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BUSINESS TAX COUNSELING & STRUCTURING

NEW JERSEY ENACTS TAX CREDIT FOR ANGEL INVESTORS

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On January 31, 2013, Governor Chris Christie signed into law the New Jersey Angel Investor Tax Credit Act (the "Act"), which is intended to incentivize investment in New Jersey technology businesses. The Act provides tax credits retroactively to January 1, 2012, for investments in emerging technology companies.

The Act allows Angel investors a credit against their New Jersey corporate or gross income taxes equal to 10% of a qualified investment in a New Jersey emerging technology business. A "qualified investment" is a nonrefundable cash transfer to a New Jersey emerging technology business by a taxpayer who is not related to the business. The transfer must be: (1) in exchange for stock, interests in partnerships or joint ventures, licenses, rights to use technology, marketing rights, warrants, options, or any similar items, including options or rights to acquire one of the listed rights; or (2) in connection with a purchase, production or research agreement.

A "New Jersey emerging technology business" is a company with fewer than 225 employees with at least 75% of them located in New Jersey that (1) has qualified research expenses paid or incurred for research conducted in New Jersey, (2) conducts pilot scale manufacturing in New Jersey, or (3) conducts technology commercialization in New Jersey. These activities must be conducted in at least one of the following fields: advanced computing, advanced materials, biotechnology, electronic device technology, information technology, life sciences, medical device technology, mobile communications technology or renewable energy technology.

The New Jersey Economic Development Authority must approve the taxpayer's application for the credit. Only $25 million in total credits may be approved for each calendar year. The maximum allowed credit is $500,000 for each qualified investment made by a taxpayer each tax year. For corporate investors, the credit is applied against their corporate business tax liability, and any excess credit may be carried over for 15 subsequent tax years or refunded. For individuals, the credit is applied against their gross income tax liability, and any excess credit is refunded.

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