

141.396 Nonrefundable angel investor tax credit against individual income tax -- Carry forward -- Transfer of credit -- Recapture of credit -- Data reporting requirements.

- (1) As used in this section:
 - (a) "Authority" has the same meaning as in KRS 154.20-230;
 - (b) "Qualified investor" has the same meaning as in KRS 154.20-230;
 - (c) "Qualified small business" has the same meaning as in KRS 154.20-230; and
 - (d) "Taxpayer" means an individual subject to the tax imposed by KRS 141.020, who has either:
 1. Received a credit from the authority pursuant to KRS 154.20-236; or
 2. Received a credit through a valid transfer allowed under this section from a qualified investor that was originally awarded the credit.
- (2) For taxable years beginning on or after January 1, 2015, there is hereby created the angel investor tax credit. The credit shall be nonrefundable, and shall apply against the tax imposed by KRS 141.020. The ordering of the credit shall be as provided in KRS 141.0205.
- (3) A qualified investor may seek a credit by applying to the authority pursuant to KRS 154.20-236.
- (4) The maximum amount of credit that may be claimed by a taxpayer in any taxable year shall not exceed fifty percent (50%) of the total amount of credit awarded or transferred to the taxpayer.
- (5) Any amount of credit that a taxpayer is unable to utilize during a taxable year may be carried forward for use in a succeeding taxable year for a period not to exceed fifteen (15) years. Any amount of credit not used within fifteen (15) years shall be lost. No amount of credit may be carried back by any taxpayer.
- (6) The credit shall not apply to any liability a taxpayer may have for interest, penalties, past due taxes, or any other additions to the taxpayer's tax liability. The holder of the credit shall assume any and all liabilities and responsibilities of the credit.
- (7) A credit may be transferred by a qualified investor to any individual taxpayer. A qualified investor making a transfer shall give written notice to the department and shall provide any other information required by the department, in the manner prescribed by the department. Any transferred credit shall be subject to the original timeframes and requirements established by this section and KRS 154.20-230 to 154.20-240 as if held by the qualified investor.
- (8) To receive the credit, a taxpayer shall claim the credit on his or her return in the manner prescribed by the department.
- (9) The department shall recapture any portion, or the full amount, of a credit upon notification from the authority that a recapture is required pursuant to KRS 154.20-240.
- (10) In order for the General Assembly to evaluate the fulfillment of the purposes stated in KRS 154.20-232, the department and the Cabinet for Economic Development shall work jointly to submit the following information to the Interim Joint

Committee on Appropriations and Revenue on or before May 1, 2019, related to each taxable year that an angel investor credit is claimed on a return:

- (a) The number of qualified small businesses certified by the authority;
 - (b) The demographics of each qualified small business, including:
 - 1. The net worth of the qualified small business;
 - 2. The qualified activity the qualified small business is actively and principally engaged in within the Commonwealth;
 - 3. The number of employees of the qualified small business;
 - 4. The location of the assets, operations, and employees of the qualified small business; and
 - 5. The aggregate amount of qualified investments received by the qualified small business;
 - (c) A list detailing each qualified investor certified by the authority, the amount of investment made by each qualified investor, the date each qualified investment is made by the qualified investor, and the amount of tax credit awarded each investor;
 - (d) By taxable year, the amount of tax credit claimed by each investor and the amount of credit available to be claimed in future taxable years;
 - (e) The number of qualified small businesses that are active, inactive, or closed that have received qualified investments;
 - (f) The number of qualified small businesses that have established a location in the Commonwealth and the number that have expanded operations, the number and location of each new job created, a description of each development of new products and technologies in the Commonwealth, and the field of operation for that growth, including knowledge-based, high-tech, or research and development; and
 - (g) The total amount of tax credit awarded for each fiscal year.
- (11) If either the department or the Cabinet for Economic Development does not currently have the data to fulfill the reporting requirement of subsection (10) of this section, the department and the cabinet shall work jointly to obtain the data in an expedient manner to provide the report on or before the May 1, 2019, report date.

Effective: April 27, 2018

History: Amended 2018 Ky. Acts ch. 171, sec. 98, effective April 14, 2018; and ch. 207, sec. 97, effective April 27, 2018. -- Created 2014 Ky. Acts ch. 102, sec. 28, effective July 15, 2014.

Legislative Research Commission Note (4/27/2018). This statute was amended by 2018 Ky. Acts chs. 171 and 207, which do not appear to be in conflict and have been codified together.