

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 10

By: Wilson

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5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68  
8 O.S. 2001, Section 2357.73, as last amended by  
9 Section 8, Chapter 440, O.S.L. 2008 (68 O.S. Supp.  
10 2008, Section 2357.73), which relates to the Rural  
11 Venture Capital Formation Incentive Act; expanding  
12 tax types against which credit may be allowed and  
13 providing circumstances therefor; modifying  
14 limitation on credit; providing conditions under  
15 which certain credit may be claimed; defining term;  
16 and providing an effective date.

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

18 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.73, as  
19 last amended by Section 8, Chapter 440, O.S.L. 2008 (68 O.S. Supp.  
20 2008, Section 2357.73), is amended to read as follows:

21 Section 2357.73 A. For taxable years beginning after December  
22 31, 2000, and before January 1, 2012, there shall be allowed a  
23 credit against the tax imposed by Section 2355 or, effective January  
24 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  
Oklahoma Statutes, for qualified investment in qualified rural small  
business capital companies; provided, effective January 1, 2010,

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

6 B. The credit provided for in subsection A of this section  
7 shall be thirty percent (30%) of the amount of a qualified  
8 investment in qualified rural small business capital companies which  
9 is subsequently invested in an Oklahoma rural small business venture  
10 by the qualified rural small business capital company and may only  
11 be claimed for a taxable year during which the qualified rural small  
12 business capital company makes the qualified investment in an  
13 Oklahoma rural small business venture if the funds are used in  
14 pursuit of a legitimate business purpose of the Oklahoma rural small  
15 business venture consistent with its organizational instrument,  
16 bylaws or other agreement responsible for the governance of the  
17 rural small business venture. The qualified rural small business  
18 capital company shall issue such reports as the Oklahoma Tax  
19 Commission may require attributing the source of funds of each  
20 qualified investment it makes in an Oklahoma rural small business  
21 venture. If the tax credit exceeds the amount of taxes due or if  
22 there are no state taxes due of the taxpayer, the amount of the  
23 claim not used as an offset against the taxes of a taxable year may

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1 be carried forward for a period not to exceed three (3) taxable  
2 years.

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

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

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

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

15 For purposes of this paragraph, "new direct job" means full-  
16 time-equivalent employment in this state for the legal entity  
17 acquired at a salary, excluding benefits which are not subject to  
18 Oklahoma income taxes, equal to one hundred twenty-five percent  
19 (125%) of the median county wage as identified by the Oklahoma  
20 Census Data Center based upon the most recent available data from  
21 the American Community Survey for the county in which the jobs are  
22 located.

23 E. No financial lending institution shall be eligible to claim  
24 the credit provided for in this section except with respect to

1 qualified investments in a qualified rural small business capital  
2 company.

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

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

1 SECTION 2. This act shall become effective January 1, 2010.

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