

# STATE OF NEW YORK

333

2017-2018 Regular Sessions

## IN ASSEMBLY

January 5, 2017

Introduced by M. of A. RODRIGUEZ -- read once and referred to the  
Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing for an angel  
investor tax credit

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Section 606 of the tax law is amended by adding a new  
2 subsection (ccc) to read as follows:

3 (ccc) Angel investor credit. (1) Allowance of credit. A taxpayer, who  
4 is an angel investor, as defined by subparagraph (ii) of paragraph three  
5 of this subsection, shall be allowed a credit, to be computed as herein-  
6 after provided, against the tax imposed by this article, for investing  
7 twenty-five thousand dollars or more in a qualifying business. The  
8 amount of the credit shall be twenty-five percent of the investment in  
9 the qualifying business up to but not exceeding two hundred fifty thou-  
10 sand dollars.

11 (2) Application of credit. If the amount of credit allowable under  
12 this subsection for any taxable year shall exceed the taxpayer's tax for  
13 such year, the excess may be carried over to the following year or  
14 years, and may be deducted from the taxpayer's tax for such year or  
15 years.

16 (3) Definitions. For purposes of the credit described in this  
17 subsection:

18 (i) "Qualifying business" shall mean a business enterprise, including  
19 a sole proprietorship, partnership or corporation that:

20 (A) has not yet generated revenue or has gross revenues, along with  
21 the gross revenues of its affiliates and related members, not exceeding  
22 one million dollars for the taxable year immediately preceding the year  
23 the taxpayer is allowed a credit under this subsection. For purposes of  
24 this paragraph, the term "related member" shall have the same meaning as  
25 set forth in clauses (A) and (B) of subparagraph one of paragraph (o) of

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 subdivision nine of section two hundred eight of this chapter, and the  
2 term "affiliates" shall mean those corporations that are members of the  
3 same affiliated group (as defined in section fifteen hundred four of the  
4 internal revenue code) as the taxpayer;

5 (B) has no more than twenty-five full-time employees, of which at  
6 least sixty percent are employed in New York state;

7 (C) has operated in the state for no more than seven consecutive  
8 years; and

9 (D) has received no more than two million dollars in investments  
10 eligible for the credit described in this subsection from one or more  
11 than one angel investor;

12 (ii) "Angel investor" shall mean an accredited investor as defined in  
13 rule 501 of regulation D of the Federal Securities Act of 1933, as  
14 amended; but shall not include:

15 (A) an investor who controls fifty percent or more of the qualifying  
16 business receiving the investment subject to the credit described by  
17 this subsection; or

18 (B) a venture capital company or any bank, savings and loan associ-  
19 ation, trust, insurance company or similar entity, whose normal business  
20 activities include venture capital investment.

21 § 2. Section 210-B of the tax law is amended by adding a new subdivi-  
22 sion 52 to read as follows:

23 52. Angel investor credit. (a) Allowance of credit. A taxpayer, who is  
24 an angel investor, as defined by subparagraph (ii) of paragraph (c) of  
25 this subdivision, shall be allowed a credit, to be computed as herein-  
26 after provided, against the tax imposed by this article, for investing  
27 twenty-five thousand dollars or more in a qualifying business. The  
28 amount of the credit shall be twenty-five percent of the investment in  
29 the qualifying business up to but not exceeding two hundred fifty thou-  
30 sand dollars.

31 (b) Application of credit. The credit allowed under this subdivision  
32 for any taxable year shall not reduce the tax due for such year to less  
33 than the higher amount prescribed in paragraphs (c) and (d) of subdivi-  
34 sion one of section two hundred ten of this article. However, if the  
35 amount of credit allowed under this subdivision for any taxable year  
36 reduces the tax to such amount, any amount of credit thus not deductible  
37 in such taxable year may be carried over to the following year or years  
38 and may be deducted from the taxpayer's tax for such year or years.

39 (c) Definitions. For purposes of the credit described in this subdivi-  
40 sion:

41 (i) "Qualifying business" shall mean a business enterprise, including  
42 a sole proprietorship, partnership or corporation that:

43 (A) has not yet generated revenue or has gross revenues, along with  
44 the gross revenues of its affiliates and related members, not exceeding  
45 one million dollars for the taxable year immediately preceding the year  
46 the taxpayer is allowed a credit under this subdivision. For purposes of  
47 this paragraph, the term "related member" shall have the same meaning as  
48 set forth in clauses (A) and (B) of subparagraph one of paragraph (o) of  
49 subdivision nine of section two hundred eight of this chapter, and the  
50 term "affiliates" shall mean those corporations that are members of the  
51 same affiliated group (as defined in section fifteen hundred four of the  
52 internal revenue code) as the taxpayer;

53 (B) has no more than twenty-five full-time employees, of which at  
54 least sixty percent are employed in New York state;

55 (C) has operated in the state for no more than seven consecutive  
56 years; and

1 (D) has received no more than two million dollars in investments  
2 eligible for the credit described in this subdivision from one or more  
3 than one angel investor;

4 (ii) "Angel investor" shall mean an accredited investor as defined in  
5 rule 501 of regulation D of the Federal Securities Act of 1933, as  
6 amended; but shall not include:

7 (A) an investor who controls fifty percent or more of the qualifying  
8 business receiving the investment subject to the credit described by  
9 this subdivision; or

10 (B) a venture capital company or any bank, savings and loan associ-  
11 ation, trust, insurance company or similar entity, whose normal business  
12 activities include venture capital investment.

13 § 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
14 of the tax law is amended by adding a new clause (xliii) to read as  
15 follows:

16 (xliii) Angel investor credit  
17 under subsection (ccc)  
18

Amount of credit under  
subdivision fifty-two of  
section two hundred ten-B

19 § 4. This act shall take effect immediately and shall apply to  
20 personal income taxable years beginning on and after January 1, 2018.