

ANGEL INVESTOR TAX CREDIT

HOUSE BILL 170

“We should do everything we can to support Delaware’s innovators and entrepreneurs who are leading Delaware’s new economy. This legislation would encourage investments in innovative, Delaware-based small businesses and connect our most talented entrepreneurs with the resources they need to be successful.” – Governor John Carney

The Angel Investor Job Creation and Innovation Act would establish a refundable tax credit for qualified investors in innovative, Delaware-based small businesses, to spur job creation and innovation.

CLAWBACKS

- ▶ Investor must **keep investment in business for the remainder of the calendar year** that the investment is made, **plus the next two calendar years.**
 - Except if the investment becomes worthless before end of this period; 80% or more of qualified small business is sold before end of this period; business’ common stock is sold on public exchange before end of this period; qualified investor dies before end of this period.
- ▶ If **investor fails to keep investment in business for the three year period**, credit is revoked and must be repaid in full.
- ▶ If **business fails to maintain employment requirements for 3 years**, credit is revoked and must be repaid according to repayment schedule (pro rata - 100%, 66.7%, 33.3% respectively).

ELIGIBLE BUSINESSES

- ▶ **Qualified high technology fields** – aerospace, agricultural processing, renewable energy, energy efficiency and conservation, environmental engineering, food technology, cellulosic ethanol, information technology, financial technology, material sciences technology, nanotechnology, telecommunications, biotechnology, medical device products, pharmaceuticals, diagnostics, biologicals, chemistry, veterinary science, and similar fields.
- ▶ Business is **headquartered in Delaware.**
- ▶ 51% of common-law employees and 51% of total compensation paid for work **provided in Delaware.**
- ▶ Uses **proprietary technology to add value to a product, process, or service** in qualified field; **research or develop** a proprietary product or process in qualified field.
- ▶ **Fewer than 25 employees.**
- ▶ **Not in operation for more than 10 years** (more than 20 if working on FDA approval for product).
- ▶ **Has not previously received private equity of more than \$4 million.**
- ▶ **Has not issued securities on a public exchange.** Cannot issue securities on public exchange for 180 days after investment, and cannot have liquidation event within 180 days of qualified investment.
- ▶ **Eligible invested funds must be used for “qualified expenditures.”** These expenditures include: real property such as buildings, warehouses or factories in Delaware; personal property, such as equipment, machinery, or supplies, for use in Delaware; intangible property developed in Delaware such as copyrights, trademarks, or patents; and payroll and compensation paid for work performed in Delaware. This will include proof of concept/prototype manufacturing.

QUALIFIED INVESTORS

- ▶ **\$10,000 minimum** investment for individual, **\$30,000 minimum** for fund.
- ▶ Credit is **25% of investment** in qualified business.
- ▶ Total program funding is **capped at \$5 million annually.**
- ▶ **Sunset after 2021.**
- ▶ **Cumulative tax credit limit** for qualified investors in one year is **\$250,000 for married couples filing jointly, \$125,000 for individuals.**
- ▶ **No more than \$500,000 in credits** may be awarded for **qualified investments in any one qualified business** over all calendar years.
- ▶ **Officers** in a qualified business, or **investors that control 20% or more** of the business, **are not eligible.**
- ▶ Investors may **claim the credit on their next Delaware tax return**, so long as the investment has been held for at least six months.