

HB3397



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3397

by Rep. Thomas Morrison

SYNOPSIS AS INTRODUCED:

35 ILCS 5/220

Amends the Illinois Income Tax Act. Raises the limit on angel investment tax credits from \$10 million to \$20 million in total income tax credits per year. Raises the limit on an applicant's eligible investment from \$2 million to \$4 million. Effective immediately.

LRB098 08343 HLH 38448 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, 2016, subject to the
12 limitations provided in this Section, a claimant may claim, as
13 a credit against the tax imposed under subsections (a) and (b)
14 of Section 201 of this Act, an amount equal to 25% of the
15 claimant's investment made directly in a qualified new business
16 venture. In order for an investment in a qualified new business
17 venture to be eligible for tax credits, the business must have
18 applied for and received certification under subsection (e) for
19 the taxable year in which the investment was made prior to the
20 date on which the investment was made. The credit under this
21 Section may not exceed the taxpayer's Illinois income tax
22 liability for the taxable year. If the amount of the credit
23 exceeds the tax liability for the year, the excess may be
24 carried forward and applied to the tax liability of the 5
25 taxable years following the excess credit year. The credit
26 shall be applied to the earliest year for which there is a tax

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

8 (c) The maximum amount of an applicant's investment that
9 may be used as the basis for a credit under this Section is
10 \$4,000,000 ~~\$2,000,000~~ for each investment made directly in a
11 qualified new business venture.

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

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

26 (e) The Department shall implement a program to register

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

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

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

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

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

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

1 principally reliant on applying proprietary
2 technology;

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

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

13 (A) it has fewer than 100 employees;

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

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

19 (6) (blank); and

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

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

1 ventures shall be limited at \$20,000,000 ~~\$10,000,000~~ per
2 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;

13 (B) the name and address of the qualified new
14 business venture that received the investment giving
15 rise to the credit and the county in which the
16 qualified new business venture is located; and

17 (C) the date of approval by the Department of the
18 applications for the tax credit certificate.

19 (2) The report must also include:

20 (A) the total number of applicants and amount for
21 tax credit certificates awarded under this Section in
22 the prior calendar year;

23 (B) the total number of applications and amount for
24 which tax credit certificates were issued in the prior
25 calendar year; and

26 (C) the total tax credit certificates and amount

1 authorized under this Section for all calendar years.

2 (Source: P.A. 96-939, eff. 1-1-11; 97-507, eff. 8-23-11;

3 97-1097, eff. 8-24-12.)

4 Section 99. Effective date. This Act takes effect upon

5 becoming law.