a. The tax credit is nonrefundable;

b. The holder of the transferable state tax credit may sell or otherwise transfer a transferable state tax credit to another entity, which can likewise resell or transfer the credit;

c. The transferable state tax credit will expire if not used by a predetermined date; and

d. The transferable state tax credit can be applied against either state income tax or state premium tax.

~~5~~6. For purposes of this statement, such programs will be referred to as "transferable state tax credits." The criteria in subparagraphs ~~4~~5.b., ~~4~~5.c. and ~~4~~5.d. must be present in order for the transferable state tax credit to receive the accounting treatment described in this statement. When a reporting entity purchases a transferable state tax credit from another entity, the transaction does not result in a continuing investment in a business entity (i.e. limited partnership).

Non-transferable State Tax Credits

7. If the original or subsequent holder of the transferable tax credit is not able to transfer the tax credit, then the admissibility criteria in paragraph 8 for non-transferable tax credits apply. These non-transferable state tax credits share the following characteristics:

a. The tax credit is nonrefundable;

b. The successive holder of a state tax credit must redeem the credit, by April 15 of the subsequent year to the entity's acquisition of the state tax credit and is not permitted to carry-over, carry-back, obtain a refund, sell or assign the credit.

c. The non-transferable state tax credit will expire if not used by the predetermined date; and

d. The non-transferable state tax credit can be applied against either state income tax or state premium tax.

8. The criteria in subparagraphs 7.b., 7.c. and 7.d. must be present in order for the non-transferable state tax credit to receive the accounting treatment described in this statement.

~~6~~89. Transferable and non-transferable state tax credits as defined within this SSAP held by reporting entities will meet the definition of assets as specified in *SSAP No. 4—A*

History of SSAP No. 94 Guidance

7. As detailed in , SSAP No. 94 was established as a result of consideration from an interested parties' request in 2003. Interested parties proposed that state tax credits (1) should qualify as an admitted asset to the extent it is probable they will be realized, consistent with the treatment in SSAP No. 35 of credits granted directly to the reporting entity; (2) should not be netted against the tax liability consistent with the treatment in SSAP No. 35 of credits granted directly to the reporting entity; and (3) any gain that accrues to the reporting entity through the use of these tax credits should be reported as miscellaneous income at the time the credits are used. To accomplish this, interested parties' proposed nonsubstantive changes to SSAP No. 35.

8. In considering the interested parties' 2002 proposal, the Statutory Accounting Principles Working Group considered the December 2002, Office of the Comptroller of the Currency (the regulatory body for national banks) Interpretive Letter #948, which indicated that "purchasing, holding, and subsequently reselling transferable state tax credits is a permissibled cLetTc 0.0008 TwTbl

Consideration of Non-Transferable State Tax Credits:

11. As identified in Issue Paper No. 126, even though transferable state tax credits represent a prepayment of premium taxes which would be nonadmitted, they were deemed to be admitted based on the fact that they can be sold. The proposed revision would be a distinct change in the admissibility guidance currently reflected within SSAP No. 94 as non-transferable state tax credits would be allowed to be admitted.

12. One of the reasons that transferability was a key issue in developing SSAP No. 94 was due to variations among states regarding the terms and limitations on the use of state tax credits. By requiring transferability, these various terms and limitations (e.g., limitations in the amount of tax credits that could be used in a tax year) were concluded not to be as relevant since the tax credits could be subsequently sold.

13. The following reasons were noted for the working group's support of the admittance of non-transferable state tax credits if the specific criteria illustrated in paragraph 6 of Issue Paper No. 126 is met:

a. This proposal is presented as a good public policy issue and economic development, allowing companies domiciled within states with laws that require usage of tax credits within a designated timeframe and that limit transferability to also be allowed to reflect state tax credits as admitted assets.

b. The short-term usage requirement identified within the proposal is a conservative requirement. It was noted that there is no confirmation on a market for state tax credits, so just because they are transferable, does not mean that they could actually be subsequently sold. By requiring usage within a specific time frame, these assets will be reflected within a reporting entity's financials for a short period of time. It was noted that "transferable" state tax credits could be reflected for an extensive period of time until the tax credit expires or an impairment has been identified.

RELEVANT STATUTORY ACCOUNTING AND GAAP GUIDANCE

Statutory Accounting

14. As noted above, existing guidance for transferable state tax credits is in SSAP No. 94. Tracked changes to SSAP No. 94 are shown in Illustration A.

RELEVANT LITERATURE:

Statutory Accounting

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Generally Accepted Accounting Principles

- was adopted with modification in (SSAP No. 101).

State Regulations:

State laws may prescribe specific criteria regarding the use of state tax credits. The revisions proposed in this issue paper are intended to allow admittance for state laws that require use of a state tax credit before April 15 of the year subsequent in which the purchase or assignment of a state tax credit is made, and that prohibit subsequent transfer of the state tax credit.

ILLUSTRATION A

Statements of Statutory Accounting Principles No. 94 - Revised

Accounting for Transferable and Non-Transferable State Tax Credits

STATUS

Type of Issue:	Common Area
Issued:	June 12, 2006; Substantively revised December 7, 2011
Effective Date:	December 31, 2006; Substantive revisions detailed in Issue Paper No. 145 are effective December 31, 2011
Affects:	No other pronouncements
Affected by:	No other pronouncements
Interpreted by:	No other pronouncements

SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for transferable and non-transferable state tax credits that are consistent with the Statutory Accounting Principles Statement of Concepts and Statutory Hierarchy (Statement of Concepts).

2. Investments in Low Income Housing Tax Credits as discussed in , which involve an investment by a reporting entity in a limited liability company or similar entity that earns tax credits as a consequence of its operating activities involving low income housing developments and passes those tax credits to its investors, are not within the scope of this statement.

3. Investments in a CAPCO (Certified Capital Company), organized as a partnership or an LLC, which is a company, authorized by state statute that borrows from investors (insurance companies), in order to make venture capital investments in "qualified" businesses, are not within the scope of this statement. Although associated with tax credits, the insurance company is paid principal and interest on its investment with the CAPCO. Depending upon the terms of the CAPCO offering, principal and interest payments to the insurance company will come from the CAPCO and/or the state. The CAPCO will make cash payments directly to the insurance company while the state will make payments in the form of premium or income tax credits.

SUMMARY CONCLUSION

4. The criteria in paragraphs 5 and 6 are for transferable state tax credits (i.e., credits which may be sold or assigned). The criteria in paragraphs 7 and 8 are for non-transferable state tax credits (i.e., those which cannot be sold or assigned to other parties).

~~4~~5. Some states have enacted laws that create programs by which transferable state tax credits are granted to entities under certain specified conditions (e.g., an entity makes an investment in a particular industry). The terms of these state tax credits vary from state to state and, within a state, from program to program. However, many of these transferable state tax credit programs share the following four characteristics:

a. The tax credit is nonrefundable;

b. The holder of the transferable state tax credit may sell or otherwise transfer the transferable state tax credit to another entity, which can likewise resell or transfer the credit;

c. The transferable state tax credit will expire if not used by a predetermined date; and

d. The transferable state tax credit can be applied against either state income tax or state premium tax.

~~5~~6. For purposes of this statement, such programs will be referred to as “transferable state tax credits.” The criteria in subparagraphs ~~4~~5.b., ~~4~~5.c. and ~~4~~5.d. must be present in order for the transferable state tax credit to receive the accounting treatment described in this statement. When a reporting entity purchases a transferable state tax credit from another entity, the transaction does not result in a continuing investment in a business entity (i.e. limited partnership).

Non-Transferable State Tax Credits

7. If the original or subsequent holder of the transferable tax credit is not able to transfer the tax credit, then the admissibility criteria in paragraph 8 for non-transferable tax credits apply. These non-transferable state tax credits share the following characteristics:

a. The tax credit is nonrefundable;

b.

~~10~~13. As transferable and non-transferable state tax credits are redeemed, the carrying value of the tax credits is reduced dollar for dollar by the amount of ~~transferable~~ state tax credits applied toward the reporting entity's applicable state tax liability.

Income Statement Treatment

~~11~~14. Gains on transferable and non-transferable state tax credits are deferred until the value of the ~~transferable~~ state tax credits utilized exceeds the cost of the ~~transferable~~ state tax credits or until the ~~transferable~~ state tax credits are sold to other entities and the payment received is greater than the book value.

~~12~~15. Losses on transferable and non-transferable state tax credits are recognized when known.

~~13~~16. Gains and losses on transferable and non-transferable state tax credits are reflected in other income.

Impairment

~~14~~17. An impairment shall be considered to have occurred if it is probable that the reporting entity will be unable to recover the carrying amount of the transferable or non-transferable state tax credits. ~~Transferable s~~State tax credits should be evaluated for impairment at each reporting date.

~~15~~18. When there is a decline in the realizability of a transferable or non-transferable state tax credit owned by the reporting entity that is other than temporary, the asset shall be written down to the expected realizable amount and the amount of the write down shall be accounted for as a realized loss. The expected realizable value is the new cost basis.

~~16~~19. The new cost basis shall not be changed for subsequent recoveries in realizability.

Disclosures

~~17~~20. The following disclosures shall be made in the financial statements. For purposes of this disclosure, total unused transferable and non-transferable state tax credits represent the entire transferable and non-transferable state tax credits available:

a. Carrying value of transferable and non-transfer

3) adding a disclosure; and 4) updating terminology throughout the document as appropriate, are effective for reporting periods ending on or after December 31, 2011.

AUTHORITATIVE LITERATURE

Generally Accepted Accounting Principles

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RELEVANT ISSUE PAPERS

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Appendix A – Accounting for Transferable State Tax Credits

On 1/1/X1 SAM Insurance Company purchased transferable state tax credits for a cost of $100,000. The transferable state tax credits are redeemable for $160,000 and expire at the end of 12/31/X4. SAM initially expects to utilize the tax credits before expiration in their state of domicile in the amount of $40,000 per year. In year X4, SAM sells the remaining $30,000 in transferable state tax credits for

Appendix B – Accounting for Non-Transferable State Tax Credits

On 7/1/X1 LJW Insurance Company purchased non-transferable state tax credits for a cost of $100,000. The state tax credits are redeemable for $110,000, are not transferable and expire on, April 15, 20x2. LJW expects to utilize the tax credits before expiration in their state of domicile in the amount of $110,000.

7/1/x1	State tax credits	100,000	
	Cash		100,000
9/30/x1	Premium tax expense	200,000	
	Premium taxes payable to domiciliary state		200,000
3/15/x2	Premium tax payable	110,000	
	Other Income		10,000
	State tax credits		100,000