

**Seed Capital 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 qualified business's tax year). For complete details, see N.D.C.C. ch. 57-38.5.

**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.

Provision	Tax year in which investment was made										
	2002	2003	2004 <sup>1</sup>	2005	2006	2007	2008	2009	2010	2011	2012
Eligible taxpayer <sup>2, 3</sup>	Individual, estate, or trust			Individual, estate, trust, partnership, corporation ("C" or "S"), or LLC							
Qualified investment	Cash	Cash	Cash	Cash	Cash	Cash	Cash	Cash	Cash	Cash	Cash
Credit rate	30%	45%	45%	45%	45%	45%	45%	45%	45%	45%	45%
Number of carryover years for unused credit <i>(Last tax year in which an unused credit carryover may be used is shown in parentheses) <sup>4</sup></i>	4 (2006)	4 (2007)	4 (2008)	4 (2009)	4 (2010)	4 (2011)	4 (2012)	4 (2013)	4 (2014)	4 (2015)	4 (2016)
Minimum investment <sup>5</sup>	\$5,000	\$5,000	\$5,000								
Maximum investment <sup>6</sup>	\$50,000	\$250,000	\$250,000	\$250,000	\$250,000						
Maximum allowable credit <sup>7</sup>	\$15,000	\$112,500	\$112,500	\$112,500	\$112,500						
Limit on amount of allowable credit that may be used in any tax year <sup>7, 8</sup>	50%	33.33%	33.33%	33.33%	33.33%						
Limit on amount of allowable credit that may be used in any tax year <sup>9</sup>						\$112,500	\$112,500	\$112,500	\$112,500	\$112,500	\$112,500
Lifetime limit on qualified investments received by each certified business for which tax credits are allowed <sup>10</sup>				\$500,000 over all years							
Limit on total tax credits allowed under Program based on investments made by all taxpayers <sup>11</sup>	\$2.5 million for all calendar years <sup>1</sup>			\$2.5 million per calendar year <sup>12</sup>		\$3.5 million per calendar year					

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**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.

Provision	Tax year in which investment was made												
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	
Eligible taxpayer <sup>2, 3</sup>	Individual, estate, trust, partnership, corporation (“C” or “S”), or LLC												
Qualified investment	Cash	Cash	Cash	Cash	Cash	Cash	Cash	Cash	Cash	Cash	Cash	Cash	Tax years after 2022 are subject to legislative change and are therefore omitted until after the next legislative session in 2023. If there is no legislative change in 2023, the provisions in effect for 2007 through 2022 will apply.
Credit rate	45%	45%	45%	45%	45%	45%	45%	45%	45%	45%	45%		
Number of carryover years for unused credit <i>(Last tax year in which an unused credit carryover may be used is shown in parentheses) <sup>4</sup></i>	4 (2017)	4 (2018)	4 (2019)	4 (2020)	4 (2021)	4 (2022)	4 (2023)	4 (2024)	4 (2025)	4 (2026)			
Minimum investment <sup>5</sup>													
Maximum investment <sup>6</sup>													
Maximum allowable credit <sup>7</sup>													
Limit on amount of allowable credit that may be used in any tax year <sup>7, 8</sup>													
Limit on amount of allowable credit that may be used in any tax year <sup>9</sup>	\$112,500	\$112,500	\$112,500	\$112,500	\$112,500	\$112,500	\$112,500	\$112,500	\$112,500	\$112,500			
Lifetime limit on qualified investments received by each certified business for which tax credits are allowed <sup>10</sup>	\$500,000 over all years												
Limit on total tax credits allowed under Program based on investments made by all taxpayers <sup>11</sup>	\$3.5 million per calendar year												

## Notes

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- <sup>1</sup> **Exception to information in table for tax year 2004:** The \$2.5 million limit on total tax credits allowed to all eligible taxpayers under the Program for all calendar years before 2005 was reached on May 25, 2004. This resulted in the remaining tax credits under the \$2.5 million ceiling being allocated on a pro rata basis to the eligible taxpayers who made an investment on May 25, 2004. The tax credit was not allowed for investments made on May 26, 2004, through December 31, 2004. However, the 2005 North Dakota Legislature enacted legislation authorizing additional tax credits (on a retroactive basis) for the investments made in 2004 for which the tax credit was not allowed, as follows:
- Senate Bill 2032 (S.L. 2005, ch. 151)—For investments totaling at least \$5,000 but no more than \$250,000 made in a qualified business *other than an agricultural commodity processing facility*, a retroactive credit equal to 45% of the total eligible investment was allowed, of which no more than 25% of the total allowable tax credit may be used in any tax year, starting with the 2004 tax year. If the retroactive credit allowed in the 2004 tax year exceeded the tax liability for that tax year, the unused portion may be carried forward and used on subsequent tax years' returns for up to 5 tax years. The last tax year to which an unused retroactive tax credit could be carried was the 2009 tax year.
  - Senate Bill 2281 (S.L. 2005, ch. 568)—For investments totaling at least \$5,000 but no more than \$250,000 made in a qualified business that is an agricultural commodity processing facility, a retroactive credit equal to 30% of the total eligible investment was allowed, of which no more than 25% of the total allowable tax credit may be used in any tax year, starting with the 2004 tax year. If the retroactive credit allowed in the 2004 tax year exceeded the tax liability for that tax year, the unused portion may be carried forward and used on subsequent tax years' returns for up to 5 tax years. The last tax year to which an unused retroactive tax credit could be carried was the 2009 tax year.
- <sup>2</sup> For tax years beginning before January 1, 2005, an eligible taxpayer was limited to an individual, estate, or trust. Other types of entities, such as a corporation, could make an investment in the business, but the investment was not a qualified investment and no credit was allowed.
- <sup>3</sup> For tax years beginning on or after January 1, 2005, an eligible taxpayer includes all entity types. If taxpayer is a passthrough entity—partnership, S corporation, or limited liability company treated like a partnership or S corporation—the credit is calculated at the passthrough entity level (without regard to the \$112,500 annual usage limit) and passed through to the owners based on their respective ownership interests.
- An eligible taxpayer *does not* include (1) government entity; (2) tax-exempt organization; (3) real estate investment trust; (4) angel fund certified under N.D.C.C. § 57-38-01.26 after June 30, 2017; (5) taxpayer owning over 50% of qualified business; (6) taxpayer receiving over 50% of annual gross income from qualified business; (7) taxpayer's spouse; (8) or taxpayer's parent, sibling, or child, or their spouses.
- If taxpayer is an angel fund certified under N.D.C.C. § 57-38-01.26 before July 1, 2017, it is treated like a passthrough entity, and the credit must be passed through to the angel fund's members. If the angel fund members also qualified for the angel fund tax credit for investing in the angel fund, they must choose which of the two tax credits to claim; they may not claim both types of tax credits.
- <sup>4</sup> The unused credit carryover provision does not apply at the passthrough entity level—partnership, S corporation, or limited liability company—but applies at the owner level, provided the owner is not another passthrough entity.
- <sup>5</sup> Only applied to tax years 2002 through 2004. Applied per investor; in the case of married individuals filing jointly, applied per couple.
- <sup>6</sup> Only applied to tax years 2002 through 2006. No credit is allowed in any tax year for the amount of investment made during the tax year in excess of the maximum investment amount shown in table. Applied per investor; in the case of married individuals filing jointly, applied per spouse.
- <sup>7</sup> For investments made in tax years 2002 through 2006, the allowable credit equals the total qualified investments made during the tax year multiplied by the credit rate, not to exceed the maximum allowable credit shown for the tax year.
- <sup>8</sup> For investments made in tax years 2002 through 2006, multiply the allowable credit on qualified investments made during the tax year by the percentage shown in the table. The result is the limit on the amount of the allowable credit that may be used in the year of investment or in any carryover year. For example, if \$10,000 is invested in the 2006 tax year, the allowable credit is

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\$4,500 ( $\$10,000 \times 45\%$ ), of which no more than \$1,500 ( $\$4,500 \times 33.33\%$ ) may be used in 2006 or any of the four carryover years. This limitation does not apply at the passthrough entity level but applies at the owner level, provided the owner is not another passthrough entity.

- <sup>9</sup> For investments made in tax years beginning on or after January 1, 2007, the allowable credit equals the total qualified investments made during the tax year multiplied by the credit rate. There is no limit on the allowable credit for qualified investments made in a tax year; however, no more than \$112,500 of the allowable credit may be used in the year of investment or in any carryover year. This limitation does not apply at the passthrough entity level but applies at the owner level, provided the owner is not another passthrough entity.
- <sup>10</sup> Applies to businesses first certified on or after January 1, 2005, or recertified on or after January 1, 2007.
- <sup>11</sup> The unused portion of the maximum amount of total credits allowed under the Program is not carried over and therefore does not increase the maximum amount of total credits allowed under the Program in any subsequent year.
- <sup>12</sup> The \$2.5 million limit on total tax credits allowed to all eligible taxpayers under the Program for calendar year 2005 was reached on December 29, 2005. This resulted in the remaining tax credits under the \$2.5 million ceiling being allocated on a pro rata basis to the eligible taxpayers who made an investment on December 29, 2005. The tax credit was not allowed for investments made on December 30 and 31, 2005.