

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 2112

By: Wilson

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7 AS INTRODUCED

8 An Act relating to revenue and taxation; amending 68  
9 O.S. 2001, Section 2357.73, as last amended by  
10 Section 19, Chapter 281, O.S.L. 2006 (68 O.S. Supp.  
11 2007, Section 2357.73), which relates to the Rural  
12 Venture Capital Formation Incentive Act; expanding  
13 tax types against which credit may be allowed and  
14 providing circumstances therefor; modifying  
15 limitation on credit; providing conditions under  
16 which certain credit may be claimed; defining term;  
17 and providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.73, as  
20 last amended by Section 19, Chapter 281, O.S.L. 2006 (68 O.S. Supp.  
21 2007, Section 2357.73), is amended to read as follows:

22 Section 2357.73 A. For taxable years beginning after December  
23 31, 2000, and before January 1, 2012, there shall be allowed a  
24 credit against the tax imposed by Section 2355 or, effective January  
1, 2001, Section 2370 of this title or, effective July 1, 2001,  
against the tax imposed by Section 624 or 628 of Title 36 of the

1 Oklahoma Statutes, for qualified investment in qualified rural small  
2 business capital companies; provided, effective January 1, 2009,  
3 there shall be allowed a credit against the taxes imposed by Section  
4 1001 of this title if the credit is taken for a qualified investment  
5 in a qualified rural small business capital company which results in  
6 the acquisition of another legal entity and meets the conditions of  
7 subsection D of this section.

8 B. The credit provided for in subsection A of this section  
9 shall be thirty percent (30%) of the amount of a qualified  
10 investment in qualified rural small business capital companies which  
11 is subsequently invested in an Oklahoma rural small business venture  
12 by the qualified rural small business capital company and may only  
13 be claimed for a taxable year during which the qualified rural small  
14 business capital company makes the qualified investment in an  
15 Oklahoma rural small business venture if the funds are used in  
16 pursuit of a legitimate business purpose of the Oklahoma rural small  
17 business venture consistent with its organizational instrument,  
18 bylaws or other agreement responsible for the governance of the  
19 rural small business venture. The qualified rural small business  
20 capital company shall issue such reports as the Oklahoma Tax  
21 Commission may require attributing the source of funds of each  
22 qualified investment it makes in an Oklahoma rural small business  
23 venture. If the tax credit exceeds the amount of taxes due or if  
24 there are no state taxes due of the taxpayer, the amount of the

1 claim not used as an offset against the taxes of a taxable year may  
2 be carried forward for a period not to exceed three (3) taxable  
3 years.

4 C. No taxpayer may claim the credit provided for in this  
5 section for qualified investments in qualified rural small business  
6 capital companies made prior to January 1, 2001.

7 D. No taxpayer may claim the credit provided for in this  
8 section if the capital provided by a qualified rural small business  
9 capital company is used by an Oklahoma rural small business venture  
10 for the acquisition of any other legal entity unless, after the  
11 effective date of this act, the following conditions are met:

12 1. The legal entity acquired or being acquired is relocating  
13 within this state from outside the state; and

14 2. Within twelve (12) months after the acquisition, the legal  
15 entity has resulted in at least ten new direct jobs.

16 For purposes of this paragraph, "new direct job" means full-  
17 time-equivalent employment in this state for the legal entity  
18 acquired at a salary, excluding benefits which are not subject to  
19 Oklahoma income taxes, equal to one hundred percent (100%) of the  
20 median county wage as identified by the Oklahoma Census Data Center  
21 based upon the most recent available data from the Census Bureau or  
22 the American Community Survey for the county in which the jobs are  
23 located.

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1 E. No financial lending institution shall be eligible to claim  
2 the credit provided for in this section except with respect to  
3 qualified investments in a qualified rural small business capital  
4 company.

5 F. No taxpayer may claim the credit authorized by this section  
6 for the same qualified investment amount for which any credit is  
7 claimed pursuant to either Section 2357.62 or 2357.63 of this title.

8 G. If a pass-through entity is entitled to a credit under this  
9 section, the pass-through entity shall allocate such credit to one  
10 or more of the shareholders, partners or members of the pass-through  
11 entity; provided, the total of all credits allocated shall not  
12 exceed the amount of the credit to which the pass-through entity is  
13 entitled. The credit may only be claimed for funds borrowed by the  
14 pass-through entity to make a qualified investment if a shareholder,  
15 partner or member to whom the credit is allocated has a legal  
16 obligation to repay the borrowed funds but the allocation may not  
17 exceed such shareholder's, partner's or member's pro-rata equity  
18 share of the pass-through entity even if the taxpayer's legal  
19 obligation to repay the borrowed funds is in excess of such amount.  
20 For purposes of this act, "pass-through entity" means a corporation  
21 that for the applicable tax years is treated as an S corporation  
22 under the Internal Revenue Code, general partnership, limited  
23 partnership, limited liability partnership, trust, or limited

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1 liability company that for the applicable tax year is not taxed as a  
2 corporation for federal income tax purposes.

3 SECTION 2. This act shall become effective January 1, 2009.

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