

Angel Fund Investment Tax Credit Program Rates, limitations, and other features of the tax credit by tax year

This document is only intended as a quick reference tool for taxpayers, tax professionals, and other persons interested in the tax credit rate, limitations, and other selected features applicable to investments made in a particular tax year. The tax year is that of the taxpayer making the investment (not the angel fund's tax year). For complete details or assistance with respect to a tax year, contact the North Dakota Office of State Tax Commissioner.

How to use this chart: Go to the column for the tax year in which the qualified investment was made. Then look down that column to see the rate, limitations, and other features that apply to that investment and related tax credit. Tax years after 2016 are subject to legislative change and are therefore omitted. Unless there is a legislative change in 2017 or after, the provisions in effect for the 2013 through 2016 tax years will continue to apply to tax years after 2016.

Provision	Tax year in which investment was made									
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Eligible taxpayer ¹	Individual, estate, trust, or "C" corporation				Individual, estate, trust, partnership, corporation ("C" or "S"), or LLC					
Qualified investment ²	Cash	Cash	Cash	Cash	Cash	Cash	Cash	Cash	Cash	Cash
Credit rate	45%	45%	45%	45%	45%	45%	45%	45%	45%	45%
Number of carryover years for unused credit ³ <i>(Last tax year in which an unused credit carryover may be used is shown in parentheses)</i>	4 (2011)	4 (2012)	4 (2013)	4 (2014)	7 (2018)	7 (2019)	7 (2020)	7 (2021)	7 (2022)	7 (2023)
Maximum allowable credit per tax year ⁴	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000
Available election to sell, assign, or otherwise transfer credit to another taxpayer ⁵					Yes	Yes				
Lifetime limit on total tax credits allowed under Program to a taxpayer for all tax years ⁶					\$150,000		\$500,000			
Lifetime limit on total tax credits allowed under Program to investors in an angel fund ⁷			\$5 million							

Notes

- ¹ For tax years beginning before January 1, 2011, an eligible taxpayer was limited to an individual, estate, trust, or “C” corporation. Other types of entities could make an investment in the angel fund, but the investment was not a qualified investment and no credit was allowed.
- ² For investments made in angel funds certified on or after January 1, 2009, a qualified investment is one made during the certification period specified in the certification letter issued by the North Dakota Commerce Department’s Division of Economic Development and Finance. A commitment or pledge to make cash available to an angel fund is not a qualified investment. A qualified investment occurs on the date the investor remits cash to the angel fund for its use. In addition, the monies must be at risk in the angel fund for at least three years from the date of investment, which means the angel fund must have possession and use of the cash for at least three years. *Note: For investments made in tax years 2007 and 2008, there were no certification requirements for angel funds.*
- ³ If the eligible taxpayer is a passthrough entity—partnership, “S” corporation, or a limited liability company treated like a partnership or “S” corporation—the unused credit carryover provision does not apply at the passthrough entity level; it applies at the passthrough entity owner level, provided the owner is not another passthrough entity.
- ⁴ The maximum tax credit allowed per year of \$45,000 means that no more than \$100,000 of investments made in a tax year can qualify for the credit. This does not preclude a taxpayer from investing an amount over \$100,000 for which no tax credit is allowed.
- ⁵ For credits based on investments made in the 2011 and 2012 tax years only, a taxpayer may elect to sell, assign, or otherwise transfer the credit to another taxpayer, subject to the following:
- The credit is based on an investment made in an angel fund that is certified for the first time on or after August 1, 2011.
 - The credit is based on an investment the taxpayer makes directly to an angel fund. A credit that a taxpayer receives as an owner of a passthrough entity that invested in an angel fund is not eligible.
 - The transfer is made within the 2011 or 2012 tax year.
 - If the taxpayer making the investment is a passthrough entity, the taxpayer must transfer 100 percent of the allowable credit for the tax year and may transfer the credit to only one other taxpayer. *Note: If the passthrough entity is not eligible to make the election or chooses not to make the election, the passthrough entity passes the allowable credit through to its owners based on their respective ownership interests.*
 - A taxpayer may not transfer more than \$100,000 of credits over the taxpayer’s lifetime.
 - Of the total tax credits allowed to the investors in an angel fund, no more than 50 percent of the credits outstanding at any time may be transferred to other taxpayers.
 - If the transfer consists of a sale of the credit, the gross proceeds from the sale are assignable to North Dakota and are subject to tax on the taxpayer’s North Dakota income tax return.
 - There are other conditions and reporting requirements that must be satisfied by both the transferor and transferee to make the election to transfer the credit—see N.D.C.C. § 57-38-01.26.
- Note: The transfer feature expired at the end of the 2012 tax year.**
- ⁶ The \$150,000 limit applies to investments made in the 2011 and 2012 tax years. The \$500,000 limit applies to investments made in tax years beginning on or after January 1, 2013. This limitation applies to credits based on qualified investments a taxpayer makes directly to an angel fund plus any angel fund credits the taxpayer receives as an owner of a passthrough entity that makes a qualified investment in an angel fund. Married individuals are considered one taxpayer for this purpose. This limitation does not apply to angel fund credits acquired from another taxpayer by purchase, assignment, or other transfer.
- ⁷ Applies to investments made in angel funds certified on or after January 1, 2009.