

SB0304



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0304

Introduced 2/2/2023, by Sen. Suzy Glowiak Hilton

SYNOPSIS AS INTRODUCED:

35 ILCS 5/220

Amends the Illinois Income Tax Act. In provisions concerning the angel investment credit, provides that the amount of the credit is 35% (rather than 25%) of the claimant's investment made directly in the qualified new business venture if the investment is made in (1) a qualified new business venture that is a minority-owned business, a women-owned business, or a business owned a person with a disability or (2) a qualified new business venture in which the principal place of business is located in a county with a population of not more than 250,000. Increases the aggregate amount of angel investment credits that may be claimed in a taxable year.

LRB103 27554 HLH 53929 b

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
11 investment in a qualified new business venture. The term
12 "applicant" does not include (i) a corporation, partnership,
13 limited liability company, or a natural person who has a
14 direct or indirect ownership interest of at least 51% in the
15 profits, capital, or value of the qualified new business
16 venture receiving the investment or (ii) a related member.

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

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

21 "Investment" means money (or its equivalent) given to a
22 qualified new business venture, at a risk of loss, in
23 consideration for an equity interest of the qualified new

1 business venture. The Department may adopt rules to permit
2 certain forms of contingent equity investments to be
3 considered eligible for a tax credit under this Section.

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

6 "Related member" means a person that, with respect to the
7 applicant, is any one of the following:

8 (1) An individual, if the individual and the members
9 of the individual's family (as defined in Section 318 of
10 the Internal Revenue Code) own directly, indirectly,
11 beneficially, or constructively, in the aggregate, at
12 least 50% of the value of the outstanding profits,
13 capital, stock, or other ownership interest in the
14 qualified new business venture that is the recipient of
15 the applicant's investment.

16 (2) A partnership, estate, or trust and any partner or
17 beneficiary, if the partnership, estate, or trust and its
18 partners or beneficiaries own directly, indirectly,
19 beneficially, or constructively, in the aggregate, at
20 least 50% of the profits, capital, stock, or other
21 ownership interest in the qualified new business venture
22 that is the recipient of the applicant's investment.

23 (3) A corporation, and any party related to the
24 corporation in a manner that would require an attribution
25 of stock from the corporation under the attribution rules
26 of Section 318 of the Internal Revenue Code, if the

1 applicant and any other related member own, in the
2 aggregate, directly, indirectly, beneficially, or
3 constructively, at least 50% of the value of the
4 outstanding stock of the qualified new business venture
5 that is the recipient of the applicant's investment.

6 (4) A corporation and any party related to that
7 corporation in a manner that would require an attribution
8 of stock from the corporation to the party or from the
9 party to the corporation under the attribution rules of
10 Section 318 of the Internal Revenue Code, if the
11 corporation and all such related parties own, in the
12 aggregate, at least 50% of the profits, capital, stock, or
13 other ownership interest in the qualified new business
14 venture that is the recipient of the applicant's
15 investment.

16 (5) A person to or from whom there is attribution of
17 ownership of stock in the qualified new business venture
18 that is the recipient of the applicant's investment in
19 accordance with Section 1563(e) of the Internal Revenue
20 Code, except that for purposes of determining whether a
21 person is a related member under this paragraph, "20%"
22 shall be substituted for "5%" whenever "5%" appears in
23 Section 1563(e) of the Internal Revenue Code.

24 (b) For taxable years beginning after December 31, 2010,
25 and ending on or before December 31, 2026, subject to the
26 limitations provided in this Section, a claimant may claim, as

1 a credit against the tax imposed under subsections (a) and (b)
2 of Section 201 of this Act, an amount equal to 25% of the
3 claimant's investment made directly in a qualified new
4 business venture. However, the amount of the credit is 35% of
5 the claimant's investment made directly in the qualified new
6 business venture if the investment is made in: (1) a qualified
7 new business venture that is a minority-owned business, a
8 women-owned business, or a business owned a person with a
9 disability (as those terms are used and defined in the
10 Business Enterprise for Minorities, Women, and Persons with
11 Disabilities Act); or (2) a qualified new business venture in
12 which the principal place of business is located in a county
13 with a population of not more than 250,000. In order for an
14 investment in a qualified new business venture to be eligible
15 for tax credits, the business must have applied for and
16 received certification under subsection (e) for the taxable
17 year in which the investment was made prior to the date on
18 which the investment was made. The credit under this Section
19 may not exceed the taxpayer's Illinois income tax liability
20 for the taxable year. If the amount of the credit exceeds the
21 tax liability for the year, the excess may be carried forward
22 and applied to the tax liability of the 5 taxable years
23 following the excess credit year. The credit shall be applied
24 to the earliest year for which there is a tax liability. If
25 there are credits from more than one tax year that are
26 available to offset a liability, the earlier credit shall be

1 applied first. In the case of a partnership or Subchapter S
2 Corporation, the credit is allowed to the partners or
3 shareholders in accordance with the determination of income
4 and distributive share of income under Sections 702 and 704
5 and Subchapter S of the Internal Revenue Code.

6 (c) The minimum amount an applicant must invest in any
7 single qualified new business venture in order to be eligible
8 for a credit under this Section is \$10,000. The maximum amount
9 of an applicant's total investment made in any single
10 qualified new business venture that may be used as the basis
11 for a credit under this Section is \$2,000,000.

12 (d) The Department shall implement a program to certify an
13 applicant for an angel investment credit. Upon satisfactory
14 review, the Department shall issue a tax credit certificate
15 stating the amount of the tax credit to which the applicant is
16 entitled. The Department shall annually certify that: (i) each
17 qualified new business venture that receives an angel
18 investment under this Section has maintained a minimum
19 employment threshold, as defined by rule, in the State (and
20 continues to maintain a minimum employment threshold in the
21 State for a period of no less than 3 years from the issue date
22 of the last tax credit certificate issued by the Department
23 with respect to such business pursuant to this Section); and
24 (ii) the claimant's investment has been made and remains,
25 except in the event of a qualifying liquidity event, in the
26 qualified new business venture for no less than 3 years.

1 If an investment for which a claimant is allowed a credit
2 under subsection (b) is held by the claimant for less than 3
3 years, other than as a result of a permitted sale of the
4 investment to person who is not a related member, the claimant
5 shall pay to the Department of Revenue, in the manner
6 prescribed by the Department of Revenue, the aggregate amount
7 of the disqualified credits that the claimant received related
8 to the subject investment.

9 If the Department determines that a qualified new business
10 venture failed to maintain a minimum employment threshold in
11 the State through the date which is 3 years from the issue date
12 of the last tax credit certificate issued by the Department
13 with respect to the subject business pursuant to this Section,
14 the claimant or claimants shall pay to the Department of
15 Revenue, in the manner prescribed by the Department of
16 Revenue, the aggregate amount of the disqualified credits that
17 claimant or claimants received related to investments in that
18 business.

19 (e) The Department shall implement a program to register
20 qualified new business ventures for purposes of this Section.
21 A business desiring registration under this Section shall be
22 required to submit a full and complete application to the
23 Department. A submitted application shall be effective only
24 for the taxable year in which it is submitted, and a business
25 desiring registration under this Section shall be required to
26 submit a separate application in and for each taxable year for

1 which the business desires registration. Further, if at any
2 time prior to the acceptance of an application for
3 registration under this Section by the Department one or more
4 events occurs which makes the information provided in that
5 application materially false or incomplete (in whole or in
6 part), the business shall promptly notify the Department of
7 the same. Any failure of a business to promptly provide the
8 foregoing information to the Department may, at the discretion
9 of the Department, result in a revocation of a previously
10 approved application for that business, or disqualification of
11 the business from future registration under this Section, or
12 both. The Department may register the business only if all of
13 the following conditions are satisfied:

14 (1) it has its principal place of business in this
15 State;

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

18 (3) the business has the potential for increasing jobs
19 in this State, increasing capital investment in this
20 State, or both, as determined by the Department, and
21 either of the following apply:

22 (A) it is principally engaged in innovation in any
23 of the following: manufacturing; biotechnology;
24 nanotechnology; communications; agricultural
25 sciences; clean energy creation or storage technology;
26 processing or assembling products, including medical

1 devices, pharmaceuticals, computer software, computer
2 hardware, semiconductors, other innovative technology
3 products, or other products that are produced using
4 manufacturing methods that are enabled by applying
5 proprietary technology; or providing services that are
6 enabled by applying proprietary technology; or

7 (B) it is undertaking pre-commercialization
8 activity related to proprietary technology that
9 includes conducting research, developing a new product
10 or business process, or developing a service that is
11 principally reliant on applying proprietary
12 technology;

13 (4) it is not principally engaged in real estate
14 development, insurance, banking, lending, lobbying,
15 political consulting, professional services provided by
16 attorneys, accountants, business consultants, physicians,
17 or health care consultants, wholesale or retail trade,
18 leisure, hospitality, transportation, or construction,
19 except construction of power production plants that derive
20 energy from a renewable energy resource, as defined in
21 Section 1 of the Illinois Power Agency Act;

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

23 (A) it has fewer than 100 employees;

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

1 (C) it has received not more than \$10,000,000 in
2 aggregate investments;

3 (5.1) it agrees to maintain a minimum employment
4 threshold in the State of Illinois prior to the date which
5 is 3 years from the issue date of the last tax credit
6 certificate issued by the Department with respect to that
7 business pursuant to this Section;

8 (6) (blank); and

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

12 (f) The Department, in consultation with the Department of
13 Revenue, shall adopt rules to administer this Section. For
14 taxable years beginning before January 1, 2024, the ~~The~~
15 aggregate amount of the tax credits that may be claimed under
16 this Section for investments made in qualified new business
17 ventures shall be limited to ~~at~~ \$10,000,000 per calendar year,
18 of which \$500,000 shall be reserved for investments made in
19 qualified new business ventures which are minority-owned
20 businesses, women-owned businesses, or businesses owned by a
21 person with a disability (as those terms are used and defined
22 in the Business Enterprise for Minorities, Women, and Persons
23 with Disabilities Act), and an additional \$500,000 shall be
24 reserved for investments made in qualified new business
25 ventures with their principal place of business in counties
26 with a population of not more than 250,000. For taxable years

1 beginning on or after January 1, 2024, the aggregate amount of
2 the tax credits that may be claimed under this Section for
3 investments made in qualified new business ventures shall be
4 limited to \$25,000,000 per calendar year, of which \$5,000,000
5 shall be reserved for investments made in qualified new
6 business ventures that are minority-owned businesses (as the
7 term is defined in the Business Enterprise for Minorities,
8 Women, and Persons with Disabilities Act), \$2,500,000 shall be
9 reserved for investments made in qualified new business
10 ventures that are women-owned businesses or businesses owned
11 by a person with a disability (as those terms are defined in
12 the Business Enterprise for Minorities, Women, and Persons
13 with Disabilities Act), and \$2,500,000 shall be reserved for
14 investments made in qualified new business ventures with their
15 principal place of business in a county with a population of
16 not more than 250,000. The ~~foregoing~~ annual allowable amounts
17 set forth in this Section shall be allocated by the
18 Department, on a per calendar quarter basis and prior to the
19 commencement of each calendar year, in such proportion as
20 determined by the Department, provided that: (i) the amount
21 initially allocated by the Department for any one calendar
22 quarter shall not exceed 35% of the total allowable amount;
23 (ii) any portion of the allocated allowable amount remaining
24 unused as of the end of any of the first 3 calendar quarters of
25 a given calendar year shall be rolled into, and added to, the
26 total allocated amount for the next available calendar

1 quarter; and (iii) the reservation of tax credits for
2 investments in minority-owned businesses, women-owned
3 businesses, businesses owned by a person with a disability,
4 and in businesses in counties with a population of not more
5 than 250,000 is limited to the first 3 calendar quarters of a
6 given calendar year, after which they may be claimed by
7 investors in any qualified new business venture.

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

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

14 (1) This report must include, for each tax credit
15 certificate awarded:

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

18 (B) the name and address (including the county) of
19 the qualified new business venture that received the
20 investment giving rise to the credit, the North
21 American Industry Classification System (NAICS) code
22 applicable to that qualified new business venture, and
23 the number of employees of the qualified new business
24 venture; and

25 (C) the date of approval by the Department of each
26 claimant's tax credit 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 awarded to a claimant under this
5 Section in the prior calendar year;

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

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

19 (i) For each business seeking registration under this
20 Section after December 31, 2016, the Department shall require
21 the business to include in its application the North American
22 Industry Classification System (NAICS) code applicable to the
23 business and the number of employees of the business at the
24 time of application. Each business registered by the
25 Department as a qualified new business venture that receives
26 an investment giving rise to the issuance of a tax credit

1 certificate pursuant to this Section shall, for each of the 3
2 years following the issue date of the last tax credit
3 certificate issued by the Department with respect to such
4 business pursuant to this Section, report to the Department
5 the following:

6 (1) the number of employees and the location at which
7 those employees are employed, both as of the end of each
8 year;

9 (2) the amount of additional new capital investment
10 raised as of the end of each year, if any; and

11 (3) the terms of any liquidity event occurring during
12 such year; for the purposes of this Section, a "liquidity
13 event" means any event that would be considered an exit
14 for an illiquid investment, including any event that
15 allows the equity holders of the business (or any material
16 portion thereof) to cash out some or all of their
17 respective equity interests.

18 (Source: P.A. 101-81, eff. 7-12-19; 102-16, eff. 6-17-21.)