The program, known as the Qualified Wisconsin Business program, is separate from an earlier state program, created during the administration of Gov. Jim Doyle, that was designed to spur investment specifically in small, potentially high-growth companies.

The earlier program also took effect in 2011, and it provides capital gains deferrals, but not exemptions, for investments in "qualified new business ventures." Far fewer companies are eligible for that program: For instance, only companies that have been in business less than 10 years and with fewer than 100 employees can qualify. And many of the types of companies that signed up for Walker's newer program — in areas such as banking, health care, hospitality and old-line industries — are excluded.

The WEDC has posted the list of qualified new business ventures online since the agency's inception. Awareness of that program has been much broader in the state's investing and start-up communities, even though its restrictions are greater and it doesn't offer eradication of capital gains taxes after five years as the newer program does.

"I don't think we were as aware (of the newer program) as we should have been on it," said Tim Keane, who runs the Golden Angels, the state's biggest angel investing group by members.

Experts say boosting the amount of investment in state companies is critical because Wisconsin companies fetch less than 1% of venture capital invested in nationwide.

Until 2009, Wisconsin taxed capital gains at a maximum of just 2.7%. That rate was among the dozen lowest in the nation, including the seven states that don't tax income at all.

In 2009, Doyle and Democratic lawmakers effectively raised capital gains rates to

more companies to benefit.

Yet the program appears to have languished.

Jim Brandenburg, an accountant and partner at Kolb+Co. in Brookfield, said that so far he doesn't believe the latest capital gains changes have been used extensively.

"There may have been some activity with it. I wouldn't say a lot because it was so new," Brandenburg said.

He said companies and investors are now more aware of the program and calling with questions about it. Brandenburg said he hoped the list of qualified companies for 2012 would be available soon as well.

Reschovsky, the UW-Madison economist, said he was skeptical that the incentive would do much to encourage investment in Wisconsin but said that the capital gains proposals were better than Wisconsin's pre-2009 policy of offering a large blanket exemption to all investors regardless of whether their capital gain came from a company in New York or Milwaukee.

Agency suggests changes

Department of Revenue spokeswoman Laurel Patrick said her agency suggested to WEDC that the Revenue Department "could better administer the program" because it differs from other programs in which WEDC certifies companies to receive tax credits. That would require a change in state law.

"We have worked with WEDC to develop language to change how the program is administered," Patrick said.

The Revenue Department wanted to integrate the capital gains tax program with

"What it demonstrates is that we need to focus on technology, not the form of the tax credit," said John Byrnes, executive chairman and president of Mason Wells, the biggest private equity firm headquartered in the state.

With no plan for targeting high-potential industries, he said, "You end up with this eclectic bunch of things that don't really do much for the state."

____

Small Business • Technology