

SB2751



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2751

Introduced 2/17/2016, by Sen. Daniel Biss

SYNOPSIS AS INTRODUCED:

35 ILCS 5/220

Amends the Illinois Income Tax Act. Provides that the angel investment credit applies for taxable years ending on or before December 31, 2021 (instead of December 31, 2016). Makes changes concerning the annual report submitted by the Department of Commerce and Economic Opportunity to the Governor and the General Assembly. Effective immediately.

LRB099 18532 HLH 42911 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 "Qualified new business venture" means a business that is
21 registered with the Department under this Section.

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

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

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

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

21 (4) A corporation and any party related to that
22 corporation in a manner that would require an attribution
23 of stock from the corporation to the party or from the
24 party to the corporation under the attribution rules of
25 Section 318 of the Internal Revenue Code, if the
26 corporation and all such related parties own, in the

1 aggregate, at least 50% of the profits, capital, stock, or
2 other ownership interest in the applicant.

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

10 (b) For taxable years beginning after December 31, 2010,
11 and ending on or before December 31, 2021 ~~December 31, 2016~~,
12 subject to the limitations provided in this Section, a claimant
13 may claim, as a credit against the tax imposed under
14 subsections (a) and (b) of Section 201 of this Act, an amount
15 equal to 25% of the claimant's investment made directly in a
16 qualified new business venture. In order for an investment in a
17 qualified new business venture to be eligible for tax credits,
18 the business must have applied for and received certification
19 under subsection (e) for the taxable year in which the
20 investment was made prior to the date on which the investment
21 was made. The credit under this Section may not exceed the
22 taxpayer's Illinois income tax liability for the taxable year.
23 If the amount of the credit exceeds the tax liability for the
24 year, the excess may be carried forward and applied to the tax
25 liability of the 5 taxable years following the excess credit
26 year. The credit shall be applied to the earliest year for

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

9 (c) The maximum amount of an applicant's investment that
10 may be used as the basis for a credit under this Section is
11 \$2,000,000 for each investment made directly in a qualified new
12 business venture.

13 (d) The Department shall implement a program to certify an
14 applicant for an angel investment credit. Upon satisfactory
15 review, the Department shall issue a tax credit certificate
16 stating the amount of the tax credit to which the applicant is
17 entitled. The Department shall annually certify that the
18 claimant's investment has been made and remains in the
19 qualified new business venture for no less than 3 years.

20 If an investment for which a claimant is allowed a credit
21 under subsection (b) is held by the claimant for less than 3
22 years, or, if within that period of time the qualified new
23 business venture is moved from the State of Illinois, the
24 claimant shall pay to the Department of Revenue, in the manner
25 prescribed by the Department of Revenue, the amount of the
26 credit that the claimant received related to the investment.

1 (e) The Department shall implement a program to register
2 qualified new business ventures for purposes of this Section. A
3 business desiring registration shall submit an application to
4 the Department in each taxable year for which the business
5 desires registration. The Department may register the business
6 only if the business satisfies all of the following conditions:

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

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

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

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

24 (B) it is undertaking pre-commercialization
25 activity related to proprietary technology that
26 includes conducting research, developing a new product

1 or business process, or developing a service that is
2 principally reliant on applying proprietary
3 technology;

4 (4) it is not principally engaged in real estate
5 development, insurance, banking, lending, lobbying,
6 political consulting, professional services provided by
7 attorneys, accountants, business consultants, physicians,
8 or health care consultants, wholesale or retail trade,
9 leisure, hospitality, transportation, or construction,
10 except construction of power production plants that derive
11 energy from a renewable energy resource, as defined in
12 Section 1 of the Illinois Power Agency Act;

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

14 (A) it has fewer than 100 employees;

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

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

20 (6) (blank); and

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

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 at \$10,000,000 per calendar year.

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

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

9 (1) This report must include, for each tax credit
10 certificate awarded:

11 (A) the name of the claimant, ~~and~~ the amount of
12 credit awarded or allocated to that claimant, and the
13 name of the recipient qualified new business venture
14 that received the investment;

15 (B) the name and address, including the county, the
16 North American Industry Classification System (NAICS)
17 code, and the number of employees of the qualified new
18 business venture that received an investment giving
19 rise to the credit ~~the name and address of the~~
20 ~~qualified new business venture that received the~~
21 ~~investment giving rise to the credit and the county in~~
22 ~~which the qualified new business venture is located;~~
23 and

24 (C) the date of approval by the Department of each
25 claimant's ~~the applications for the~~ tax credit
26 certificate.

1 (2) The report must also include:

2 (A) the total number of applicants and the total
3 number of claimants, including the amount of each tax
4 credit certificate and amount for tax credit
5 ~~certificates~~ awarded to a claimant under this Section
6 in the prior calendar year;

7 (B) the total number of applications from
8 businesses seeking registration, the total number of
9 new qualified business ventures registered by the
10 Department, and the aggregate amount of investment
11 upon which tax credit certificates were issued in the
12 prior calendar year ~~the total number of applications~~
13 ~~and amount for which tax credit certificates were~~
14 ~~issued in the prior calendar year; and~~

15 (C) the total amount of tax credit certificates
16 sought by applicants, the amount of each tax credit
17 certificate issued to a claimant, the aggregate amount
18 of all tax credit certificates issued in the prior
19 calendar year and the aggregate amount of tax credit
20 certificates issued as authorized under this Section
21 for all calendar years. ~~the total tax credit~~
22 ~~certificates and amount authorized under this Section~~
23 ~~for all calendar years.~~

24 (2) On and after the effective date of this amendatory
25 Act of the 99th General Assembly, the Department shall
26 require a business seeking registration as a qualified new

1 business venture to include in its application the North
2 American Industry Classification System (NAICS) code
3 associated with the business and the number of employees at
4 the time of application. Each business registered by the
5 Department as a qualified new business venture that
6 receives an investment giving rise to the issuance of a tax
7 credit certificate shall, for each of the 3 subsequent
8 years, report to the Department the following:

9 (A) the number of employees at the end of each
10 year;

11 (B) the amount of additional new capital
12 investment raised within each year; and

13 (C) any liquidity event transpiring within the
14 3-year period; for purposes of this paragraph (C), a
15 liquidity event shall mean an event that allows some or
16 all investors in a company to cash out some or all of
17 their ownership shares or that is considered an exit
18 strategy for an illiquid investment.

19 (Source: P.A. 96-939, eff. 1-1-11; 97-507, eff. 8-23-11;
20 97-1097, eff. 8-24-12.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.