

# HB5958



## 98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5958

by Rep. Sandra M. Pihos

### SYNOPSIS AS INTRODUCED:

35 ILCS 5/220

Amends the Illinois Income Tax Act. Raises the limit on angel investment tax credits from \$10 million to \$20 million in total income tax credits per year. Raises the limit on an applicant's eligible investment from \$2 million to \$4 million. Effective immediately.

LRB098 16938 HLH 52013 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by  
5 changing Section 220 as follows:

6 (35 ILCS 5/220)

7 Sec. 220. Angel investment credit.

8 (a) As used in this Section:

9 "Applicant" means a corporation, partnership, limited  
10 liability company, or a natural person that makes an investment  
11 in a qualified new business venture. The term "applicant" does  
12 not include a corporation, partnership, limited liability  
13 company, or a natural person who has a direct or indirect  
14 ownership interest of at least 51% in the profits, capital, or  
15 value of the investment or a related member.

16 "Claimant" means an applicant certified by the Department  
17 who files a claim for a credit under this Section.

18 "Department" means the Department of Commerce and Economic  
19 Opportunity.

20 "Qualified new business venture" means a business that is  
21 registered with the Department under this Section.

22 "Related member" means a person that, with respect to the  
23 investment, is any one of the following:

1           (1) An individual, if the individual and the members of  
2           the individual's family (as defined in Section 318 of the  
3           Internal Revenue Code) own directly, indirectly,  
4           beneficially, or constructively, in the aggregate, at  
5           least 50% of the value of the outstanding profits, capital,  
6           stock, or other ownership interest in the applicant.

7           (2) A partnership, estate, or trust and any partner or  
8           beneficiary, if the partnership, estate, or trust and its  
9           partners or beneficiaries own directly, indirectly,  
10          beneficially, or constructively, in the aggregate, at  
11          least 50% of the profits, capital, stock, or other  
12          ownership interest in the applicant.

13          (3) A corporation, and any party related to the  
14          corporation in a manner that would require an attribution  
15          of stock from the corporation under the attribution rules  
16          of Section 318 of the Internal Revenue Code, if the  
17          applicant and any other related member own, in the  
18          aggregate, directly, indirectly, beneficially, or  
19          constructively, at least 50% of the value of the  
20          corporation's outstanding stock.

21          (4) A corporation and any party related to that  
22          corporation in a manner that would require an attribution  
23          of stock from the corporation to the party or from the  
24          party to the corporation under the attribution rules of  
25          Section 318 of the Internal Revenue Code, if the  
26          corporation and all such related parties own, in the

1 aggregate, at least 50% of the profits, capital, stock, or  
2 other ownership interest in the applicant.

3 (5) A person to or from whom there is attribution of  
4 stock ownership in accordance with Section 1563(e) of the  
5 Internal Revenue Code, except that for purposes of  
6 determining whether a person is a related member under this  
7 paragraph, "20%" shall be substituted for "5%" whenever  
8 "5%" appears in Section 1563(e) of the Internal Revenue  
9 Code.

10 (b) For taxable years beginning after December 31, 2010,  
11 and ending on or before December 31, 2016, subject to the  
12 limitations provided in this Section, a claimant may claim, as  
13 a credit against the tax imposed under subsections (a) and (b)  
14 of Section 201 of this Act, an amount equal to 25% of the  
15 claimant's investment made directly in a qualified new business  
16 venture. In order for an investment in a qualified new business  
17 venture to be eligible for tax credits, the business must have  
18 applied for and received certification under subsection (e) for  
19 the taxable year in which the investment was made prior to the  
20 date on which the investment was made. The credit under this  
21 Section may not exceed the taxpayer's Illinois income tax  
22 liability for the taxable year. If the amount of the credit  
23 exceeds the tax liability for the year, the excess may be  
24 carried forward and applied to the tax liability of the 5  
25 taxable years following the excess credit year. The credit  
26 shall be applied to the earliest year for which there is a tax

1 liability. If there are credits from more than one tax year  
2 that are available to offset a liability, the earlier credit  
3 shall be applied first. In the case of a partnership or  
4 Subchapter S Corporation, the credit is allowed to the partners  
5 or shareholders in accordance with the determination of income  
6 and distributive share of income under Sections 702 and 704 and  
7 Subchapter S of the Internal Revenue Code.

8 (c) The maximum amount of an applicant's investment that  
9 may be used as the basis for a credit under this Section is  
10 \$4,000,000 ~~\$2,000,000~~ for each investment made directly in a  
11 qualified new business venture.

12 (d) The Department shall implement a program to certify an  
13 applicant for an angel investment credit. Upon satisfactory  
14 review, the Department shall issue a tax credit certificate  
15 stating the amount of the tax credit to which the applicant is  
16 entitled. The Department shall annually certify that the  
17 claimant's investment has been made and remains in the  
18 qualified new business venture for no less than 3 years.

19 If an investment for which a claimant is allowed a credit  
20 under subsection (b) is held by the claimant for less than 3  
21 years, or, if within that period of time the qualified new  
22 business venture is moved from the State of Illinois, the  
23 claimant shall pay to the Department of Revenue, in the manner  
24 prescribed by the Department of Revenue, the amount of the  
25 credit that the claimant received related to the investment.

26 (e) The Department shall implement a program to register

1 qualified new business ventures for purposes of this Section. A  
2 business desiring registration shall submit an application to  
3 the Department in each taxable year for which the business  
4 desires registration. The Department may register the business  
5 only if the business satisfies all of the following conditions:

6 (1) it has its headquarters in this State;

7 (2) at least 51% of the employees employed by the  
8 business are employed in this State;

9 (3) it has the potential for increasing jobs in this  
10 State, increasing capital investment in this State, or  
11 both, and either of the following apply:

12 (A) it is principally engaged in innovation in any  
13 of the following: manufacturing; biotechnology;  
14 nanotechnology; communications; agricultural sciences;  
15 clean energy creation or storage technology;  
16 processing or assembling products, including medical  
17 devices, pharmaceuticals, computer software, computer  
18 hardware, semiconductors, other innovative technology  
19 products, or other products that are produced using  
20 manufacturing methods that are enabled by applying  
21 proprietary technology; or providing services that are  
22 enabled by applying proprietary technology; or

23 (B) it is undertaking pre-commercialization  
24 activity related to proprietary technology that  
25 includes conducting research, developing a new product  
26 or business process, or developing a service that is

1           principally   reliant   on   applying   proprietary  
2           technology;

3           (4) it is not principally engaged in real estate  
4           development, insurance, banking, lending, lobbying,  
5           political consulting, professional services provided by  
6           attorneys, accountants, business consultants, physicians,  
7           or health care consultants, wholesale or retail trade,  
8           leisure, hospitality, transportation, or construction,  
9           except construction of power production plants that derive  
10          energy from a renewable energy resource, as defined in  
11          Section 1 of the Illinois Power Agency Act;

12          (5) at the time it is first certified:

13                 (A) it has fewer than 100 employees;

14                 (B) it has been in operation in Illinois for not  
15                 more than 10 consecutive years prior to the year of  
16                 certification; and

17                 (C) it has received not more than \$10,000,000 in  
18                 aggregate private equity investment in cash;

19                 (6) (blank); and

20                 (7) it has received not more than \$4,000,000 in  
21                 investments that qualified for tax credits under this  
22                 Section.

23          (f) The Department, in consultation with the Department of  
24          Revenue, shall adopt rules to administer this Section. The  
25          aggregate amount of the tax credits that may be claimed under  
26          this Section for investments made in qualified new business

1 ventures shall be limited at \$20,000,000 ~~\$10,000,000~~ per  
2 calendar year.

3 (g) A claimant may not sell or otherwise transfer a credit  
4 awarded under this Section to another person.

5 (h) On or before March 1 of each year, the Department shall  
6 report to the Governor and to the General Assembly on the tax  
7 credit certificates awarded under this Section for the prior  
8 calendar year.

9 (1) This report must include, for each tax credit  
10 certificate awarded:

11 (A) the name of the claimant and the amount of  
12 credit awarded or allocated to that claimant;

13 (B) the name and address of the qualified new  
14 business venture that received the investment giving  
15 rise to the credit and the county in which the  
16 qualified new business venture is located; and

17 (C) the date of approval by the Department of the  
18 applications for the tax credit certificate.

19 (2) The report must also include:

20 (A) the total number of applicants and amount for  
21 tax credit certificates awarded under this Section in  
22 the prior calendar year;

23 (B) the total number of applications and amount for  
24 which tax credit certificates were issued in the prior  
25 calendar year; and

26 (C) the total tax credit certificates and amount



1 authorized under this Section for all calendar years.

2 (Source: P.A. 96-939, eff. 1-1-11; 97-507, eff. 8-23-11;

3 97-1097, eff. 8-24-12.)

4 Section 99. Effective date. This Act takes effect upon

5 becoming law.