2009 DRAFTING REQUEST

Bill

Received: **09/23/2008**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Lillethun**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Lillethun, BB0101 -

Topic:

Angel and early stage seed investment credits; investment holding time

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Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	jkreye 09/23/2008	jdyer 09/23/2008	phenry 09/23/2008	_____ _____	mbarman 09/23/2008		State

FE Sent For:

<END>

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2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Angel/Early Stage Seed Credit Investment Holding Time
- Tracking Code: BB0101
- SBO team: Tax, Transportation and Budget Development Team
- SBO analyst: Chad Lillethun
  - Phone: 266-7597
  - Email: Chad.Lillethun@wisconsin.gov
- Agency acronym: DOR
- Agency number: 566
- Priority (Low, Medium, High): Medium

Intent:

Clarify income tax statutes (i.e., ch. 71) to state that investors must hold investments for 3 years or more to claim either angel or early stage seed credits. 2007 Act 20 increased the requirement for holding investments from 12 months to 3 years, but statutory changes were only made to the Department of Commerce statutes (i.e., ch. 560) and not to income tax statutes. (See attached description and drafting instructions)

Legislative Proposal Summary
Wisconsin Department of Revenue
Research and Policy Division

Date: September 15, 2008

PROPOSAL 6: Angel/Early Stage Seed Credit Investment Holding Time

DESCRIPTION OF CURRENT LAW AND PROBLEM

2007 Act 20, the biennial budget bill, included an amendment to s. 560.205(3)(d) that created a new requirement: investments for which either Angel or Early Stage Seed tax credits are claimed must be held for three years for years beginning after December 31, 2007. Under prior law, investments for which an Angel Investment Credit were claimed had to be held for only 12 months. Claimants who did not hold the investments for 12 months were required to repay the credit amounts to the Department of Revenue.

No similar changes were made to the sections of Chapter 71 dealing with the Angel and Early Stage Seed credits.

This means that:

- s .560.205(3)(d) has a three year holding requirement;
- s. 71.07(5d) has the 12 month requirement; and
- s. 71.07(5b), 71.28(5b), and 71.47(5b) have no requirement for holding investments.

RECOMMENDATION FOR ACTION

Amend ss. 71.07 (5b), 71.07 (5d), 71.28(5b), and 71.47(5b) to include the new three-year holding requirement so that they will be in agreement with s. 560.205.

ADMINISTRATIVE IMPACT

None

FAIRNESS/TAX EQUITY

The requirements will be clear for investors if Chapter 71 and Chapter 560 are in agreement.

IMPACT ON ECONOMIC DEVELOPMENT

Clarification of the investment requirements should enhance the credit program and its effectiveness in attracting venture capital to Wisconsin companies.

FISCAL EFFECT

None

DRAFTING INSTRUCTIONS

Amend ss. 71.07 (5b), 71.07 (5d), 71.28(5b), and 71.47(5b) to include the new three-year holding requirement so that they will be in agreement with s. 560.205.

EFFECTIVE DATE AND/OR INITIAL APPLICABILITY

Calendar years beginning on or after January 1, 2008.

INTERESTED/AFFECTED PARTIES

Angel and Early Stage Seed investors and the qualified new business ventures they invest in.

DOR CONTACT PERSON

Michael Oakleaf. 261-5173
Michael.oakleaf@revenue.wi.gov

0370/P1

stays

DOA – BB0101...

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

in 9-23-08

TAXATION ← head
INCOME TAXATION ← subhead

move

do not gen

1 AN ACT ***to amend*** 71.07 (5d) (d) 1.; and ***to create*** 71.07 (5b) (d) 3., 71.28 (5b) (d)

2 3. and 71.47 (5b) (d) 3. of the statutes; **relating to:** holding investments for

3 purposes of the angel and early stage seed investment tax credits.

the budget

Analysis by the Legislative Reference Bureau

Under current law, in order to claim the angel investment credit or the early stage seed investment credit, the taxpayer must hold the investment for at least three years. Under current law, if a taxpayer holds the investment that is the basis for an angel investment credit for less than one year, the taxpayer must pay the Department of Revenue (DOR) the amount of the credit that the taxpayer received.

Under this bill, if a taxpayer holds an investment that is the basis for an angel investment credit or early stage seed investment credit for less than three years, the taxpayer must pay DOR the amount of the credit that the taxpayer received.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 71.07 (5b) (d) 3. of the statutes is created to read:

5 71.07 **(5b)** (d) 3. For calendar years beginning after December 31, 2007, if an

6 investment for which a claimant claims a credit under par. (b) is held by the claimant

for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

SECTION 2. 71.07 (5d) (d) 1. of the statutes is amended to read:

71.07 **(5d)** (d) 1. ~~If~~ For calendar years beginning after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than ~~one year~~ 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

SECTION 3. 71.28 (5b) (d) 3. of the statutes is created to read:

71.28 **(5b)** (d) 3. For calendar years beginning after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

SECTION 4. 71.47 (5b) (d) 3. of the statutes is created to read:

71.47 **(5b)** (d) 3. For calendar years beginning after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

(END)

State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0370/P1
JK:jld:ph

DOA:.....Lillethun, BB0101 - Angel and early stage seed investment credits; investment holding time

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

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SECTION 3. 71.28 (5b) (d) 3. of the statutes is created to read:

71.28 **(5b)** (d) 3. For calendar years beginning after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

SECTION 4. 71.47 (5b) (d) 3. of the statutes is created to read:

71.47 **(5b)** (d) 3. For calendar years beginning after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

(END)