

Just the Facts:

Kentucky Angel Investment Act Program

September 2016

This fact sheet provides an overview of the Kentucky Angel Investment Act program. For a full discussion of the program requirements, please see KRS 154.20-230 through 240. As with many state administered tax incentive programs, any inducements offered to an eligible company under this program are negotiated by Cabinet for Economic Development officials and subject to approval by the Kentucky Economic Development Finance Authority (KEDFA).

The purpose of the Kentucky Angel Investment Act program is to encourage qualified individual investors to make capital investments in Kentucky small businesses, create additional jobs, and promote the development of new products and technologies. Qualified individual investors making qualified investments in qualified small businesses may be eligible for incentives in this program. The Commonwealth, through KEDFA, allocates the credits to qualified investors.

The Cabinet does not provide financial screening of the companies or individuals involved in the program and limits its certification to the statutory parameters for a Qualified Investor, Qualified Small Business and Qualified Investment per KRS 154.20-230 through 240. Cabinet staff will not perform due diligence on the small businesses and cannot guarantee any return on investment.

Incentive

Qualified Investors making Qualified Investments in an enhanced incentive county may be eligible for up to a fifty percent (50%) tax credit. Qualified Investors making Qualified Investments in all other counties may be eligible for up to a forty percent (40%) tax credit. A map showing enhanced incentive counties can be found at www.thinkkentucky.com/kyedc/pdfs/KBIEnhancedCounties.pdf.

A tax credit may be transferred by a Qualified Investor to an individual taxpayer in accordance with procedures outlined by the Department of Revenue. Tax credits are non-refundable and amounts claimed in any tax year shall not exceed fifty percent (50%) of the total amount of credit awarded or transferred to the taxpayer. Unused credits may carry-forward for up to fifteen (15) years.

Qualified Small Business

- Is a legal entity registered and in good standing with the Kentucky Secretary of State (if Secretary of State registration is required for legal form of business) and possessing all licenses and other registrations required to legally operate a business in the Commonwealth
- Is actively and principally engaged in a Qualified Activity within the Commonwealth, or will be actively and principally engaged in a Qualified Activity within the Commonwealth after the receipt of a Qualified Investment by a Qualified Investor

- Has no more than one hundred (100) full-time employees
- Has more than 50% of its assets, operations, and employees located within the Commonwealth
- Meets one of the following conditions:
 - o Has a net worth of ten million dollars (\$10,000,000) or less OR
 - o Has had a net income after federal income taxes for each of the two (2) preceding fiscal years of three million dollars (\$3,000,000) or less
- Has at no time received investments eligible for more than one million dollars (\$1,000,000) in aggregate angel investor tax credits
- Has filed an application with and received KEDFA certification as a Qualified Small Business in the program

Qualified Activity

A knowledge-based activity related to the focus areas of the Office of Entrepreneurship including, but not limited to:

- Bioscience;
- Environmental and energy technology;
- Health and human development;
- Information technology and communications; and
- Materials science and advanced manufacturing.

A Qualified Activity does not include any activity principally engaged in by financial institutions, commercial development companies, credit companies, financial or investment advisors, brokerage or financial firms, other investment funds or investment managers, charitable and religious institutions, oil and gas exploration companies, insurance companies, residential housing developers, retail establishments, or any activity determined to be against the public interest, against the purposes of the program, or in violation of any law.

Qualified Investor

- Is an individual, natural person
- Is an accredited investor according to Regulation D of the U.S. Securities and Exchange Commission in effect as of the date of the requested certification
- Holds no more than twenty percent (20%) ownership in and is not employed by the Qualified Small Business prior to making a Qualified Investment in that business
- Is not the parent, spouse or child of an individual holding in excess of twenty percent (20%) ownership interest in, or who is employed by, the Qualified Small Business prior to making the Qualified Investment
- Is seeking a financial return from the Qualified Investment
- Has filed an application with and received KEDFA certification as a Qualified Investor in the program

Qualified Investment

- Is a minimum cash investment of \$10,000 made by a Qualified Investor in a Qualified Small Business
- Is offered and executed in compliance with applicable state and federal securities laws and regulations
- Is exchanged for consideration in the form of equity interest in the Qualified Small Business

- Has been approved by KEDFA as a Qualified Investment in advance of actual investment

Process – Investor	Process – Small Business
<ul style="list-style-type: none"> - Individual investor completes and submits the Qualified Investor certification application to KEDFA - KEDFA staff approves the application certifying the investor as a Qualified Investor - Qualified Investor identifies a Qualified Small Business seeking an investment - Qualified Investor completes and submits the Qualified Investment certification application to KEDFA prior to investment - The planned investment is presented to KEDFA for approval of incentives pending confirmation of a Qualified Investment after KEDFA approval - Qualified Investor shall make the Qualified Investment (transfer investment funds to the Qualified Small Business) within sixty (60) calendar days, but no later than December 31st, immediately following the date of KEDFA approval of the planned investment - Qualified Investor shall provide proof of the Qualified Investment to KEDFA staff within twenty (20) calendar days of making the Qualified Investment - After KEDFA staff has confirmed the eligibility of the Qualified Investment, the Qualified Investor may request state income tax credits in accordance with program statutory requirements 	<ul style="list-style-type: none"> - Small business completes and submits the Qualified Small Business certification application to KEDFA - KEDFA staff approves the application certifying the small business as a Qualified Small Business - The Qualified Small Business and KEDFA enter into an agreement setting forth the terms and conditions if a Qualified Investment is received by the Qualified Small Business - All Qualified Small Businesses which have received a Qualified Investment will be required to provide an annual report to KEDFA staff for five (5) years after the date of the last Qualified Investment

If the Qualified Small Business fails to provide the required annual report or fails to maintain eligibility as a Qualified Small Business, the Department of Revenue shall recapture a portion of the credit from the Qualified Investor or any taxpayer receiving the credit through a valid transfer.

Credit Caps

The total amount of tax credits available to both the Kentucky Investment Fund Act (KIFA) and the Kentucky Angel Investment Act programs is no more than \$40,000,000. For each calendar year, the total amount of tax



credits available for the Kentucky Angel Investment Act program shall not exceed \$3,000,000. The total amount of tax credits approved to a Qualified Investor in a calendar year shall not exceed \$200,000 in aggregate.

Fees

A non-refundable certification fee of \$25 is due upon submission of the Qualified Investor or Qualified Small Business certification form. A non-refundable application fee of \$250 is required upon submission of the Qualified Investment application.

Forms and additional program information can be found at www.thinkkentucky.com/KAITC.

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