



TECH & VENTURE FINANCE

# ALERT

## NEW JERSEY PASSES ANGEL INVESTOR TAX CREDIT ACT

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On January 31, 2013, New Jersey Governor Chris Christie signed into law Senate Bill S581 entitled the New Jersey Angel Investor Tax Credit Act (the "Act"). The Act aims to stimulate early stage or "angel" investment in New Jersey emerging technology companies by providing angel investors with tax credits to offset New Jersey corporation business or gross income taxes. Angel investors are corporate or high net worth individual taxpayers who provide early stage financial backing ("seed" capital) for small startups or entrepreneurs.

Angel investors provide essential funding to emerging companies, allowing them to hire employees, engage in research and development and bring product to market. Funding by angel investors also, critically, helps bridge the gap between early stage funding (such as bootstrapping and funding from friends and family) and venture capital and private equity funding. In addition to funding, angel investors can also offer emerging companies a wealth of counsel, including subject matter expertise and a rolodex of valuable contacts.

The new legislation provides the angel investor with a tax credit in an amount equal to 10 percent of the qualified investment made by the taxpayer in New Jersey emerging technology businesses. In order to qualify under the Act as a "New Jersey emerging technology business," a company must meet the following requirements:

- The company must have fewer than 225 employees;
- 75 percent of the company's employees must work in the state; and
- The company must be in one of the following industries:
  - Advanced computing
  - Advanced materials
  - Biotechnology
  - Electronic device technology
  - Information technology
  - Life sciences

- Medical device technology
- Mobile communications technology
- Renewable energy technology

Under the Act, a New Jersey taxpayer can receive a maximum credit of \$500,000 in any given year. A corporate taxpayer can choose to either receive a refund on the excess tax credit, or a carry over the tax credit for a maximum of 15 years. The New Jersey Economic Development Authority in consultation with the Director of the Division of Taxation will approve a taxpayer's application for the tax credit.

The program is capped at maximum availability of \$25 million in tax credits on an annual basis. Because of these benefits, approximately 25 states have enacted legislation that provides tax credits for angel investors, according to data from the Angel Capital Association. Additionally, a number of states, including Pennsylvania, are currently considering similar legislation. While the limited data on the economic benefits (e.g., job creation) of investment tax credit legislation is inconclusive, it is clear that angel investors continue to provide increased funding to emerging companies year over year.

Increased activity by New Jersey angels is certainly needed and welcomed. New Jersey is home to many key players in the pharmaceutical industry, but the state's emerging companies ecosystem as a whole is in its nascent beginnings. While there is still much to be done in order to help foster a dynamic emerging companies ecosystem like those of Silicon Valley, New York and Philadelphia, the Angel Investor Tax Credit Act is a step in the right direction.

For more information about the Angel Investor Tax Credit Act, please contact Jeffrey H. Nicholas, chair of Fox Rothschild's [Tech & Venture Finance Practice](#), at 215.918.3639 or [jnicholas@foxrothschild.com](mailto:jnicholas@foxrothschild.com), Matthew P. Jacobs at 609.844.3021 or [mpjacobs@foxrothschild.com](mailto:mpjacobs@foxrothschild.com), Daniel V. Madrid at 609.844.7413 or [dmadrid@foxrothschild.com](mailto:dmadrid@foxrothschild.com), or Alexander J. Tablin-Wolf at 215.918.3635 or [atablin-wolf@foxrothschild.com](mailto:atablin-wolf@foxrothschild.com).

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