

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 money (or its equivalent) given to a
21 qualified new business venture, at a risk of loss, in
22 consideration for an equity interest of the qualified new
23 business venture. The Department may adopt rules to permit

1 certain forms of contingent equity investments to be considered
2 eligible for a tax credit under this Section.

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

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

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

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

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

1 (4) A corporation and any party related to that
2 corporation in a manner that would require an attribution
3 of stock from the corporation to the party or from the
4 party to the corporation under the attribution rules of
5 Section 318 of the Internal Revenue Code, if the
6 corporation and all such related parties own, in the
7 aggregate, at least 50% of the profits, capital, stock, or
8 other ownership interest in the applicant.

9 (5) A person to or from whom there is attribution of
10 stock ownership in accordance with Section 1563(e) of the
11 Internal Revenue Code, except that for purposes of
12 determining whether a person is a related member under this
13 paragraph, "20%" shall be substituted for "5%" whenever
14 "5%" appears in Section 1563(e) of the Internal Revenue
15 Code.

16 (b) For taxable years beginning after December 31, 2010,
17 and ending on or before December 31, 2021 ~~December 31, 2016~~,
18 subject to the limitations provided in this Section, a claimant
19 may claim, as a credit against the tax imposed under
20 subsections (a) and (b) of Section 201 of this Act, an amount
21 equal to 25% of the claimant's investment made directly in a
22 qualified new business venture. In order for an investment in a
23 qualified new business venture to be eligible for tax credits,
24 the business must have applied for and received certification
25 under subsection (e) for the taxable year in which the
26 investment was made prior to the date on which the investment

1 was made. The credit under this Section may not exceed the
2 taxpayer's Illinois income tax liability for the taxable year.
3 If the amount of the credit exceeds the tax liability for the
4 year, the excess may be carried forward and applied to the tax
5 liability of the 5 taxable years following the excess credit
6 year. The credit shall be applied to the earliest year for
7 which there is a tax liability. If there are credits from more
8 than one tax year that are available to offset a liability, the
9 earlier credit shall be applied first. In the case of a
10 partnership or Subchapter S Corporation, the credit is allowed
11 to the partners or shareholders in accordance with the
12 determination of income and distributive share of income under
13 Sections 702 and 704 and Subchapter S of the Internal Revenue
14 Code.

15 (c) The minimum amount an applicant must invest in any
16 single qualified new business venture in order to be eligible
17 for a credit under this Section is \$10,000. The maximum amount
18 of an applicant's total investment made in any single qualified
19 new business venture that may be used as the basis for a credit
20 under this Section is \$2,000,000 ~~for each investment made~~
21 ~~directly in a qualified new business venture.~~

22 (d) The Department shall implement a program to certify an
23 applicant for an angel investment credit. Upon satisfactory
24 review, the Department shall issue a tax credit certificate
25 stating the amount of the tax credit to which the applicant is
26 entitled. The Department shall annually certify that: (i) each

1 qualified new business venture that receives an angel
2 investment under this Section has maintained a minimum
3 employment threshold, as defined by rule, in the State (and
4 continues to maintain a minimum employment threshold in the
5 State for a period of no less than 3 years from the issue date
6 of the last tax credit certificate issued by the Department
7 with respect to such business pursuant to this Section); and
8 (ii) the claimant's investment has been made and remains,
9 except in the event of a qualifying liquidity event, in the
10 qualified new business venture for no less than 3 years.

11 If an investment for which a claimant is allowed a credit
12 under subsection (b) is held by the claimant for less than 3
13 years, other than as a result of a permitted sale of the
14 investment to person who is not a related member, ~~or, if within~~
15 ~~that period of time the qualified new business venture is moved~~
16 ~~from the State of Illinois,~~ the claimant shall pay to the
17 Department of Revenue, in the manner prescribed by the
18 Department of Revenue, the aggregate amount of the disqualified
19 credits ~~credit~~ that the claimant received related to the
20 subject investment.

21 If the Department determines that a qualified new business
22 venture failed to maintain a minimum employment threshold in
23 the State through the date which is 3 years from the issue date
24 of the last tax credit certificate issued by the Department
25 with respect to the subject business pursuant to this Section,
26 the claimant or claimants shall pay to the Department of

1 Revenue, in the manner prescribed by the Department of Revenue,
2 the aggregate amount of the disqualified credits that claimant
3 or claimants received related to investments in that business.

4 (e) The Department shall implement a program to register
5 qualified new business ventures for purposes of this Section. A
6 business desiring registration under this Section shall be
7 required to submit a full and complete ~~an~~ application to the
8 Department ~~in each taxable year for which the business desires~~
9 ~~registration.~~ A submitted application shall be effective only
10 for the taxable year in which it is submitted, and a business
11 desiring registration under this Section shall be required to
12 submit a separate application in and for each taxable year for
13 which the business desires registration. Further, if at any
14 time prior to the acceptance of an application for registration
15 under this Section by the Department one or more events occurs
16 which makes the information provided in that application
17 materially false or incomplete (in whole or in part), the
18 business shall promptly notify the Department of the same. Any
19 failure of a business to promptly provide the foregoing
20 information to the Department may, at the discretion of the
21 Department, result in a revocation of a previously approved
22 application for that business, or disqualification of the
23 business from future registration under this Section, or both.
24 The Department may register the business only if ~~the business~~
25 ~~satisfies~~ all of the following conditions are satisfied:

26 (1) it has its principal place of business headquarters

1 in this State;

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

4 (3) the business ~~it~~ has the potential for increasing
5 jobs in this State, increasing capital investment in this
6 State, or both, as determined by the Department, and either
7 of the following apply:

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

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

25 (4) it is not principally engaged in real estate
26 development, insurance, banking, lending, lobbying,

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

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

9 (A) it has fewer than 100 employees;

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

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

16 (5.1) it agrees to maintain a minimum employment
17 threshold in the State of Illinois prior to the date which
18 is 3 years from the issue date of the last tax credit
19 certificate issued by the Department with respect to that
20 business pursuant to this Section;

21 (6) (blank); and

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

25 (f) The Department, in consultation with the Department of
26 Revenue, shall adopt rules to administer this Section. The

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

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

25 (h) On or before March 1 of each year, the Department shall
26 report to the Governor and to the General Assembly on the tax

1 credit certificates awarded under this Section for the prior
2 calendar year.

3 (1) This report must include, for each tax credit
4 certificate awarded:

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

7 (B) the name and address (including the county) of
8 the qualified new business venture that received the
9 investment giving rise to the credit, the North
10 American Industry Classification System (NAICS) code
11 applicable to that qualified new business venture, and
12 the number of employees of the ~~the~~ qualified new
13 business venture ~~that received the investment giving~~
14 ~~rise to the credit and the county in which the~~
15 ~~qualified new business venture is located;~~ and

16 (C) the date of approval by the Department of each
17 claimant's ~~the applications for the~~ tax credit
18 certificate.

19 (2) The report must also include:

20 (A) the total number of applicants and the total
21 number of claimants, including the amount of each tax
22 credit certificate ~~and amount for tax credit~~
23 ~~certificates~~ awarded to a claimant under this Section
24 in the prior calendar year;

25 (B) the total number of applications from
26 businesses seeking registration under this Section,

1 the total number of new qualified business ventures
2 registered by the Department, and the aggregate amount
3 of investment upon which tax credit certificates were
4 issued in the prior calendar year ~~the total number of~~
5 ~~applications and amount for which tax credit~~
6 ~~certificates were issued in the prior calendar year;~~
7 and

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

17 (i) For each business seeking registration under this
18 Section after December 31, 2016, the Department shall require
19 the business to include in its application the North American
20 Industry Classification System (NAICS) code applicable to the
21 business and the number of employees of the business at the
22 time of application. Each business registered by the Department
23 as a qualified new business venture that receives an investment
24 giving rise to the issuance of a tax credit certificate
25 pursuant to this Section shall, for each of the 3 years
26 following the issue date of the last tax credit certificate

1 issued by the Department with respect to such business pursuant
2 to this Section, report to the Department the following:

3 (1) the number of employees and the location at which
4 those employees are employed, both as of the end of each
5 year;

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

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

15 (Source: P.A. 96-939, eff. 1-1-11; 97-507, eff. 8-23-11;
16 97-1097, eff. 8-24-12.)