

Summary of the 2009 Wisconsin Act 2

1. Change the Angel Credit to authorize angels to claim 25% of the investment in the year the investment was made (effective for tax years beginning after 12-31-07).

SECTION 103. 71.07 (5d) (b) of the statutes is renumbered 71.07 (5d) (b) (intro.) and amended to read:

71.07 **(5d)** (b) *Filing claims.* (intro.) Subject to the limitations provided in this subsection and in s. 560.205, a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08, up to the amount of those taxes, the following:

1. For taxable years beginning before January 1, 2008, in each taxable year for 2 consecutive years, beginning with the taxable year as certified by the department of commerce, an amount equal to 12.5 percent of the claimant's bona fide angel investment made directly in a qualified new business venture.

SECTION 104. 71.07 (5d) (b) 2. of the statutes is created to read:

71.07 **(5d)** (b) 2. For taxable years beginning after December 31, 2007, for the taxable year certified by the department of commerce, an amount equal to 25 percent of the claimant's bona fide angel investment made directly in a qualified new business venture.

2. Extend the Early Stage Seed Investment Credit to insurance companies subject to the gross premiums tax (effective for tax years beginning after 12-31-08).

SECTION 223. 76.638 of the statutes is created to read:

76.638 Early stage seed investment credit. (1)

DEFINITIONS. In this section, "fund manager" means an investment fund manager certified under s. 560.205 (2).

(2) FILING CLAIMS. For taxable years beginning after December 31, 2008, subject to the limitations provided under this subsection and s. 560.205, an insurer may claim as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67, 25 percent of the insurer's investment paid to a fund manager that the fund manager invests in a business certified under s. 560.205 (1).

(3) INVESTMENT BASIS. The Wisconsin adjusted basis of any investment for which a credit is claimed under sub. (2) shall be reduced by the amount of the credit that is offset against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67.

(4) CARRY-FORWARD. If the credit under sub. (2) is not entirely offset against the fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance may be carried forward and credited against those fees for the following 15 years to the extent that it is not offset by those fees otherwise due in all the years between the year in which the expense was made and the year in which the carry-forward credit is claimed.

3. Eliminate the \$2 million maximum investment by an angel in a qualified new business venture (QNBV) that may qualify for credits (effective for tax years beginning after 12-31-07).

SECTION 105. 71.07 (5d) (c) 2. of the statutes is amended to read:

71.07 **(5d)** (c) 2. The For taxable years beginning before January 1, 2008, the maximum amount of a claimant's investment that may be used as the basis for a credit under this subsection is \$2,000,000 for each investment made directly in a business certified under s. 560.205 (1).

4. Modify criteria for certification of a QNBV (effective for tax years beginning 01-01-09).

SECTION 790. 560.205 (1) (f) of the statutes is repealed and recreated to read:

560.205 **(1)** (f) It has the potential for increasing jobs in this state, increasing capital investment in this state, or both, and any of the following apply:

1. It is engaged in, or has committed to engage in, innovation in any of the following:

- a. Manufacturing, biotechnology, nanotechnology, communications, agriculture, or clean energy creation or storage technology.

- b. Processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, any other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying proprietary technology.

- c. Services that are enabled by applying proprietary technology.

2. It is undertaking pre-commercialization activity related to proprietary technology that includes conducting research, developing a new product or business process, or developing a service that is principally reliant on applying proprietary technology.

SECTION 791. 560.205 (1) (g) of the statutes is amended to read:

560.205 **(1)** (g) It is not primarily engaged in real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction, except construction of power production plants that derive energy from a renewable resource, as defined in s. 196.378 (1) (h).

5. Increase the maximum investment a QNBV may receive that qualify for credits:

- ◆ From \$1 million to \$4 million for tax years beginning after 12-31-07 and before 01-01-11.
- ◆ From \$4 million to \$8 million for tax years beginning after 12-31-10.

SECTION 792. 560.205 (1) (k) of the statutes is amended to read:

560.205 (1) (k) It For taxable years beginning before January 1, 2008, it has not received more than \$1,000,000 in investments that have qualified for tax credits under s. 71.07 (5d).

SECTION 793. 560.205 (1) (kn) of the statutes is created to read:

560.205 (1) (kn) For taxable years beginning after December 31, 2007 and before January 1, 2011, it has not received more than \$4,000,000 in investments that have qualified for tax credits under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and 76.638.

SECTION 794. 560.205 (1) (L) of the statutes is created to read:

560.205 (1) (L) For taxable years beginning after December 31, 2010, it has not received more than \$8,000,000 in investments that have qualified for tax credits under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), and 76.638.

6. Increase the annual amount of credits Commerce may allocate:

- ◆ For the angel credit, increase the limit from \$5.5 million to \$18 million, plus an additional \$250,000 for nanotechnology businesses, for tax years beginning after 12-31-10.
- ◆ For the Early Stage Seed Credit, increase the limit from \$6 million to \$18.5 million, plus an additional \$250,000 for nanotechnology businesses, for tax years beginning after 12-31-10.

SECTION 796. 560.205 (3) (d) of the statutes is amended to read:

560.205 (3) (d) *Rules.* The department of commerce, in consultation with the department of revenue, shall promulgate rules to administer this section. The rules shall further define “bona fide angel investment” for purposes of s. 71.07 (5d) (a) 1. The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per calendar year for calendar years beginning after December 31, 2004, and before January 1, 2008, \$5,500,000 per calendar year for calendar years beginning after December 31, 2007, and before January 1, 2011, and \$18,000,000 per calendar year for calendar years beginning after December 31, 2010, plus, for taxable years beginning after December 31, 2010, an additional \$250,000 for tax credits that may be claimed for investments in nanotechnology businesses certified

under sub. (1). The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b), 71.28 (5b), and 71.47 (5b), and 76.638 that may be claimed for investments paid to fund managers certified under sub. (2) at \$3,500,000 per calendar year for calendar years beginning after December 31, 2004, and before January 1, 2008, \$6,000,000 per calendar year for calendar years beginning after December 31, 2007, and before January 1, 2011, and \$18,500,000 per calendar year for calendar years beginning after December 31, 2010, plus, for taxable years beginning after December 31, 2010, an additional \$250,000 for tax credits that may be claimed for investments in nanotechnology businesses certified under sub. (1). The rules shall also provide that, for calendar years beginning after December 31, 2007, no person may receive a credit under ss. 71.07 (5b) and (5d), 71.28 (5b), or 71.47 (5b), or 76.638 unless the person's investment is kept in a certified business, or with a certified fund manager, for no less than 3 years.

7. Authorize transferability for the Early Stage Seed Investment Credit beginning with tax years starting on 01-01-09.

SECTION 797. 560.205 (3) (e) of the statutes is created to read:

560.205 (3) (e) *Transfer.* A person who is eligible to claim a credit under s. 71.07 (5b), 71.28 (5b), 71.47 (5b), or 76.638 may sell or otherwise transfer the credit to another person who is subject to the taxes or fees imposed under s. 71.02, 71.23, 71.47, or subch. III of ch. 76, if the person receives prior authorization from the investment fund manager and the manager then notifies the department of commerce and the department of revenue of the transfer and submits with the notification a copy of the transfer documents. No person may sell or otherwise transfer a credit as provided in this paragraph more than once in a 12-month period. The department may charge any person selling or otherwise transferring a credit under this paragraph a fee equal to 1 percent of the credit amount sold or transferred. The department shall deposit all fees collected under this paragraph in the appropriation account under s. 20.143 (1) (gm).

8. Require that businesses or fund managers applying to Commerce for certification specify in the application the amount they wish to raise, and authorize Commerce to certify the business or fund manager and determine the amount of the investment that qualified for the credit.

SECTION 789. 560.205 (1) (intro.) of the statutes is amended to read:

560.205 (1) ANGEL INVESTMENT TAX CREDITS. (intro.) The department shall implement a program to certify businesses for purposes of s. 71.07 (5d). A business desiring certification shall submit an application to the department in each taxable year for which the business

desires certification. The business shall specify in its application the investment amount it wishes to raise and the department may certify the business and determine the amount that qualifies for purposes of s. 71.07 (5d). Unless otherwise provided under the rules of the department, a business may be certified under this subsection, and may maintain such certification, only if the business satisfies all of the following conditions:

SECTION 795. 560.205 (2) of the statutes is amended to read:

560.205 (2) EARLY STAGE SEED INVESTMENT TAX CREDITS. The department shall implement a program to certify investment fund managers for purposes of ss. 71.07 (5b), 71.28 (5b), and, 71.47 (5b), and 76.638. An investment fund manager desiring certification shall submit an application to the department. The investment fund manager shall specify in the application the investment amount that the manager wishes to raise and the department may certify the manager and determine the amount that qualifies for purposes of ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638. In determining whether to certify an investment fund manager, the department shall consider the investment fund manager's experience in managing venture capital funds, the past performance of investment funds managed by the applicant, the expected level of investment in the investment fund to be managed by the applicant, and any other relevant factors. The department may certify only investment fund managers that commit to consider placing investments in businesses certified under sub. (1).