



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
ANGEL INVESTOR CREDIT

SC SCH.TC-56

(Rev. 4/14/21)

3657

20 _____

Names

SSN or FEIN

**Do not file the TC-56 if you have not filed the TC-56A and been approved by the SCDOR.
Individual taxpayers ONLY - Complete line 1 through line 8**

- 1. Total credit tentatively approved this tax year 1. _____
(If filing by paper, include SC K-1s identifying credits passed through by all S Corporations, Partnerships and Limited Liability Companies (LLCs).)
- 2. Maximum credit you can earn in a tax year 2. \$100,000
- 3. Credit earned this tax year (lesser of line 1 and line 2)..... 3. _____
- 4. Available credit earned this tax year (multiply line 3 by 50%)..... 4. _____
- 5. Credit earned but not available this tax year (subtract line 4 from line 3) 5. _____
- 6. Unused credit from all prior years 6. _____
- 7. Credit you transferred to another taxpayer 7. _____
(Include unused credits that were transferred on your behalf by an S Corporation, Partnership, or LLC. Unused credits can only be transferred once.)
- 8. Prior year credit available (subtract line 7 from line 6)..... 8. _____

All taxpayers - Complete line 9 through line 17

- 9. Credit transferred to you from another taxpayer 9. _____
(Unused credits can only be transferred once.)
- 10. Add line 8 and line 9 10. _____
- 11. Expired credit 11. _____
(Unused credits can be carried forward for 10 years from the end of the tax year the qualified investment was made.)
- 12. Subtract line 11 from line 10 12. _____
- 13. Credit available this tax year (add line 4 and line 12) 13. _____
- 14. Current year tax liability 14. _____
- 15. Current year credit (lesser of line 13 and line 14)..... 15. _____
- 16. Subtract line 15 from line 13 16. _____
- 17. Credit carryforward (add line 5 and line 16)..... 17. _____
(Unused credits may be carried forward for 10 years from the end of the tax year the qualified investment was made, and may be transferred only once.)

INSTRUCTIONS

General information

An Angel Investor can claim a nonrefundable Income Tax credit of 35% of qualified investments made in a qualified business between 2013 and 2025.

Purpose of the credit

The purpose of the credit is to:

- encourage individual Angel Investors to invest in early-stage, high-growth, job-creating businesses
- enlarge the number of high-quality, high-paying jobs in South Carolina
- expand the South Carolina's economy by enlarging its base of wealth-creating businesses
- support businesses seeking to commercialize technology invented in the state's institutions of higher education

Line instructions

Only individual taxpayers should complete line 1 through line 8. All taxpayers should complete line 9 through line 17.

Line 1: Enter the total amount of credit tentatively approved this tax year. Enter credit amounts from all sources, including pass-through entities. If you file a paper return, include a copy of the SC K-1s showing the credit amounts passed through from all S Corporations, Partnerships, and LLCs.

Line 2: The maximum credit amount an individual taxpayer can earn in a year is \$100,000. This includes the credit earned through direct investments and investments made by a pass-through entity and allocated to the individual.

Line 3: Enter the lesser of line 1 and line 2. This is the amount of credit earned this tax year.

Line 4: Multiply line 3 by 50%. You may apply 50% of the allowed credit to your net Income Tax liability in the tax year the qualified investment is made and the remaining 50% in the following tax years.

Line 5: Subtract line 4 from line 3. This is the amount of credit earned this year but not available this year. You will be able to take this credit amount in future tax years.

Line 6: Enter the unused credit carried forward from prior years.

Line 7: Enter any unused credit amount you transferred to another taxpayer. This includes any amount transferred on your behalf by an S Corporation, Partnership, or LLC. See **Transferring the credit** on page 3 for more information about transferring credits.

Line 8: Subtract line 7 from line 6. This is the amount of unused credit that is still available to you.

Line 9: Enter any credit amounts that were transferred to you by another taxpayer.

Line 10: Add line 8 and line 9. This is the amount of credit available to you before deducting expired credits.

Line 11: Enter the amount of your available credit that expires this year. Unused credits may only be carried forward for ten years from the end of the tax year when the qualified investment was made.

Line 12: Subtract line 11 from line 10. This is the amount of prior year and transferred credits still available for this tax year.

Line 13: Add line 4 and line 12. This is the total amount of credit available for this tax year.

Line 14: Enter your net Income Tax liability.

Line 15: Enter the lesser of line 13 and line 14. This is the current year credit you are allowed.

Line 16: Subtract line 15 from line 13. This is your amount of unused credit for this tax year.

Line 17: Add line 5 and line 16. This is the amount of credit available for you to carry forward to next year. Unused credits may be carried forward for ten years from the end of the tax year when the qualified investment was made, and may be transferred only once.

Applying for the credit

An Angel Investor seeking to claim the credit must apply to the SCDOR for tentative approval for the Angel Investor Credit in the tax year the credit is claimed or allowed. The SCDOR will review applications and tentatively approve the application if it meets the credit requirements.

Beginning with the 2020 tax year, credit applications must be completed using our secure online tax portal, MyDORWAY, at **MyDORWAY.dor.sc.gov**. If you have previously submitted a TC-56A to the SCDOR and don't have a MyDORWAY account, visit **dor.sc.gov/MyDORWAY-signup** to create a MyDORWAY account. If you have not submitted a TC-56A in the past, and don't have a MyDORWAY account, contact us at **TaxTech@dor.sc.gov** or **803-898-5706**.

The SCDOR will notify each applicant of the credits tentatively approved and allocated to qualified investors by January 31 of the following year.

The total amount of credits allowed for all taxpayers for any one calendar year is \$5 million. If credits claimed exceed \$5 million, the SCDOR will allocate credits on a pro rata basis among the Angel Investors who filed timely applications. Do not claim the credit on your tax return if you have not received a letter from the SCDOR with the amount that has been tentatively approved.

Credit amounts and limitations

The maximum amount of credit an individual can earn in a single tax year, through direct investment or allocated by a pass-through entity, is \$100,000.

An Angel Investor may apply 50% of the allowed credit to their net Income Tax liability in the tax year during which the qualified investment is made. The other 50% may be applied to the Angel Investor's net Income Tax liability in the tax years after the qualified investment is made. Net Income Tax liability is the South Carolina state Income Tax liability reduced by all other credits allowed under Titles 11, 12, and 48 of the SC Code of Laws.

Unused credits can be carried forward for ten years from the end of the tax year in which the qualified investment was made.

Pass-through entities

Any pass-through entity making an investment directly in a qualified business must allocate the credit to each individual shareholder, partner, or member using the same manner as the proportionate shares of income or loss of the pass-through entity would be determined. The pass-through entity must make an irrevocable election of the manner in which the credit is allocated. Only individual shareholders may claim a credit passed through by an S Corporation, Partnership, or LLC. If an individual's share of the pass-through entity's credit for a tax year is reduced to the \$100,000 maximum amount, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

Transferring the credit

Unused credits may be transferred to the Angel Investor's spouse, or incident to divorce. Upon the Angel Investor's death, the credit may be transferred to the Angel Investor's heirs and legatees.

Unused credits may be sold, exchanged, or otherwise transferred to any taxpayer. A credit, or part of a credit, can only be transferred once. The transferred credit may be used for the tax year in which the transfer occurred. The SCDOR may develop procedures for the transfer of the credits.

Pass-through entities must provide their members, partners, or shareholders with SC K-1s. Include SC K-1 documentation with any transfer requests.

Registration of qualified businesses

A qualified business must register with the South Carolina Secretary of State (SCSOS) and be certified as a qualified business. The certification is valid for 12 months after it is issued by SCSOS. The business may renew its registration if it remains a qualified business at the time of renewal.

The SCSOS must revoke the registration if it finds that any information contained in the application is false. The SCSOS will not revoke the registration of a business that ceases business operations for an indefinite period of time, as long as the business renews its registration.

Registration as a qualified business may not be sold or otherwise transferred, except when a qualified business enters into a merger, conversion, consolidation, or other similar transaction with another business. The surviving company retains the registration for the remainder of the 12-month period if it would otherwise meet the criteria for being a qualified business. Instead of having to apply, the qualified business must provide written notice to the SCSOS of the merger, conversion, consolidation, or similar transaction and other information required by the SCSOS.

Tax treatment

Tax credits generated as a result of these investments are not considered securities under the laws of the state.

If an Angel Investor who qualified for the credit recognized net capital gain on the sale or exchange of credit assets in a tax year, the taxpayer must reduce the amount of net capital gain eligible for the 44% deduction on the SC1040 by the net capital gain on the sale or exchange of credit assets. Credit assets are the capital assets acquired by the Angel Investor taxpayer who was eligible to claim the credit based on the acquisition of the assets.

In a separate computation each tax year, the Angel Investor taxpayer must attribute the net capital gain on credit assets to each credit asset in the ratio that the long term capital gain on each separate credit asset as a proportion of all such long term gain bears to the required net capital gain reduction. If cumulative net capital gain on a credit asset multiplied by 7% equals the total credit claimed on the credit asset, the excess of the net capital gain attributable to this credit asset over that necessary to produce the total credit amount in the computation is deducted from the required reduction.

If an Angel Investor taxpayer recognized net capital loss on the sale or exchange of credit assets in a tax year in an amount equal to or less than the total of tax credits claimed on those credit assets, then the amount of the net capital loss on those credit assets not to exceed the tax credits claimed on those credit assets is added to the Angel Investor taxpayer's South Carolina taxable income for that tax year.

If an Angel Investor taxpayer recognized net capital loss on the sale or exchange of credit assets in a tax year in an amount greater than the amount of the tax credits claimed on those credit assets, then there is added to the Angel Investor taxpayer's South Carolina taxable income for that tax year the amount of the tax credit claimed on those credit assets.

Definitions

Angel Investor is an accredited investor who is:

- a South Carolina resident individual
- a nonresident individual subject to South Carolina Income Tax, or
- a pass-through entity formed for investment purposes that:
 - has no business operations
 - does not have committed capital under management exceeding \$5 million, and
 - is not capitalized with funds raised or pooled through private placement memoranda directed to institutional investors

A venture capital fund or commodity fund with institutional investors or a hedge fund does not qualify as an Angel Investor.

Accredited investor is defined by the US Securities and Exchange Commission in 17 CFR 230.501 and includes:

- a director, executive officer, or general partner of the company selling the securities
- a business in which all the equity owners are accredited investors
- a natural person who has individual net worth, or joint net worth with their spouse, exceeding \$1 million at the time of the purchase, excluding the value of their primary residence, and
- a natural person with income exceeding \$200,000 in each of the two most recent years, or joint income with their spouse exceeding \$300,000 for those years, and a reasonable expectation of the same income level in the current year

Pass-through entity means an S Corporation, a Partnership, or an LLC taxed as a Partnership

Qualified investment means:

- an investment by an Angel Investor of cash in a qualified business for common or preferred stock or an equity interest, or
- a purchase for cash of subordinated debt in a qualified business

An investment or purchase does not qualify if a broker fee, commission, or similar remuneration is paid or given directly or indirectly for soliciting the investment or purchase.

Qualified business means a registered business that:

- is a corporation, LLC, or general or limited partnership that is:
 - located in South Carolina
 - has its headquarters located in South Carolina at the time the investment was made, and
 - has maintained the headquarters for the entire time the qualified business benefited from the tax credit
- was organized no more than five years before the qualified investment was made
- employs 25 or fewer people in South Carolina at the time it is registered as a qualified business
- has had gross income of \$2 million or less on a consolidated basis, as determined in accordance with the Internal Revenue Code, in any complete fiscal year before registration

- is primarily engaged in:
 - manufacturing
 - processing
 - warehousing
 - wholesaling
 - software development
 - information technology services
 - research and development, or
 - a qualifying service-related facility
- does not engage substantially in:
 - retail sales
 - real estate or construction
 - professional services
 - gambling
 - natural resource extraction
 - financial brokerage, investment activities, or insurance
 - entertainment, amusement, recreation, or athletic or fitness activity for which an admission or fee is charged

A business is substantially engaged in an activity if:

- its gross revenue from the activity exceeds 25% of its gross revenues in a fiscal year, or
- it is established to engage the activity as one of its primary purposes according to its articles of incorporation, articles of organization, operating agreement, or similar organizational documents

Headquarters means the facility or portion of a facility where corporate staff employees are physically employed and where the majority of the company's or company business unit's financial, personnel, legal, planning, information technology, or other headquarters-related functions are handled.

For more information on the Angel Investor Credit, see SC Revenue Ruling #14-6, available at dor.sc.gov/policy.

If you file by paper, attach to your Income Tax return. If you file electronically, keep a copy with your tax records.

Social Security Privacy Act Disclosure

It is mandatory that you provide your Social Security Number on this tax form if you are an individual taxpayer. 42 U.S.C. 405(c)(2)(C)(i) permits a state to use an individual's Social Security Number as means of identification in administration of any tax. SC Regulation 117-201 mandates that any person required to make a return to the SCDOR must provide identifying numbers, as prescribed, for securing proper identification. Your Social Security Number is used for identification purposes.

The Family Privacy Protection Act

Under the Family Privacy Protection Act, the collection of personal information from citizens by the SCDOR is limited to the information necessary for the SCDOR to fulfill its statutory duties. In most instances, once this information is collected by the SCDOR, it is protected by law from public disclosure. In those situations where public disclosure is not prohibited, the Family Privacy Protection Act prevents such information from being used by third parties for commercial solicitation purposes.