

MANUFACTURING

in Lehman's Terms

Angel Investor Tax Credit

The economic development activity is booming in North Dakota. We have seen announcements for everything from major new ag processing plants, new manufacturing operations, cryptocurrency/data centers, etc. With the economic development activity, there have been numerous inquiries lately for financing incentives and options. One such incentive that is available to investors in North Dakota is the angel investor investment tax credit. For this month's newsletter, I am going to try to break this credit down for anyone that may be interested in investing in North Dakota.



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The angel investor tax credit was set up to incentivize those individuals wanting to invest in qualified North Dakota businesses. Transactions eligible for the angel investor tax credit include investments in an equity stake or a convertible loan for a qualified business.

This tax credit is equal to 35% of the amount invested by the angel fund for in-state businesses, or 25% of the amount invested for out-of-state businesses (with a significant in-state operation). An angel investor is limited to annual and lifetime credits of \$45K and \$500K, respectively. Although investment in out-of-state entities with a significant in-state presence is allowable, at least 50% of the investments need to be with in-state entities. The credit can be carried forward for up to five years and is allowed to run through pass-through entities.

To qualify for this credit, both the business and the angel fund must be certified by the North Dakota Department of Commerce Division of Economic Development and Finance. For a business to qualify, it must:

- Be a non-publicly traded for-profit business
- Headquartered in North Dakota (instate qualified business) or has a significant business operation in North Dakota with current or projected employment of more than 10 employees (out-of-state qualified business)
- Make less than \$10M on an annual basis
- Be engaged in R&D of new products or processes
- NOT derive its income from real estate.
- Be compliant with state and federal securities laws

Filing requirements

- A [Qualified Investment Report](#) needs to be submitted to the North Dakota Office of State Tax Commissioner within 30 days of making a qualified investment.
- The fund must complete the [Participating Angel Investor Investment Statement](#) for each angel investor participating in the investment and submit these with the report.
- An Annual Report ([Form AFI](#)) for the angel fund must be filed by Dec. 31.

Application process

- An [Application for Certification as an Angel Fund](#) must be submitted and approved through Commerce.
- An [Application for Certification as a Qualified Business for the Angel Investor Tax Credit](#) must be submitted and approved through Commerce. This is good for four years and businesses are allowed one recertification for an additional four years.
- A [Clearance Form](#) may also be required though the North Dakota Office of the State Tax Commissioner

For angel funds certified or investments made before July 1, 2017, please contact the North Dakota Office of State Tax Commissioner.

For additional questions and assistance regarding the angel investor tax credit, please contact the Commerce Economic Development and Finance Division at (701) 328-5300.

For additional information regarding incentives programs or general manufacturing inquiries in North Dakota, please feel free to contact me and thanks for investing in North Dakota!

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