

Angel Investor Tax Credit; SB 66

SB 66 revises certain tax credits pertaining to angel investors and home renovations for disabled family members.

Angel Investor Tax Credit

The bill revises the Kansas Angel Investor Tax Credit Act (Act) by extending the sunset on the program from tax year 2021 to tax year 2026, amending applicable definitions, removing certain program restrictions, and increasing program tax credit amounts and annual program limits.

Program Sunset

The bill extends the sunset on the angel investor tax credit from tax year 2021 to tax year 2026.

Definitions

The bill amends the definition of “qualified securities” with respect to the use of debt instruments as qualifying forms of investment. Debt instruments permitted to be used as a form of investment include any debt that:

- Is subordinate to the creditors of the business receiving the investment;
- Requires no payment by such business; and
- Will convert to some form of equity before the business receives any additional funds.

Tax Credit Limits

The bill makes the following changes to limits on tax credit dollar amounts:

- Increases single-year tax credit amounts:
 - From \$50,000 to \$100,000 for a single Kansas business; and
 - From \$250,000 to \$350,000 for a single qualified investor;
- Changes the maximum value of the tax credit from equal to 50 percent, to up to 50 percent of the qualifying investment; and
- Sets annual tax credit limits at \$6.0 million in tax years 2021 and 2022, with a \$500,000 increase each tax year after that through tax year 2026:

- Any unused tax credits for a given year will be carried over for use in future tax years until tax year 2026.

Restrictions on Investments and Investors

The bill removes or modifies certain restrictions on investments and investors:

- Venture capital companies are permitted to receive tax credits;
- Investments in Kansas Venture Capital, Inc., are permitted;
- The bill requires an investor, in order to receive a transferable credit, to have no current tax liability at the time of investment, rather than no tax liability for the preceding three years;
- The recipient of a transferable credit will not need to be an accredited investor as defined by federal regulation (17 CFR 230.501(a)); and
- Provided that an investment was made lawfully, investors will not lose any tax credits if the business in which the investment was made were to lose its designation as a qualified business.

Clawback Provision

The bill modifies the clawback provision in the Act. Currently, any business receiving financial assistance under the Act is required to make repayment to the Kansas Department of Commerce if the business ceases to be a qualified business or moves its operations outside of Kansas within ten years. The bill requires bioscience businesses to meet these qualifications for a minimum of ten years and any other business to meet these qualifications for five years.

Home Renovation Tax Credit for Disabled Family Members

The bill increases the maximum tax credit, from \$9,000 to \$15,000, for home renovations made for a disabled family member's access. Under current law, the tax credit that may be claimed is equal to the lesser of either \$9,000 or the applicable percentage of construction expenditures, which decreases as the taxpayer's federal adjusted gross income (FAGI) increases; a taxpayer with an FAGI no greater than \$25,000 can claim the full credit. The bill allows taxpayers with an FAGI of \$60,000 or less to be eligible for a tax credit of \$15,000. The bill phases out the credit by increments of 10.0 percent for each \$10,000 increase in FAGI. The bill also distinguishes tax credits eligible for married individuals filing jointly and all other individual taxpayers, who are eligible for the maximum credit if their FAGI is no greater than \$40,000.

Under current law, if a taxpayer's liability is less than \$2,250, then portions of the credit may be refundable in the first, second, and third years equal to one-fourth, one-third, and one-half of the credit, respectively. The bill increases the taxpayer's liability threshold from \$2,250 to \$3,750.

Starting in tax year 2022 and for all subsequent tax years, the bill adjusts the maximum tax credit and the tax liability threshold by a cost-of-living amount determined under Internal Revenue Code section 1(f)(3).