



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2012

Introduced 2/10/2017, by Sen. Chuck Weaver

SYNOPSIS AS INTRODUCED:

35 ILCS 5/220

Amends the Illinois Income Tax Act. Makes the following changes with respect to the angel investment credit: (1) provides that the credit applies for taxable years ending on or before December 31, 2021 (currently, December 31, 2016); (2) increases the maximum aggregate amount of the angel investment credit from \$10,000,000 to \$20,000,000; (3) defines "investment" as equity, Simple Agreement for Future Equity (SAFE) Agreements, and convertible notes; (4) provides that each qualified new business venture must renew its registration on an annual basis; (5) provides that, for taxable years ending on or after December 31, 2017, applicants for the credit must make a minimum investment of \$10,000 in a qualified new business venture (currently, there is no minimum investment requirement); (6) provides that the maximum amount of an applicant's total investment made directly in any single qualified new business venture that may be used as the basis for a credit under this Section is \$2,000,000 (currently, that is the maximum for each investment made in a qualified new business venture); (7) contains recapture provisions; and (8) contains provisions concerning investments in minority-owned businesses, female-owned businesses, or businesses owned by a person with a disability. Effective immediately.

LRB100 09567 HLH 19734 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 220 as follows:

6 (35 ILCS 5/220)

7 Sec. 220. Angel investment credit.

8 (a) As used in this Section:

9 "Applicant" means a corporation, partnership, limited
10 liability company, or a natural person that makes an investment
11 in a qualified new business venture. The term "applicant" does
12 not include a corporation, partnership, limited liability
13 company, or a natural person who has a direct or indirect
14 ownership interest of at least 51% in the profits, capital, or
15 value of the investment or a related member.

16 "Claimant" means an applicant certified by the Department
17 who files a claim for a credit under this Section.

18 "Department" means the Department of Commerce and Economic
19 Opportunity.

20 "Investment" means equity, Simple Agreement for Future
21 Equity (SAFE) Agreements, and convertible notes.

22 "Qualified new business venture" means a business that is
23 registered with the Department under this Section.

1 "Related member" means a person that, with respect to the
2 investment, is any one of the following:

3 (1) An individual, if the individual and the members of
4 the individual's family (as defined in Section 318 of the
5 Internal Revenue Code) own directly, indirectly,
6 beneficially, or constructively, in the aggregate, at
7 least 50% of the value of the outstanding profits, capital,
8 stock, or other ownership interest in the applicant.

9 (2) A partnership, estate, or trust and any partner or
10 beneficiary, if the partnership, estate, or trust and its
11 partners or beneficiaries own directly, indirectly,
12 beneficially, or constructively, in the aggregate, at
13 least 50% of the profits, capital, stock, or other
14 ownership interest in the applicant.

15 (3) A corporation, and any party related to the
16 corporation in a manner that would require an attribution
17 of stock from the corporation under the attribution rules
18 of Section 318 of the Internal Revenue Code, if the
19 applicant and any other related member own, in the
20 aggregate, directly, indirectly, beneficially, or
21 constructively, at least 50% of the value of the
22 corporation's outstanding stock.

23 (4) A corporation and any party related to that
24 corporation in a manner that would require an attribution
25 of stock from the corporation to the party or from the
26 party to the corporation under the attribution rules of

1 Section 318 of the Internal Revenue Code, if the
2 corporation and all such related parties own, in the
3 aggregate, at least 50% of the profits, capital, stock, or
4 other ownership interest in the applicant.

5 (5) A person to or from whom there is attribution of
6 stock ownership in accordance with Section 1563(e) of the
7 Internal Revenue Code, except that for purposes of
8 determining whether a person is a related member under this
9 paragraph, "20%" shall be substituted for "5%" whenever
10 "5%" appears in Section 1563(e) of the Internal Revenue
11 Code.

12 (b) For taxable years beginning after December 31, 2010,
13 and ending on or before December 31, 2021 ~~December 31, 2016~~,
14 subject to the limitations provided in this Section, a claimant
15 may claim, as a credit against the tax imposed under
16 subsections (a) and (b) of Section 201 of this Act, an amount
17 equal to 25% of the claimant's investment made directly in a
18 qualified new business venture. In order for an investment in a
19 qualified new business venture to be eligible for tax credits,
20 the business must have applied for and received certification
21 under subsection (e) for the taxable year in which the
22 investment was made prior to the date on which the investment
23 was made. The credit under this Section may not exceed the
24 taxpayer's Illinois income tax liability for the taxable year.
25 If the amount of the credit exceeds the tax liability for the
26 year, the excess may be carried forward and applied to the tax

1 liability of the 5 taxable years following the excess credit
2 year. The credit shall be applied to the earliest year for
3 which there is a tax liability. If there are credits from more
4 than one tax year that are available to offset a liability, the
5 earlier credit shall be applied first. In the case of a
6 partnership or Subchapter S Corporation, the credit is allowed
7 to the partners or shareholders in accordance with the
8 determination of income and distributive share of income under
9 Sections 702 and 704 and Subchapter S of the Internal Revenue
10 Code.

11 (c) The maximum amount of an applicant's total investment
12 made directly in any single qualified new business venture that
13 may be used as the basis for a credit under this Section is
14 \$2,000,000 ~~for each investment made directly in a qualified new~~
15 ~~business venture.~~ For taxable years ending on or after December
16 31, 2017, the applicant must make a minimum investment of
17 \$10,000 in a qualified new business venture.

18 (d) The Department shall implement a program to certify an
19 applicant for an angel investment credit. Upon satisfactory
20 review, the Department shall issue a tax credit certificate
21 stating the amount of the tax credit to which the applicant is
22 entitled. The Department shall annually certify that (i) each
23 approved applicant remains in the State (and continues to
24 remain in the State for a period of not less than 3 years from
25 the issue date of the last tax credit certificate issued by the
26 Department with respect to that business); and (ii) the

1 claimant's investment has been made ~~and remains in the~~
2 ~~qualified new business venture for no less than 3 years.~~

3 If an investment for which a claimant is allowed a credit
4 under subsection (b) is held by the claimant for less than 3
5 years, other than as a result of a permitted sale of such
6 investment to a person that is not a related member, or, if
7 ~~within that period of time the qualified new business venture~~
8 ~~is moved from the State of Illinois,~~ the claimant shall pay to
9 the Department of Revenue, in the manner prescribed by the
10 Department of Revenue, the aggregate amount of the disqualified
11 credit that the claimant received related to the subject
12 investment.

13 If the Department determines that a previously approved
14 applicant has moved from the State prior to the date that
15 occurs 3 years from the issue date of the last tax credit
16 certificate issued by the Department with respect to the
17 subject business, that business must pay to the Department of
18 Revenue, in the manner prescribed by the Department of Revenue,
19 the aggregate amount of the disqualified credits that claimants
20 received related to investments in that business.

21 (e) The Department shall implement a program to register
22 qualified new business ventures for purposes of this Section. A
23 business desiring registration shall submit an application to
24 the Department in each taxable year for which the business
25 desires registration. The Department may register the business
26 only if the business satisfies all of the following conditions:

1 (1) it has its headquarters in this State;

2 (2) at least 51% of the employees employed by the
3 business are employed in this State;

4 (3) it has the potential for increasing jobs in this
5 State, increasing capital investment in this State, or
6 both, and either of the following apply:

7 (A) it is principally engaged in innovation in any
8 of the following: manufacturing; biotechnology;
9 nanotechnology; communications; agricultural sciences;
10 clean energy creation or storage technology;
11 processing or assembling products, including medical
12 devices, pharmaceuticals, computer software, computer
13 hardware, semiconductors, other innovative technology
14 products, or other products that are produced using
15 manufacturing methods that are enabled by applying
16 proprietary technology; or providing services that are
17 enabled by applying proprietary technology; or

18 (B) it is undertaking pre-commercialization
19 activity related to proprietary technology that
20 includes conducting research, developing a new product
21 or business process, or developing a service that is
22 principally reliant on applying proprietary
23 technology;

24 (4) it is not principally engaged in real estate
25 development, insurance, banking, lending, lobbying,
26 political consulting, professional services provided by

1 attorneys, accountants, business consultants, physicians,
2 or health care consultants, wholesale or retail trade,
3 leisure, hospitality, transportation, or construction,
4 except construction of power production plants that derive
5 energy from a renewable energy resource, as defined in
6 Section 1 of the Illinois Power Agency Act;

7 (5) at the time it is first certified:

8 (A) it has fewer than 100 employees;

9 (B) it has been in operation in Illinois for not
10 more than 10 consecutive years prior to the year of
11 certification; and

12 (C) it has received not more than \$10,000,000 in
13 aggregate private equity investment in cash;

14 (6) (blank); and

15 (7) it has received not more than \$4,000,000 in
16 investments that qualified for tax credits under this
17 Section.

18 The Department shall require each qualified new business
19 venture to renew its registration on an annual basis. If, at
20 the time of the renewal, the business fails to satisfy any of
21 the conditions of this subsection, or if the business fails to
22 renew its registration, then the business shall no longer be
23 considered a qualified new business venture.

24 (f) The Department, in consultation with the Department of
25 Revenue, shall adopt rules to administer this Section. The
26 aggregate amount of the tax credits that may be claimed under

1 this Section for investments made in qualified new business
2 ventures shall be limited to \$20,000,000 ~~at \$10,000,000~~ per
3 calendar year.

4 (f-5) For taxable years ending on or after December 31,
5 2017, the Department shall establish a goal of awarding not
6 less than 15% of the total amount of tax credits to investments
7 in qualified new business ventures that would be considered
8 minority-owned businesses, female-owned businesses, or
9 businesses owned by a person with a disability, all as defined
10 in the Business Enterprise for Minorities, Females, and Persons
11 with Disabilities Act.

12 (g) A claimant may not sell or otherwise transfer a credit
13 awarded under this Section to another person.

14 (h) On or before March 1 of each year, the Department shall
15 report to the Governor and to the General Assembly on the tax
16 credit certificates awarded under this Section for the prior
17 calendar year.

18 (1) This report must include, for each tax credit
19 certificate awarded:

20 (A) the name of the claimant and the amount of
21 credit awarded or allocated to that claimant;

22 (B) the name and address of the qualified new
23 business venture that received the investment giving
24 rise to the credit and the county in which the
25 qualified new business venture is located; and

26 (C) the date of approval by the Department of the

1 applications for the tax credit certificate.

2 (2) The report must also include:

3 (A) the total number of applicants and amount for
4 tax credit certificates awarded under this Section in
5 the prior calendar year;

6 (B) the total number of applications and amount for
7 which tax credit certificates were issued in the prior
8 calendar year; and

9 (C) the total tax credit certificates and amount
10 authorized under this Section for all calendar years.

11 It is the intent of the General Assembly that the credit
12 under this Section applies continuously for all taxable years
13 beginning after December 31, 2010 and ending on or before
14 December 31, 2021. Any actions taken in reliance on the
15 continuation of the credit under this Section are hereby
16 validated.

17 (Source: P.A. 96-939, eff. 1-1-11; 97-507, eff. 8-23-11;
18 97-1097, eff. 8-24-12.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.