

..... The Angel Tax Credit

July 28, 2010

The Minnesota Department of Employment and Economic Development (DEED) recently published details regarding the Angel Tax Credit and its application process. The Angel Tax Credit provides *qualified* investors and investment funds a 25% refundable credit for investments in qualifying businesses engaged in technological innovation in Minnesota. Credits are given on a first-come, first-served basis.

Minnesota's Angel Tax Credit, part of the "Jobs Bill" signed into law by Governor Pawlenty on April 1, 2010, has \$11 million in credits available for 2010 and \$12 million for 2011 - 2014. The maximum credit available per investor is \$125,000 (\$250,000 for married filing jointly).

Businesses must apply with DEED prior to receiving an Angel Tax Credit. To qualify, businesses must be engaged in technological innovation in a high-technology field and use proprietary technology. A business will not qualify if it's in an excluded industry such as real estate and construction, insurance, most professional services (including attorneys, accountants, physicians, etc.) and wholesale and retail trade. Detailed qualification definitions are available on the DEED website at <http://tinyurl.com/angelcredit>.

In addition to the required business activity and industry exclusion, according to DEED, businesses must meet the following criteria:

- Headquartered in Minnesota
- Minimum of 51 percent of employees and payroll within Minnesota
- Fewer than 25 employees
- Employees' annual wages are at least 175 percent of the poverty level (currently \$18.55 an hour)
- In operation for less than 10 years
- Never received private equity investments of more than \$2 million
- Haven't been disqualified from investment under Minn Stat. 80 A.50(b)(3) Small corporation offering registration disqualifications
- Have not generated more than \$4 million in investments that received an Angel Tax Credit.

Minnesota's Angel Tax Credit also is available for qualified individuals and funds. They also must apply to be certified by DEED prior to making the investment. Qualified individuals must:

- Be natural persons (not an entity taxed as an individual)
- Be accredited investors per SEC Reg. D
- Be non-accredited investors investing in exempt filings
- Not receive more than 50 percent of their annual gross income from the business
- Make a minimum investment of \$10,000

Qualified investment funds must:

- Have a minimum of three qualifying investors
- Be organized as a pass-through entity (S-Corp, LLC, partnership)
- Ensure the investor's investment in fund is equity or interest bearing note
- Make a minimum investment of \$30,000



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Required applications and additional program details are available at <http://tinyurl.com/angelcredit>. If you have questions, please contact John Kammerer, CPA, at (651) 255-9305 or jkammerer@hlbtr.com.

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