

Angel Investor Tax Credit

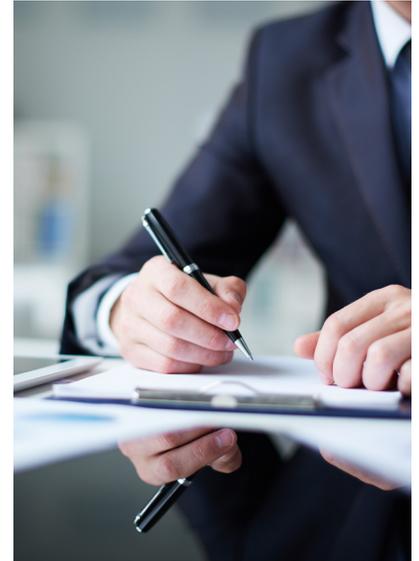


Angel Investor Tax Credit

By: Mitchell Kopelman, partner-in-charge of the Technology & Blockchain Group and Tax Practice and Jeff Weinkle, senior manager in the State and Local Tax (SALT) practice

The Qualified Investor Tax Credit, also known as the "Angel Investor Tax Credit," became available to Georgia taxpayers in 2011. This law provides for a Georgia tax credit of up to \$50,000 annually for investors of early-stage, startup companies in Georgia.

Access to early-stage growth in young companies is often difficult to obtain, and the purpose of this tax credit is to encourage direct investment from individuals into startup companies in Georgia. The credit aims to expand the economy of Georgia by enlarging its base of wealth-creating businesses, thus increasing the number of quality and high-paying jobs. Additionally, it aims to attract qualified individuals to move to and work within Georgia, retain talented individuals educated in Georgia's university systems and support businesses seeking to commercialize technology invented and developed in Georgia's universities.



The annual maximum tax credit of \$50,000 can be obtained by investing \$142,857 into one or more eligible businesses per year. At this level, the credit will offset \$833,333 in Georgia taxable income.

THE CREDIT The credit equals 35 percent of the amount invested in the startup company and is available for investments made in 2011 through 2018. This credit can be used beginning with the second year following the year the investment is made.

The aggregate amount of credit allowed against taxable income for any number of qualified investments is \$50,000 at the individual level annually. If the taxpayer does not use the entire credit in any one year, it may be carried forward five years from the close of the year the investment was made. The annual maximum tax credit of \$50,000 can be obtained by investing \$142,857 into one or more eligible businesses per year. At this level, the credit will offset \$833,333 in Georgia taxable income.

ANGEL CREDIT RECAP	INVESTOR LIMIT PER YEAR	GEORGIA TOTAL PER YEAR
Maximum investment	\$142,857	\$14,285,700
Maximum credit available	\$50,000	\$5,000,000
Income to offset with credit*	\$833,333	\$83,333,300

*Based on the six percent current income tax rate for individuals in Georgia

QUALIFYING INVESTORS Angel investors eligible for the credit must be accredited investors as defined by the SEC. This is limited to individuals who are obligated to pay Georgia income taxes or pass-through investment entities that manage \$5 million or less in capital. Venture capital funds, hedge funds and commodity funds with institutional investors do not qualify.

Investments in the companies that qualify for the credit must be paid for in cash by a qualified investor to a qualified business in exchange for stock, an equity interest or Qualified Subordinated Debt (with a maturity of at least five years) and cannot have been raised as a result of another tax incentive program. Further, no commissions or other remuneration may be paid directly or indirectly for solicitation of the investment.

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QUALIFYING BUSINESSES In order for a business to qualify as an eligible investment under the credit, the business must register with the Department of Revenue prior to receiving the investment funds. This Form IT-QBR registration must be submitted electronically using the state's online tax filing portal, the [Georgia Tax Center](#) (the state is no longer accepting paper registrations as of July 2016). To access the online registration, the business must log into the GTC, select their business income tax account and then locate the "register qualified business" link on the "credits" tab. Businesses that do not yet have a GTC account must first create one, and new businesses with no filing history will need to register their business for an income tax account within the GTC. For full instructions, see our guide on [filing Form IT-QBR](#). To qualify, a business:

MUST BE	CANNOT HAVE
A corporation, LLC, or partnership located in Georgia	Obtained more than \$1 million in gross cash proceeds from issuing debt or equity instruments (does not include commercial loans)
Organized no more than 3 years before the investment is made	Gross revenues that exceed \$500,000 in any prior fiscal year
Headquartered in GA from the time the investment is made through the entire duration that an investor benefits from the credit	Engaged substantially in retail sales, real estate and construction, professional services, gambling, natural resource extraction, investment activities and insurance, or activities where admission or membership is charged
Employing 20 or fewer people at time of registration	Utilized the GA film tax credit

Each certification of a qualifying business only lasts 12 months from the date of approval. However, businesses may submit a new Form IT-QBR to open a new 12-month eligibility window at any time as long as the qualification requirements are still met.

APPLICATION, APPROVAL and RENEWAL Following a qualified investment, investors must submit Form IT-QI-AP through their own [Georgia Tax Center](#) accounts between Sept. 1 and Oct. 31 of the year the credit will be claimed (the state is no longer accepting paper forms as of July 2016). The credit is claimed two years after making the actual investment. For example, the credit will need to be claimed between Sept. 1 and Oct. 31 of 2016 for an investment that was made in 2014. During this two-month period, the credits will be approved for taxpayers up to the annual limit. If the annual limit is reached, the credits will be allocated to all timely applicants on a pro-rata basis.

It is important to note that investors receiving the credit must follow certain provisions after the credits are obtained. For full instructions, see [our guide on filing Form IT-QI-AP](#). Credits must be recaptured if the investor transfers any of the securities or subordinated debt received in the investment to another person or entity within two years of the transaction. Recapture is not triggered if the investor dies, transfers to a spouse incident to divorce, or if a merger, conversion, or sale of the business occurs where the investor does not receive cash or tangible property.

Additionally, credits must be recaptured if the qualified business redeems the investor's securities or pays principal on any subordinated debt within five years of the date the investment was made. Finally, the qualified investor or his/her immediate family may not participate in any operation of the business for compensation within two years of the date the investment was made. Compensation does not include stock or stock options.

RECAP The Angel Investor Tax Credit is a great move taken by the Georgia legislature to promote the development of startup companies in the state. This measure, along with the other credits and incentives available to companies doing business in Georgia, confirms Georgia's enduring commitment to establish the state as the center of entrepreneurship in our region.

DISCLAIMER:

Any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein. Please do not hesitate to contact me, however, if you have any questions regarding this matter.

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For more information
about Aprio's Tax
Credit Services,
contact:



Mitchell Kopelman
mitchell.kopelman@aprio.com
[404.898.8231](tel:404.898.8231)



Jeff Weinkle
jeff.weinkle@aprio.com
[770.353.3071](tel:770.353.3071)