

INCOME TAX ACT OF 1967 (EXCERPT)
Act 281 of 1967

206.278 Qualified investment in qualified business; tax credit; definitions.

Sec. 278.

(1) Subject to the limitations provided under this section, a taxpayer that makes a qualified investment after December 31, 2010 and before January 1, 2012 in a qualified business may claim a credit against the tax imposed by this act equal to 25% of the qualified investment made during the tax year.

(2) To qualify for the credit under this section, the taxpayer shall request certification from the Michigan strategic fund within 60 days of making the investment. A taxpayer shall not claim a credit under this section unless the Michigan strategic fund has issued a certificate to the taxpayer. The board shall not approve a credit under this section for a taxpayer who has been convicted of a felony involving a fiduciary obligation or the conversion or misappropriation of funds or insurance accounts, theft, deceit, fraud, misrepresentation, or corruption. The Michigan strategic fund shall forward a copy of each certificate received pursuant to this subsection to the governor, the president of the Michigan strategic fund, the chairperson of the senate finance committee, the chairperson of the house tax policy committee, the director of the senate fiscal agency, and the director of the house fiscal agency. The requirements of section 28(1)(f) of 1941 PA 122, MCL 205.28, do not apply to the disclosure required by this subsection. The Michigan strategic fund shall not certify more than \$1,000,000.00 in qualified investments in any 1 qualified business. The taxpayer shall attach the certificate to the annual return filed under this act on which a credit under this section is claimed. The certificate required under this subsection shall specify all of the following:

(a) The total amount of investment made during the tax year by the taxpayer in each qualified business.

(b) The total amount of qualified investments made in each qualified business if different from the previous amount.

(c) The total amount of the credit under this section that the taxpayer is allowed to claim for the designated tax year.

(3) A taxpayer shall not claim a credit of more than \$250,000.00 based on an investment in any 1 qualified business and shall not claim a credit of more than \$250,000.00 for qualified investments in all qualified businesses in any 1 year. The credit allowed under this section shall be taken by the taxpayer in equal installments over 2 years beginning with the tax year in which the certification was issued.

(4) The total amount of credits that the Michigan strategic fund may certify under this section shall not exceed \$9,000,000.00.

(5) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability of the taxpayer for the tax year shall not be refunded but may be carried forward to offset tax liability under this act in subsequent tax years for a period not to exceed 5 tax years or until used up, whichever occurs first.

(6) The board shall develop an application and approval process in order to certify investments under this section and adopt a program describing parameters and criteria to be used for approving investments. As part of that program adoption, the board may determine and describe the conditions to be met to be considered an investment alongside or through an approved angel group, seed capital firm, or venture capital firm.

(7) A taxpayer who has not paid or entered into an installment agreement regarding a final assessment of an unpaid liability for a state tax for which all rights of appeal have been exhausted or who is currently in a bankruptcy proceeding is not eligible to claim a credit under this section.

(8) As used in this section:

(a) "Board" means the board of directors of the Michigan strategic fund.

(b) "Michigan strategic fund" means the Michigan strategic fund as described in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

(c) "Qualified business" means a business that the board certifies as in compliance with all of the following at the time of the investment:

(i) The business is a seed or early stage business as defined in section 3 of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2233.

(ii) The business has its headquarters in this state, is domiciled in this state, and has a majority of its employees working in this state.

(iii) The business has a preinvestment valuation of less than \$10,000,000.00 and has fewer than 100 full-time equivalent employees.

(iv) Except as otherwise provided under this subparagraph, the business has been in existence less than 5 years; or, for a business in which the business activity is derived from research at an institution of higher education located within this state or an organization exempt from federal taxation under section 501(c)(3) of the internal revenue

code and that is located within this state, the business has been in existence less than 10 years. As used in this subparagraph, a public or private college or university that awards a bachelor's degree or other degrees is an institution of higher education.

(v) The business is not a retail establishment as described in section 44-45 – retail trade, of the North American industry classification system, United States, 1997, published by the office of management and budget.

(vi) The business has not claimed a credit under section 431, 455, 457, or 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1431, 208.1455, 208.1457, and 208.1459.

(d) "Qualified investment" means, except as otherwise provided under this subdivision, an investment of at least \$20,000.00 certified by the Michigan strategic fund that is made alongside of, or through, a seed venture capital or angel investor group that is registered with the Michigan strategic fund and is not in a business in which any member of the investor's family is an employee or owner of the business or in which the investor or any member of the investor's family has a preexisting fiduciary relationship with the business. Qualified investment does not include an investment in a business that engages in life sciences technology unless those activities are included in the definition of life sciences as that term is defined under section 88a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2088a.

History: Add. 2010, Act 235, Imd. Eff. Dec. 14, 2010 ;-- Am. 2011, Act 38, Eff. Jan. 1, 2012

Compiler's Notes: Enacting section 1 of Act 235 of 2010 provides: "Enacting section 1. This amendatory act shall be known as the "venture investment credit"."