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HOUSE BILL 36

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO TAXATION; PROVIDING FOR AN INCOME TAX CREDIT FOR  
INVESTMENT IN CERTAIN QUALIFIED BUSINESSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Income Tax Act is enacted  
to read:

"~~[NEW MATERIAL]~~ ANGEL INVESTMENT CREDIT.--

A. To encourage investment in qualified businesses,  
any taxpayer who files an individual New Mexico income tax  
return, who is not a dependent of another taxpayer and who  
makes a qualified investment may claim a credit in an amount  
not to exceed twenty-five percent of not more than one hundred  
thousand dollars (\$100,000) of the qualified investment. The  
tax credit shall be known as the "angel investment credit".

B. A taxpayer may claim the angel investment credit

underscoring material = new  
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1 for not more than three qualified investments for each taxable  
2 year in which the taxpayer makes a qualified investment;  
3 provided that each investment is in a different qualified  
4 business. A taxpayer may claim the angel investment credit for  
5 a qualified investment made in the same qualified business or  
6 successor of that business for not more than three years.

7 C. A taxpayer may claim the angel investment credit  
8 no later than one year following the end of the calendar year  
9 in which the qualified investment was made; provided that a  
10 claim for the credit may not be made or allowed with respect to  
11 any investment made after December 31, 2010. A claim for the  
12 angel investment credit shall not exceed twenty-five thousand  
13 dollars (\$25,000) for each qualified investment made by the  
14 taxpayer.

15 D. A husband and wife who file separate returns for  
16 a taxable year in which they could have filed a joint return  
17 may each claim one-half of the credit that would have been  
18 allowed on a joint return.

19 E. The angel investment credit may only be deducted  
20 from the taxpayer's income tax liability. Any portion of the  
21 tax credit provided by this section that remains unused at the  
22 end of the taxpayer's taxable year may be carried forward for  
23 three consecutive years; provided that the total tax credits  
24 claimed under this section shall not exceed twenty-five  
25 thousand dollars (\$25,000) for each qualified investment made

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1 by the taxpayer.

2 F. As used in this section:

3 (1) "business" means a corporation, general  
4 partnership, limited partnership, limited liability company or  
5 other similar entity but excludes an entity that is a  
6 government or a nonprofit organization designated as such by  
7 the federal government or any state;

8 (2) "equity" means common or preferred stock  
9 of a corporation, a partnership interest in a limited  
10 partnership or a membership interest in a limited liability  
11 company, including debt subject to an option in favor of the  
12 creditor to convert the debt into common or preferred stock, a  
13 partnership interest or a membership interest;

14 (3) "high-technology research" means research:

15 (a) that is undertaken for the purpose  
16 of discovering information that is technological in nature and  
17 the application of which is intended to be useful in the  
18 development of a new or improved business component of the  
19 taxpayer; and

20 (b) substantially all of the activities  
21 of which constitute elements of a process or experimentation  
22 related to a new or improved function, performance, reliability  
23 or quality, but not related to style, taste or cosmetic or  
24 seasonal design factors;

25 (4) "manufacturing" means combining or

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1 processing components or materials to increase their value for  
2 sale in the ordinary course of business, but does not include:

- 3 (a) construction;
- 4 (b) farming;
- 5 (c) processing natural resources,  
6 including hydrocarbons; or
- 7 (d) preparing meals for immediate  
8 consumption, on or off premises;

9 (5) "qualified business" means a business  
10 that:

- 11 (a) maintains its principal place of  
12 business in New Mexico;
- 13 (b) engages in high-technology research  
14 or manufacturing activities in New Mexico; and
- 15 (c) is not primarily engaged in or is  
16 not primarily organized as any of the following types of  
17 businesses: credit or finance services, including banks,  
18 savings and loan associations, credit unions, small loan  
19 companies or title loan companies; financial brokering or  
20 investment; professional services, including accounting, legal  
21 services, engineering and any other service the practice of  
22 which requires a license; insurance; real estate; construction  
23 or construction contracting; consulting or brokering; mining;  
24 wholesale or retail trade; providing utility service, including  
25 water, sewerage, electricity, natural gas, propane or butane;

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underscored material = new  
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1 publishing, including publishing newspapers or other  
2 periodicals; broadcasting; or providing internet operating  
3 services; and

4 (6) "qualified investment" means a cash  
5 investment in a qualified business for equity, but does not  
6 include an investment by a taxpayer if the taxpayer, a member  
7 of the taxpayer's immediate family or an entity affiliated with  
8 the taxpayer receives compensation from the qualified business  
9 in exchange for services provided to the qualified business  
10 within one year of investment in the qualified business."

11 Section 2. TEMPORARY PROVISION.--For taxable years 2012  
12 through 2014, a taxpayer may carry forward amounts resulting  
13 from angel investment credits claimed and approved for  
14 qualified investments made in the calendar year 2009, 2010 or  
15 2011.

16 Section 3. DELAYED REPEAL.--Section 1 of this act is  
17 repealed effective January 1, 2012.

18 Section 4. APPLICABILITY.--The provisions of this act  
19 apply to taxable years beginning on or after January 1, 2006.