

Anchin Alert

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New Jersey Angel Investor Tax Credit

New Jersey has amended and expanded the rules for claiming the Angel Investor Tax Credit. The Angel Investor Tax Credit provides for a tax credit equal to ten percent (10%) of the *qualified investment* made by a taxpayer in a New Jersey emerging technology business.

The following three major changes have been made:

1. The term qualified investment has been expanded to include investments in a New Jersey emerging technology business holding company that makes a verified transfer of funds to a New Jersey emerging technology business. This change is effective retroactively to qualified investments made for tax years beginning after 2011.
2. A corporation that has made a valid New Jersey S corporation election can be distribute the tax credit to the individual shareholders and allocate the credit based on each shareholder's proportionate share of ownership¹. This change is also effective retroactively to qualified investment made for tax years beginning after 2011.
3. The legislation expands the definition of a *New Jersey emerging technology business* to include certain companies that conduct technology commercialization in New Jersey in the field of carbon footprint reduction technology².

The tax credit was enacted for tax years beginning after 2011 following the expiration of the Small New Jersey Based High Technology Business Investment Tax Credit. The purpose of the credit is to encourage taxpayers to invest in emerging technology businesses in the state.

Background

The tax credit provides for a tax credit equal to ten percent (10%) of the *qualified investment*, up to \$500,000, made by a taxpayer in a *New Jersey emerging technology business*.

An emerging technology business is defined as a company with fewer than 225 employees, of whom at least 75% work in New Jersey, which is doing business, employing or owning capital or property, or maintaining an office in the state and that:

- Has qualified research expenses paid or incurred for research conducted in the state,
- Conducts pilot scale manufacturing in the state, or
- Conducts technology commercialization in the state in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, information technology, life sciences, medical device technology, mobile communications technology, renewable energy technology or carbon footprint reduction technology.

(N.J.S.A. 54A:4-13.4.e)

¹ Partnerships may allocate the credit to the underlying partners based on their distributive shares of the partnership income.

² A *carbon footprint reduction technology* is defined as a technology using equipment for the commercial, institutional, and industrial sectors that: (1) increase energy efficiency; (2) develops and delivers renewable or non-carbon-emitting energy technologies; (3) develops innovative carbon emissions abatement with significant carbon emissions reduction potential; or (4) promotes measurable electricity end-use energy efficiency.

A qualified investment is a the non-refundable transfer of cash to a New Jersey emerging technology business by a taxpayer that is not a related person of the business, the transfer of which is in connection with either (1) a transaction in exchange for stock, interests in partnerships or joint ventures, licenses (exclusive or non-exclusive), rights to use technology, marketing rights, warrants, options or any items similar to those included herein, including but not limited to options or rights to acquire any of the items included herein; or (2) a purchase, production, or research agreement. (N.J.S.A. 54A:4-13.4.e)

Investors must apply to and have their credit approved by the New Jersey Economic Development Authority. Total credits cannot exceed a \$25 million annual cap per calendar year. Additionally, taxpayers may choose to be refunded excess credits or carry them forward up to a period of 15 years.

For more information, contact Yair Holtzman, Partner and Tax Credits and Incentives Co-Practice Leader and R&D Tax Credits Practice Leader at 212.536.6933.



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