



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
ANGEL INVESTOR CREDIT
Attach to your Income Tax Return

Names As Shown On Tax Return

SSN or FEIN

INDIVIDUALS ONLY (Pass-through entities and transferees other than individuals do not complete.):

- 1. Amount of credit tentatively approved this tax year from all sources. _____
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 an individual can earn in a tax year. \$100,000
- 3. Credit earned this year: Lesser of lines 1 and 2. _____
- 4. Available credit earned this year: Multiply line 3 by 0.50 (50%). _____
- 5. Credit earned this year but not available this year: Line 3 minus line 4. _____
- 6. Amount of unused credit from all prior years. _____
- 7. Amount of credit transferred by you to another taxpayer. _____
Include unused credits transferred on your behalf by any S corporation, partnership, or LLC. Unused credits can be transferred only once.
- 8. Line 6 minus line 7. _____
- 9. Amount of credit transferred to you from another taxpayer. _____
Unused credits can be transferred only once.
- 10. Add lines 8 and 9. _____
- 11. Amount of expired credit. _____
Unused credits may be carried forward for 10 years from the close of the tax year in which the qualified investment was made.
- 12. Line 10 minus line 11. _____
- 13. Credit available this year: Add lines 4 and 12. _____
- 14. Current year tax liability. _____
- 15. Current year credit: Lesser of lines 13 and 14. _____
- 16. Line 13 minus line 15. _____
- 17. Credit carried forward: Add lines 5 and 16. _____
Unused credits may be carried forward for 10 years from the close of the tax year in which the qualified investment was made, and may be transferred only once.

FOR ALL TRANSFEREES OTHER THAN INDIVIDUALS: Report transferred credit as a credit carryover on SC1040TC or SC1120TC.

INSTRUCTIONS

General information

An angel investor is entitled to a nonrefundable income tax credit of 35% of qualified investments made between 2013 and 2019 in a qualified business.

Purpose of credit

The purpose of the credit is to:

- (1) encourage individual angel investors to invest in early stage, high-growth, job-creating businesses;
- (2) enlarge the number of high-quality, high-paying jobs within the State;
- (3) expand the economy of this State by enlarging its base of wealth-creating businesses; and
- (4) support businesses seeking to commercialize technology invented in this state's institutions of higher education.

Angel Investors

An "angel investor" is an accredited investor as defined by the U.S. Securities and Exchange Commission, who is either:

- a South Carolina resident individual or a nonresident individual subject to South Carolina income taxes; or
- a pass-through entity formed for investment purposes that has no business operations and no 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.

"Pass-through entity" means a partnership, an S corporation, or a limited liability company taxed as a partnership.

The definition of "accredited investor" in 17 CFR 230.501 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 the person's spouse, that exceeds \$1 million at the time of the purchase, excluding the value of the primary residence of such person; and
- a natural person with income exceeding \$200,000 in each of the two most recent years or joint income with a spouse exceeding \$300,000 for those years and a reasonable expectation of the same income level in the current year.

\$100,000 is the maximum credit that an individual can earn in a single tax year. Any pass-through entity making a qualified investment directly in a qualified business must allocate the credit allowed to each individual who is a shareholder, partner, or member of the entity in an amount determined in 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 with the Department of Revenue as to the manner in which the credit is allocated. 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.

Qualified Investments

"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. Investment of common or preferred stock or an equity interest or purchase of subordinated debt does not qualify as a qualified investment if a broker fee or commission or a similar remuneration is paid or given directly or indirectly for soliciting an investment or a purchase.

Qualified Businesses

A "qualified business" is a registered business that:

- is a corporation, limited liability company, or general or limited partnership located in this State that has its headquarters in this State at the time the investment was made and has maintained the headquarters for the entire time the qualified business benefitted from the tax credit;
- was organized no more than 5 years before the qualified investment was made;
- employs 25 or fewer people in this State 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, or research and development, or is a qualifying service-related facility; and

- does not engage substantially in retail sales; real estate or construction; professional services; gambling; natural resource extraction; financial brokerage, investment activities, or insurance; or 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 either its gross revenue from the activity in a fiscal year exceeds 25% of its total gross revenues or if, according to its articles of incorporation, articles of organization, operating agreement, or similar organizational documents, one of its primary purposes when established was to engage in the activity.

A qualified business must apply with the Secretary of State for certification. "Registered" or "registration" means that a business was certified by the Secretary of State as a qualified business at the time it applied. Registration is valid for 12 months after the date of certification. A business may renew its registration if it remains a qualified business at the time of renewal.

The Secretary of State must revoke the registration if it finds that any information contained in the application is false. The Secretary of State 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.

A 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 may retain 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 Secretary of State of the merger, conversion, consolidation, or similar transaction and other information as required by the Secretary of State.

"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.

Applying for tentative approval from the Department of Revenue

The total amount of credits allowed for all taxpayers for any one calendar year is \$5 million. An angel investor seeking to claim a tax credit provided for under this chapter must submit an application to the Department of Revenue for tentative approval for the tax credit in the year for which the tax credit is claimed or allowed. The Department of Revenue must review the application and tentatively must approve the application upon determining that it meets the requirements of this chapter.

The Department of Revenue will notify each applicant of the tax credits tentatively approved and allocated to the qualified investor by January 31st of the year. If the credits claimed exceed \$5 million, the Department will allocate credits on a pro rata basis among the angel investors who filed timely applications. The credit must be tentatively approved and communicated to the angel investor before the angel investor can claim the credit on a tax return.

Limitations

50% of the allowed credit may be applied to the angel investor's net income tax liability in the tax year during which the qualified investment is made, and 50% of the allowed credit 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" means South Carolina state income tax liability reduced by all other credits allowed under Titles 11, 12, and 48 of the S.C. Code of Laws.

The credit is nonrefundable. Unused credits can be carried forward for 10 years from the close of the tax year in which the qualified investment was made.

Transfers of credit

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

Unused credits may be transferred to the angel investor's spouse, or incident to divorce, or, upon his or her death, to the angel investor's heirs and legatees.

Unused credits may be sold, exchanged or otherwise transferred, and may be carried forward for a period of 10 years from the close of the tax year in which the qualified investment was made. A tax credit or part of a tax credit can be transferred only once. The credit may be transferred to any taxpayer. A transferred credit may be used for the tax year in which the transfer occurred, and unused amounts may be carried forward for 10 years from the close of the tax year in which the qualified investment was made. The Department of Revenue may develop procedures for the transfer of the credits.

If an angel investor taxpayer recognized net capital gain on the sale or exchange of credit assets in a tax year, then the amount of net capital gain of that taxpayer eligible for the deduction is reduced by the net capital gain on the sale or exchange of credit assets.

“Angel investor taxpayer” means a taxpayer who invested in a capital asset and as a result of that investment was eligible to claim the tax credit allowed pursuant to this chapter.

“Net capital gain” is as defined in Internal Revenue Code Section 1222 and related sections.

“Credit asset” means a capital asset acquired by an angel investor taxpayer who was eligible to claim the tax credit allowed pursuant to this chapter with respect to the acquisition.

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 there is added to the angel investor taxpayer's South Carolina taxable income for that tax year the amount of the net capital loss on those credit assets not to exceed the tax credits claimed on those credit assets.

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.

“Net capital loss” is as defined in Internal Revenue Code Section 1211(b), not including the limitation imposed pursuant to Section 1211(b)(1).

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 SC Department of Revenue shall 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 Department of Revenue is limited to the information necessary for the Department to fulfill its statutory duties. In most instances, once this information is collected by the Department, 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.