



Revenue Information Bulletin

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Corporation Income Tax, Corporation Franchise Tax, Individual Income Tax

Louisiana Economic Development Adopts Final Rule on the Angel Investor Credit

The Louisiana Department of Economic Development adopted a final rule to administer the Angel Investor Tax Credit Program for income and corporate franchise taxpayers on February 20, 2006. The rule has been in effect as an emergency rule since October 10, 2005. The full text of the rule is reprinted at the end of this RIB.

The Angel Investor Tax Credit provisions, La. Rev. Stat. 47:6020 through La. Rev. Stat. 47:6020.4, create a tax credit against income or corporate franchise taxes for taxpayers who make qualified investments in certified Louisiana entrepreneurial businesses between January 1, 2005 and December 31, 2009.

To earn the Angel Investor Tax Credit, taxpayers must file an application with the Louisiana Department of Economic Development, which has the exclusive authority to implement and administer the credit program and approve the credit applications.

For more information about the Angel Investor Tax Credit program contact Craig Hartberg with the Louisiana Department of Economic Development at 225-342-5882.

Cynthia Bridges
Secretary

RULE

**Department of Economic Development
Office of the Secretary**

Angel Investor Tax Credit Program
(LAC 13:I.Chapter 33)

The Department of Economic Development, Office of the Secretary, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and in accordance with R.S. 47:6020 through 6020.4 and 36:104, hereby adopts the following Rule for the Angel Investor Tax Credit Program.

A Revenue Information Bulletin (RIB) is issued under the authority of LAC 61:III.101(D). A RIB is an informal statement of information issued for the public and employees that is general in nature. A RIB does not have the force and effect of law and is not binding on the public or the Department.

The Department of Economic Development, Office of the Secretary, has found a need to provide rules regarding the regulation of the Angel Investor Tax Credit Program pursuant to R.S. 47:6020 through 6020.4, since no such rules exist at this time, and the state needs to provide for the growth and stability of Louisiana's entrepreneurial business environment by making available ready sources of capital necessary to support this environment. This program is intended to provide economic benefits to Louisiana-based investors who will make new investments or increase their existing investment in Louisiana-based economic development projects that will create and/or retain jobs for Louisiana citizens; and to enhance the entrepreneurial business environment and raise ready sources of capital for this environment through encouraging third parties to invest in early stage wealth-creating businesses expanding the economy of the state, enlarging the quality of jobs available in Louisiana. Without this Rule, the state of Louisiana may suffer the loss of business investment and economic development projects creating or retaining jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 33. Angel Investor Tax Credit

§3301. General

A. The intent of the Angel Investor Tax Credit Program Act of 2005 (Act 400 of 2005; R.S. 47:6020 through 6020.4, the provisions of which shall hereinafter be referred to as "Act 400") is to enhance the entrepreneurial business environment and raise ready sources of capital for this environment through encouraging third parties to invest in early stage wealth-creating businesses expanding the economy of the state, enlarging the quality jobs available in Louisiana to retain the presence of young people in Louisiana. The purpose of these rules is to provide, on an emergency basis, definition of key terms provided for by the statute in order to advise the public and to provide for the efficient administration of the statute while the entirety of the rules are promulgated pursuant to the Louisiana Administrative Procedure Act. These provisions are to be read in *pari materiae* with Act 400 and shall be superseded upon final promulgation of the rules in accordance with applicable statutes. For the purposes of this rule, the "secretary" shall be either the Secretary of Economic Development or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:0000 (February 2006).

§3303. Accredited Investor

A. An *accredited investor* shall be defined as:

1. an angel pool as determined by the secretary, all of whose participants shall be accredited investors;
2. a natural person who has individual net worth, or joint net worth with the person's spouse, that exceeds \$1,000,000 at the time of the purchase;
3. a natural person with income exceeding \$200,000 in each of the two most recent years or joint income with a spouse exceeding \$300,000 for those years and a reasonable expectation of the same income level in the current year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:0000 (February 2006).

§3305. Louisiana Entrepreneurial Business

A. A Louisiana entrepreneurial business shall be defined as those businesses approved by the secretary under Act 400 and that meet the following requirements.

1. A business shall provide the secretary with a business plan that includes all appropriate long and short term forecasts and contingencies of business operations, including research and development, profit, loss and cash flow projections and details of expenditure of angel investor funding in accordance with Act 400 and shall also include the following:

a. the principal business operations of the business are located in Louisiana, including Louisiana as the primary place of employment for the employees of the business;

b. demonstrating a plan or progression through which more than 50 percent of its sales will be from outside of Louisiana;

c. that the business is to operate as a person defined as an *employer* within the meaning of R.S. 51:2453(1)(b)(i) through (v), (c), and (d), and in §1105.A.1 through A.5b.iv of LAC 13:I.Chapter 11.Quality Jobs Program.

2. The secretary shall also find that the business is not a business primarily engaged in the business of retail sales, real estate, professional services, gaming or gambling, natural resource extraction or exploration, or financial services including venture capital funds.

3. Such other findings by the secretary as shall be consistent with Act 400, provided that under no circumstances shall the secretary's certification of the applicant as a Louisiana entrepreneurial business be considered or implied to be an endorsement of the business or any investment in that business and the applicant shall so advise all investors of this fact.

B. Approval of the secretary shall be obtained upon application by letter that submits the above business plan together with the Louisiana taxpayer identification number of the business and all other information regarding those items necessary to qualify the investment in the business for the angel tax credit as provided for by Act 400 addressed to the Secretary of Economic Development, P. O. Box 94185, Baton Rouge, LA 70802-9185. Upon receipt, the secretary shall make such requests for other information necessary to a determination that the business should or should not be certified as a Louisiana entrepreneurial business. The secretary's certification of the business shall include the Louisiana taxpayer identification number of the business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:0000 (February 2006).

§3307. The Angel Investor Tax Credit

A. The following rules shall be applicable to investments by accredited investors in Louisiana entrepreneurial businesses.

1. By January 31, 2006, Louisiana entrepreneurial businesses certified by the secretary shall, by affidavit of its chief financial officer, provide the secretary with the list of those accredited investors, the Louisiana taxpayer identification number of the accredited investors and the amount of their investment in accordance with the statute and these rules, who have invested in the business

provided that the business shall report up to and no more than \$2,000,000 total for the calendar year 2005 that shall have been invested by accredited investors in the manner prescribed by Act 400 in order to obtain a tax credit for the accredited investors of no more than \$1,000,000 total for the tax year ending December 31, 2005.

2. All tax credit amounts reported to the secretary shall be fully credited to the accredited investor unless the total of all such investments shall exceed \$10,000,000 and the total of such credits shall exceed \$5,000,000 in which case the secretary shall prorate the total amount of investment and tax credits earned and advise each accredited investor of the amount of his credit for the tax year ending December 31, 2005 no later than February 28, 2006.

3. The secretary shall provide the accredited investor with all other necessary and appropriate certificates as provided by statute and as shall assist the Department of Revenue in its determination of applicability of the credit. No credit certificates shall be issued until after a determination has been made as to whether or not there is a necessity for prorating of the credits as provided above. When issued, the certificates shall include the Louisiana taxpayer identification number of the accredited investor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:0000 (February 2006).

Michael J. Olivier
Secretary

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