

## NEW JERSEY ANGEL INVESTOR TAX CREDIT FREQUENTLY ASKED QUESTIONS (FAQ)

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### Angel Investor

#### 1) How is an Angel Investor defined under this program?

**Answer:** An Angel Investor is the individual or entity that made the Qualified Investment.

#### 2) How is a Qualified Investment defined under this program?

**Answer:** A Qualified Investment is a non-refundable transfer of cash made directly (or indirectly through a holding company, as explained in the FAQs, to a New Jersey Emerging Technology Business by an Investor that is not a related person of the technology business. To be a Qualified Investment, at the time of the transfer of cash, the transfer must be in exchange for either:

- a. stock, interests in partnerships or joint ventures, licenses (exclusive or non-exclusive), rights to use technology, marketing rights, warrants, options, convertible debt that subsequently converted in equity, or any assets like those included herein, including but not limited to options or rights to acquire any of the assets included herein; or
- b. purchase, production, or research agreement

The amount and the assets received in exchange for cash must be clearly stated in a contractual agreement, e.g., a Stock Purchase Agreement for an equity investment.

Please note that some of these terms are defined in the Act and the Program rules.

#### 3) What is considered the date of investment?

**Answer:** Three events are evaluated to determine the Date of Qualified Investment. These are:

- the date that the cash funds from the investor were received by the business, per bank statements
- the date of execution of the agreement governing the investment
- the date of issue of the stock certificate

When all three events occur within 60 calendar days of each other and occur within the six-month deadline to submit an application to the NJEDA, the Date of Qualified Investment is deemed the last date of the three.

If any of the three events occurs outside of 60 days of the others, or outside of six months from application date, additional documentation and explanation may be required to determine the Date of Qualified Investment. Acceptance of the additional documentation and explanation is at the discretion of the NJEDA. The determination could be that the transaction does not meet the program requirements, leading to an application declination.

Examples include:

- A purchase agreement with multiple tranches/transfers of cash clearly defined. The last transfer of cash corresponding to the last investment tranche would be considered the Date of Qualified Investment.

- A convertible note that has converted to equity. In this case, the date of conversion is the Date of Qualified Investment.

**4) What is considered a non-refundable transfer of cash?**

**Answer:** For the transfer of cash to be considered non-refundable, the assets received by the investor must be held or not expire for at least two calendar years from the date of the exchange, with an exception being made for initial public offerings (IPOs), mergers and acquisitions, damage awards for the business's default of an agreement, or other return of initial cash outlay beyond the investor's control.

**5) Who is considered a related person of the technology business?**

**Answer:** A related person is an individual or entity who controls the technology business or an entity that is a member of the same controlled group as the Company. Control means owning or controlling at least 80% of all voting stock of the company immediately preceding investment, as verified by the Company's capitalization table. A controlled group is one or more chains of corporations connected through stock ownership with a common parent corporation, if at least 80% of all voting stock of each of the corporations is owned or controlled by one or more of the corporations, and the common parent owns or controls at least 80% of all voting stock of at least one of the other corporations.

**6) What is my obligation in filling out the application and providing EDA with needed information about the Qualified Investment and the New Jersey Emerging Technology Business in which I invested?**

**Answer:** The Angel Investor is the applicant and, as such, the Investor is responsible for ensuring that the EDA receives all necessary information required to make eligibility determinations to award the tax credit. The application is a two-part document. The Investor initiates and completes the first section of the application, and the technology business completes the second section. While there is a section for the technology business to fill out, **it is the responsibility of the Investor to ensure that the business completes its section, and that the EDA receives all requested information, by the six-month deadline.** Once the application is submitted to the EDA, the Investor and technology business will both receive email confirmations. It is recommended that the Investor follow up with the Technology Business representative to ensure their portion has been completed prior to the deadline, as no exceptions/extensions can be granted.

**7) Do I need to be a New Jersey resident or have existing New Jersey tax liability to apply for this Tax Credit?**

**Answer:** No, though to make use of the refundable tax credit received for a Qualified Investment, any entity or individual is required to file a New Jersey corporate business or gross income tax return in the year in which they take advantage of the refundable tax credit. They need not be New Jersey residents and need not have any other reason to file a New Jersey return. Out-of-state and international investors should consult with their financial advisors regarding potential NJ tax liabilities.

**8) Are there any recapture conditions?**

**Answer:** The New Jersey Division of Taxation can audit all applications and tax filings and may pursue its usual remedies, which may include repayment of the tax credit, interest and penalties, if they determine that the tax credits were used improperly or refund was obtained improperly.

Please note that the Angel Investor Tax Credit Act specifically prohibits the same expenses from receiving tax credits under this program and a Research and Development Tax Credit (pursuant to section 1 of P.L.1993, c.175 (N.J.S. 54:10A-5.24)).

**9) How does the Tax Credit function if the Qualified Investment is made by a pass-through entity such as a Limited Liability Company (LLC), Limited Partnership (LP), General Partnership (GP) or Limited Liability Partnership (LLP)?**

**Answer:** In the case where the Investor applicant is a pass-through entity, the entity itself cannot receive the tax credit, as it is not the taxpayer. Instead, the owners/members of the entity are the taxpayers. Accordingly, if the Qualified Investment is approved, each individual or corporate member/owner will be issued a tax credit certificate in the amount of their proportional share, whether distributed or not, of the total distributive income of the pass-through entity.

For example, an LLC with 3 members (2 individuals, and a limited partnership – each receiving equal portions of the LLC’s total distributive income), made a \$600,000 Qualified Investment in an eligible NJ emerging technology business and a tax credit in the amount of \$120,000 was approved. The two individual members of the LLC would each receive certificates in the amount of \$40,000. The third member, the limited partnership, has two individual partners, each receiving equal portions of the LLC’s total distributive income. Accordingly, their \$40,000 portion of the tax credit will be split equally among them, and each provided a \$20,000 tax certificate.

Please note that the pass-through entity will be required to submit Schedule K-1 detailing its ownership percentages. Additionally, any member that is a pass-through entity will also be required to submit Schedule K-1. The EDA requests this information to verify the individual recipients of the tax credit. It is the responsibility of the authorized representative of the pass-through entity to provide all necessary underlying documentation for all underlying members of the pass-through entity.

**10) How is a New Jersey S corporation with a single shareholder treated with regard to securing a business registration or tax clearance?**

**Answer:** A New Jersey S corporation is treated like a C corporation with respect to securing both a New Jersey Business Registration and Tax Clearance. Both items MUST be provided to the NJEDA prior to approval.

**11) How does the Tax Credit function if the Qualified Investment is made by an Investor that is a New Jersey S corporation?**

**Answer:** According to P.L. 2017, c.40 (N.J.S.A. 54A:4-13), a New Jersey Corporation with a valid S election has the option to have the resulting tax credit issued directly to the S corporation *OR* allocated to each shareholder based on the shareholder’s proportionate share of the New Jersey S corporation.

**12) What if one member of a pass-through entity, such as a LLC or partnership, is a related person; can the other members not related to the technology business still receive a tax credit?**

**Answer:** Yes, as long as the pass-through entity itself is not a related person to the technology business. The proportion of the tax credit that would have been allocated to the member that is a related person to the technology business will be subtracted from the final approved amount.

**13) I manage a small venture fund that made an investment in a technology business - can I apply for my limited partners?**

**Answer:** Yes, the venture fund can apply for the tax credit for all partners. While the investment partners in the fund will be the recipients of any approved tax credit, they do not apply individually.

As noted above, the venture fund and any underlying partnerships/LLCs will be required to submit Schedule K-1 detailing their ownership percentages.

**14) When a fund submits the application on behalf of all partners are there any reduced fees since the technology business will only need to be qualified once for multiple investors?**

**Answer:** Yes, because only one application needs to be submitted, per subscription agreement, on behalf of all investors, the fund will only be charged a single application fee.

**15) Why does EDA ask for Social Security Numbers from the investors and the owners of investment entities?**

**Answer:** EDA asks for Social Security Numbers to identify taxpayers with similar names. Taxation uses this information to match the tax credit to the right individual. Under the provisions of the Federal Privacy Act, 5 U.S.C. 552a, no one is legally required to provide a Social Security Number to the Authority, and it will not impede approval of application. However, providing the Social Security Number facilitates and expedites EDA's review of the application. Applicants will be required to provide their Social Security Number directly to the Division of Taxation later in the process before payment, if they opt not to provide it to the EDA during application review.

**16) If I do not have a Social Security Number, what should I do?**

**Answer:** Investors who do not qualify for a Social Security Number (such as a Foreign Investor) can also apply for the Angel Tax Credit Program. Such investors will be required to complete additional paperwork to obtain an ID number for use during the application review process. Please note that such applications may require a longer processing time from the NJ Division of Taxation.

**17) Can stock options granted to an employee as part of their compensation package be considered a Qualified Investment?**

**Answer:** No. While stock options are one of the eligible items provided in the Qualified Investment definition, there is no non-refundable exchange of cash, and therefore this does not meet the definition. However, once the options are exercised with an exchange of cash (excluding cashless exercises), the investor can apply for the tax credit for 20% of the exercise price.

**18) Are "convertible debt" investments eligible for a tax credit?**

**Answer:** Convertible debt instruments are only eligible for the tax credit once the debt is converted to equity. The amount of the Qualified Investment will be the principal balance at the time of conversion. EDA considers the date of conversion as the date of qualified investment. Please note that loans made prior to the program start date of January 1, 2012, are not eligible for the tax credit.

For example, if John loans \$100,000 to Company X with the option to convert to equity, this loan is not eligible for the Angel Investor Tax Credit Program. If at a later date John converts this loan to equity, it would now qualify for the Program, so long as all other requirements are met.

**19) Does a qualified investment where debt has converted to equity require any additional documentation for the investment transaction? Similarly, does a qualified investment where debt has converted to equity require documentation for both the debt transaction and the conversion?**

**Answer:** It depends.

To be approved for a credit, an investor must demonstrate their transaction meets the requirements of a qualified investment. This includes verification that cash from the investor transferred to the eligible technology business. The minimum standard is bank statements confirming cash moved from investor to business, and an executed purchase agreement confirming the source of funding for the qualified investment. In the case where the funding for the qualified investment is not a direct transfer of cash, like the conversion of another financial instrument such as debt, the purchase agreement must specify the debt conversion as the source of funds. If it does not, the investor must provide additional documentation, like the original note agreement, promissory note, and/or conversion documentation, to confirm the qualified investment's funding source. If agreements do not exist for the debt, other documentation would be required at the discretion of the NJEDA.

**20) Can capital invested by a CEO be considered a Qualified Investment?**

**Answer:** Yes, if the capital is in exchange for an eligible item in the Qualified Investment definition, such an investment could be a Qualified Investment, if it meets the other requirements of the program including not owning more than 80% of the company's stock immediately preceding the investment. Please note that all details of the investment must be clearly defined in an investment agreement, including but not limited to investment amount and number of shares purchased.

**21) Can the purchase of publicly traded stock be considered a Qualified Investment?**

**Answer:** No, unless the stock is purchased directly from the technology business and the other requirements of the program are met, including holding the stock for a two-year period. While the purchase of publicly traded stock is an exchange of cash, it is not an exchange between the technology business and the stock purchaser, unless the purchaser buys the stock directly from the technology company.

**22) I invested in a New Jersey Technology business using a SAFE (Simple Agreement for Future Equity). Is that considered an eligible instrument under the regulations of the Angel Tax Credit Program?**

**Answer:** It Depends.

A standard SAFE agreement which has the following characteristics, and which distinguishes it from a Convertible Promissory Note may be considered eligible:

- 1) It is not a debt instrument. There is no repayment of investment or accrual of interest, or similar financial benefit, at any time. All of the investor's investment and accrued financial benefit must be convertible to a "nonrefundable" investment, namely equity.
- 2) It has no maturity date i.e.; it is not **repayable** at any time.
- 3) Conversions to a "nonrefundable" investment, namely equity, are automatic. There is no option to refund or repay the investor cash. The company is not required to meet any minimum threshold to convert existing SAFE holders to equity holders.
- 4) SAFE holders are listed on the Company's Capitalization Table.

EDA staff will review SAFE agreements provided with an Angel Tax Credit application. If the SAFE agreement meets all the criteria outlined above, it will be deemed an eligible instrument. The Angel Investor Tax Credit amount available is calculated on the value of initial cash transfer from the investor to NJ emerging technology business for the SAFE security. As with any equity position, the sale of the company may result in a liquidity event for the SAFE holder. This exit event is still qualified under the program.

**23) My SAFE agreement has a 1X repayment clause in the event of a Liquidity/Dissolution/Change of Control. Does that count as “repayment” under the rules of the Angel Tax Credit program?**

**Answer:** No. A Liquidity/Dissolution/Change of Control event is deemed outside the control of the investor and is an exception to the two-year holding rule.

**24) What is the obligation to inform EDA or the New Jersey Division of Taxation if changes occur within the Investor entity or with individual Investor after the Qualified Investment is made?**

**Answer:** There is no obligation under this Program to inform EDA or the New Jersey Division of Taxation of changes within the investor entity. However, there are certain limitations to the carryover of the tax credits if the taxpayer was acquired or was a party to a merger or consolidation.

**25) An investment is made by an individual and held in the individual’s name. Subsequently, ownership is changed from the individual to a disregarded entity (for example, a single-member LLC or a grantor trust). The individual owns 100% of the disregarded entity and is responsible for all tax consequences. The New Jersey Emerging Technology company recognizes the disregarded entity as the owner of the investment/the investor. Would this be considered as a qualified investment and eligible for an Angel Investor Tax Credit?**

**Answer:** Yes. The Angel Investor Tax Credit Program has a rule requiring an investment be held for at least two years from investment date by the investor. A transfer to a new taxpayer would not be acceptable and the investment would no longer be eligible for the program, however, in this case the final recipient of the tax benefit is the same

**26) Must I use the tax credit in a certain tax filing period?**

**Answer:** For gross income taxpayers, the tax credit certificate must be used in the tax year corresponding to the date of the certificate. For corporate business taxpayers, the certificate must be initially used in the tax year or privilege period corresponding to the date of the certificate. Tax credits otherwise allowable that cannot be applied against corporate business tax liability due for the tax year may either be treated as an overpayment that may be refunded (N.J.S.A. 54:49-15.1 not applicable), or may be carried forward for a period of up to 15 years.

**27) What if the Angel Investor entity undergoes a merger or is part of an acquisition either to acquire another entity or is acquired by another entity?**

**Answer:** Mergers and acquisitions are relevant only for tax credits that are carried forward. There is a prohibition to the carryover of any amount of credit allowed to a tax year during which a corporate acquisition with respect to the taxpayer occurred or during which the taxpayer was party of a merger or a consolidation, except that the acquiring corporation in a merger or consolidation may carry forward the credits if it can demonstrate to the NJ Division of Taxation the identity of the acquiring corporation.

**28) Is this tax credit transferrable or can it be sold?**

**Answer:** No, this tax credit is not transferable and cannot be sold; however it is refundable.

**29) Is an eligible investment made by Angel Investor who has since deceased/passed away, still eligible for the program?**

**Answer:** Yes, the investment is still eligible.

In this instance, an applicant or applicant's representative would need to submit proof of death (i.e. death certificate, etc.) and legal documentation naming an executor/executrix (i.e. court-issued documents affirming an individual is in fact the duly appointed representative of an estate). The tax credit certificate would be issued in the name of the deceased and sent to the executor/executrix of the estate.

**30) My stock purchase agreement provides for multiple investment tranches over a 2-year period. Can I apply for Angel Tax Credit after making one tranche during the first year of investment?**

**Answer:** Yes. It is possible to apply after each tranche. The EDA will still require the standard supporting documentation (evidence of cash transfer, stock purchase agreement, capitalization table, stock certificate) along with a letter from the CEO of the technology company, certifying that the partial investment is a part of the executed stock purchase agreement with the applicant. This letter will be required at each partial application culminating with the last eligible transaction under the stock purchase agreement. Please note that this method involves a new application each time with its corresponding fees (application and in some cases approval). The date of investment will be determined either through the date on a stock certificate (if a partial stock certificate was issued) or the date of cash transfer, whichever came later. This assumes all transactions (tranches) are under one stock purchase agreement. Multiple tranches on the same stock purchase agreement remain subject to the \$500,000 maximum allowed credit for each qualified investment made by the investor.

**31) How will the tax credit refund be issued?**

**Answer:** If the investor elects to have the tax credit amount refunded, the amount will be paid only by a bank check. A NJ tax return must be filed for the year corresponding with the tax credit's approval year. The Division of Taxation will verify that the investor indeed has no NJ tax liability.

**32) An individual and a disregarded entity (for example, a single-member LLC or a grantor trust) each invested into an eligible New Jersey Emerging Technology Business at the same time according to the same terms. The individual owns 100% of the disregarded entity and is responsible for all tax consequences. Subsequently, the two investments are combined by the technology business under the name of one. Would the combined investment be considered as one qualified investment transaction that can be submitted to the Angel Tax Credit program as one application?**

**Answer:** Yes. The taxpayer is the sole member for single member LLC or the grantor for the grantor trust. And the taxpayer for a qualified investment is the recipient of the Angel Investor Tax Credit. So, the EDA can accept an application where an investment is initially made by an individual and a disregarded entity then subsequently combined into one tax credit because the source of both funds for the investment is the same taxpayer. Please note this **ONLY APPLIES** in cases where the New Jersey Emerging Technology Business combines the investment transaction into one security.

**33) Are investments through an IRA eligible?**

**Answer:** It depends.

If the individual investor is only utilizing the IRA account as a bank account and the capitalization table and stock purchase agreement/certificate bear the name of the individual investor, then it is treated as an individual investor and is eligible to apply for the program.

However, investments utilizing funds from an Individual Retirement Account with the name of the custodian bank and IRA listed on the capitalization table and stock purchase agreement/certificate are subject to additional review and documentation submission. The investor/individual may be required to submit documents supporting individual IRA ownership, such as Financial Management Investment company monthly statement(s), and or Form 5498 or 1099. Please consult with your investment and tax advisor.

The NJ Angel Investor Tax Credit Program offers tax credits against gross income taxes. If there is no New Jersey income tax liability to offset, a refund may be received by the individual taxpayer listed as the beneficiary of the IRA (the beneficiary of the IRA is the individual whose SSN/ITIN/TIN is listed on reporting tax documents such as a Form 5498 or Form 1099).

**Technology Business**

**34) What is the definition of a New Jersey Emerging Technology Business for the purpose of the Angel Investor Tax Credit Program?**

**Answer:** A New Jersey Emerging Technology Businesses is a company that meets all four of the following requirements:

1. Employs between 1 and 224 employees, with at least 75 percent filling a position in New Jersey, and
2. Does business, employs or owns capital or property, or maintains an office in New Jersey, and
3. Has as its primary business one of the following eligible technologies: Advanced Computing, Advanced Materials, Biotechnology, Electronic Devices, Information Technology, Life Sciences, Medical Devices, Mobile Communications, or Renewable Energy Technology, and
4. Conducts at least one of the following activities in New Jersey:
  - a. Qualified research expenses paid or incurred for research conducted in its most recent fiscal year prior to the Qualified Investment, or
  - b. Conducts pilot scale manufacturing in this State, or
  - c. Conducts technology commercialization in this State

**35) Does the technology business need to count the employees of other affiliated companies to satisfy the requirements regarding the maximum number of employees?**

**Answer:** The Program does not define “affiliated” companies. However, the NJ technology business must count employees of any company, except the Investor, with control over the technology business or in the same controlled group as the technology business towards the maximum number of employees. Definitions of “control” and “controlled group” can be found in FAQ regarding “a related person of the technology business”.

**36) What is considered “filling a position in New Jersey”?**

**Answer:** An employee is considered to be “filling a position in New Jersey” if they meet the definition of a full-time employee and physically work in New Jersey at least 80% of the time or any other period of time determined by EDA to be generally accepted by custom or practice as



full-time employment in New Jersey.

**37) What is a full-time employee?**

**Answer:** A full-time employee may not be an intern, a temporary employee, an employee in a temporary position, an independent contractor, or a consultant.

A full-time employee must meet one of the following three definitions:

1. A person employed by a New Jersey Emerging Technology Business on a permanent or indefinite basis for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice, as determined by the Authority, as full-time employment and whose wages are either subject to withholding as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq. or exempt from the New Jersey Gross Income Tax Act by virtue of a reciprocity agreement between New Jersey and the state in which the employee resides.

2. A partner of a New Jersey Emerging Technology Business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, either is subject to the payment of estimated taxes, as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq. or exempt from the New Jersey Gross Income Tax Act by virtue of a reciprocity agreement between New Jersey and the state in which the employee resides.

3. A person employed under a formal written agreement with an institution of higher education whereby the institution's students are employed by the New Jersey Emerging Technology Business on a permanent basis within a single position and in compliance with all other requirements of "full-time employee."

**Please note that the company must have at least one employee that meets the definition of "full-time employee" in order to be eligible for the program.**

**38) Are foreign employees considered when counting the total number of employees, and validating if at least 75% are "filling a position in New Jersey"?**

**Answer:** Yes. Foreign employees are included in the count of total employees. They are also considered when validating if 75% of employees are considered to be "filling a position in New Jersey".

For example, Company A may have 100 employees worldwide, of which 80 employees work in New Jersey. Of the employees in New Jersey, 10 spend less than 20% of their time in New Jersey. This means that Company A has 100 employees with 70 employees "filling a position in New Jersey". As this does not meet the 75% requirement, Company A does not qualify for the program.

**39) Are unpaid full-time employees included in the count of "full-time employees"?**

**Answer:** In order to be considered a full-time employee, the employee must be paid wages that are subject to withholding as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., or be exempt from the New Jersey Gross Income Tax Act by virtue of a reciprocity agreement between New Jersey and the state in which the employee resides.

**40) Are investments made into a parent or holding company of a NJ emerging technology business eligible for the program?**

**Answer:** Yes, as of May 1, 2017, an investment into a holding company of a NJ emerging technology business is eligible for participation in the NJ Angel Tax Credit Program (assuming the emerging technology business meets all other eligibility requirements). The holding company must transfer the non-refundable cash to the operating company in the same tax year the original investment in to holding company occurred.

**41) Is the technology business required to be part of the application process?**

**Answer:** Yes, the EDA must make a determination that the technology business meets the definition of a New Jersey Emerging Technology Business in order to determine that the investment was a Qualified Investment, and that the taxpayer(s) is eligible to receive the tax credits.

**42) At what points in the application and approval process does the New Jersey Emerging Technology Business need to meet the eligibility criteria?**

**Answer:** The New Jersey Emerging Technology Business must meet the eligibility criteria at the time of the Qualified Investment and must continue to operate as a New Jersey Emerging Technology Business until the earlier of six (6) months after the Qualified Investment or date of submitted application.

For example, if John invested in Company X on January 15, 2013, Company X is required to continue operating as an “Emerging Technology Company” (employing fewer than 225 employees, 75% of which work full time in NJ, etc.) until July 15, 2013, or the date EDA receives the application – whichever comes first.

**43) Are there any ongoing reporting requirements or obligations to EDA or the NJ Division of Taxation if changes occur within the New Jersey Emerging Technology Business?**

**Answer:** No reporting requirements or obligations exist once a completed application is filed or after the issuance of the tax credit certificate.

**44) The application indicates a need to include the technology business’s Federal payroll forms. Is there anything else that may be sent in lieu of a Federal forms?**

**Answer:** It depends. The standard is the Federal 941 for the quarter covering the date in question. The NJEDA could accept a similar Federal filing as long as the alternative form displays the total number of W-2 Forms issued on the date in question.

**45) The application indicates a need to include the technology business’s New Jersey State payroll form. Is there anything else that may be sent in lieu of a New Jersey State payroll Form?**

**Answer:** It depends. The standard is the New Jersey State WR30 Form for the quarter covering the date in question. Applicants may also submit a similar NJ State filing as long as the alternative form displays the total number of W-2 Forms issued on the date in question.

**46) All of the technology business’s “employees” are leased from a Professional Employment Organization (PEO). The PEO files its W-2s in the aggregate for all of its employees. Are the employment statements required?**

**Answer:** No. However, the PEO must write a letter indicating the following:

1. total number of full-time employees it leased to the technology business as of the end of the

- quarter containing the date of the Qualified Investment
2. the number of leased employees filling a position in New Jersey as of the same date
  3. a list of the names of the employees referenced in numbers 1 and 2, indicating which are the NJ employees.

**47) How can a technology business help investors take advantage of this credit?**

**Answer:** Inform potential investors of this tax credit, suggest they contact EDA for further information, and assist the investor by filling out the technology business's section of the application as quickly and thoroughly as possible, but in all cases prior to the six-month deadline.

**Application Process**

**48) Whom should I contact with my questions or to apply for the Angel Investor Tax Credit?**

**Answer:** Please visit our website at [www.njeda.com/angeltaxcredit](http://www.njeda.com/angeltaxcredit). You may call: (609) 858-6700 or e-mail: [angeltaxcredit@njeda.com](mailto:angeltaxcredit@njeda.com).

**49) Where can I find the Angel Investor Tax Credit application?**

**Answer:** Applications should be accessed via the link provided at [www.njeda.com/angeltaxcredit](http://www.njeda.com/angeltaxcredit)

**50) Are there any fees associated with applying for the Tax Credit?**

**Answer:** Yes, there is a non-refundable application fee associated with each application. Some applications will require an approval fee as well. Fees are determined by the dollar amount of the investment.

1. For investments of \$50,000 or less, a non-refundable application Fee of \$500 will be required for each application. No approval fee is required.
2. For investments of more than \$50,000 and up to \$500,000, a non-refundable application fee of \$2,500 will be required for each application. No approval fee is required.
3. For investments of more than \$500,000, an approval fee of 5% of the approved tax credit amount is required. An application fee of \$2,500 is paid initially, and this is credited toward the 5% approval fee.
  - a. For example, a qualified investment of \$600,000 receiving a tax credit in the amount of \$120,000 would pay an Application Fee of \$2,500 and an Approval Fee of \$3,500. In this instance, the Approval Fee is calculated by starting with \$6,000, which is 5% of the tax credit (\$120,000), and then subtracting the Application Fee of \$2,500 from it to yield \$3,500 due upon approval.

**51) When do I need a business tax clearance?**

**Answer:** Any applicants that are entities structured as Corporations, Multi-member LLC's, Partnerships, Irrevocable Trusts or Single-Member LLCs/Grantor Trusts with a separate EIN number will be required to obtain NJ Business Registration and Tax Clearance. Any underlying members of the applicant that are entities structured as Corporations, Multi-member LLC's, Partnerships, Irrevocable Trusts or Single-Member LLCs/Grantor Trusts with a separate EIN number will also be required to obtain NJ Business Registration and Tax Clearance. Please note that if you already have a valid NJ business registration, you can go directly to obtaining a tax clearance.

**52) I am having trouble obtaining a tax clearance through the PBS (Premier Business Services) portal. Whom should I contact for assistance?**

**Answer:** Any entity that encounters issues acquiring Tax Clearance Certificates should contact the Division of Taxation by emailing [BusinessAssistanceTC.Taxation@treas.nj.gov](mailto:BusinessAssistanceTC.Taxation@treas.nj.gov) or by calling the Business Assistance Clearance Unit at **609.322-6835**.

**53) How long will a decision take?**

**Answer:** The time for review and approval will differ for each application. Applications are generally reviewed in the order received.

**54) Is there an available list that details annual approvals and balance of funds remaining under the \$35 million cap?**

**Answer:** A listing of the approved applications will be available on the Angel Investor Tax Credit website under Activity Report.

**55) Is there an appeal process for EDA's decisions?**

**Answer:** Yes, an Investor may appeal the EDA's action by submitting in writing to the Authority, within 20 days from the date of the Authority's action, an explanation as to how the Investor or the New Jersey Emerging Technology Business has met the program criteria. For appeals based on non-discretionary declinations, Managing Director, Legal Affairs, will designate Hearing Officers who will review the applications, appeals, and any other relevant documents or information. The Hearing Officer will prepare a recommended decision, which must be approved, and a Final Administration Decision issued, by staff in accordance with delegated authority. For appeals based on discretionary declinations, Managing Director, Legal Affairs, will designate Hearing Officers who will review the applications, appeals, and any other relevant documents or information and prepare a Recommendation to the Board. The Board is the final decision-maker for discretionary appeals.

**56) How does an Individual claim the Tax Credit?**

**Answer:** The NJ Tax Return Form for Individuals does not provide a line to take the Angel Investor Tax Credit. Therefore, in order to obtain this credit, you must first file your New Jersey Tax Return. After you have filed your NJ Return, please send the following items to New Jersey Division of Taxation at the specific address that is provided upon approval: a cover letter requesting the Angel Investor Tax Credit, a complete copy of your New Jersey Income Tax Return, and the State of New Jersey Angel Investor Tax Credit Program Certificate (printed from the PDF file received).

**57) If I receive a NJ tax refund related to my NJ Angel Investor Tax Credit, am I required to report it as income on my federal return?**

**Answer:** Receiving a NJ Angel Investor Tax Credit refund may have federal tax consequences. Please consult with an accounting professional or tax attorney to determine if you are required to include your NJ tax refund on your federal tax return. The NJ Division of Taxation is required to report to the IRS a taxpayer's State refund amount, which may include any refund resulting from an Angel Investor Tax Credit. A Statement for Recipients of State Income Tax Refunds (Form 1099-G) can be obtained here ([https://www1.state.nj.us/TYTR\\_Saver/jsp/TGI\\_1099/NJ1099Login.jsp](https://www1.state.nj.us/TYTR_Saver/jsp/TGI_1099/NJ1099Login.jsp)). Please note that this form is only available online and will not be mailed to you.

**58) When does a company need to be located in an Opportunity Zone for investments to qualify for the 5% bonus to the tax credit?**

**Answer:** A company must prove it was located in an eligible Opportunity Zone or New Markets Tax Credit Census Tract by the date of investment.

**59) Our company is in a collaborative workspace that is located in an OZ. Is that eligible for the 5% Opportunity Zone bonus?**

**Answer:** It depends.

To receive this bonus, the eligible technology business must have:

- A signed and active lease/membership agreement and any other verification that the agreement has not expired prior to the date of investment.
- A verification that the eligible technology business utilizes the space for physical occupancy (e.g. floating desk/ private office).

A forwarding address for collecting company mail does not qualify for 5% Opportunity Zone Bonus.

**60) When does a company need to be certified as a woman owned or minority owned business for investments to qualify for the 5% bonus to the tax credit?**

**Answer:** A company must prove it was certified as women- or minority-owned by State of NJ on or before the date of investment. A New Jersey Minority and/or Women Business Enterprise certificate issued by the date of investment is required to be submitted as part of the application.

**61) Can I restructure a prior investment to align the investment terms to meet eligibility requirements of the Angel Tax Credit Program?**

**Answer:** NO. Program requirements must be met at both the date of investment and date of application. If an eligibility requirement is not met at these times, a company, investor, or anyone else involved in an application submission cannot redocument, unwind a transaction, file new paperwork, etc. so that eligibility requirements would be met based on the change. This pertains not only to the investment transaction, but also to employment and other program eligibility requirements. Failure to disclose **material information**, or attempts to retroactively alter **material information**, may render the Applicant ineligible for the financial benefits sought and may subject the Applicant to disqualification, debarment, suspension, or referral **for possible civil or criminal penalties**.