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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2003

A N A C T

RELATING TO TAXATION - TAX INCENTIVES FOR CAPITAL INVESTMENT IN
SMALL BUSINESSES

Introduced By: Senators DaPonte, Connors, F Caprio, Walaska, and Paiva-Weed

Date Introduced: February 26, 2003

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-43-1 and 44-43-7 of the General Laws in Chapter 44-43
2 entitled "Tax Incentives for Capital Investment in Small Businesses" are hereby amended to read
3 as follows:

4 **44-43-1. Definitions.** -- For the purpose of this chapter: (1) "Average annual gross
5 revenue" means the average of the amounts received or accrued by a qualifying business entity
6 determined on an annualized basis from the sale of goods or services prior to diminution by the
7 cost of those sales or services; provided, that the determination is limited to amounts, if any,
8 received or accrued during the four (4) taxable years of the business entity, or a lesser period as
9 may be applicable, immediately preceding the taxable year during which the entity applied to the
10 department for certification as a qualifying business entity.

11 (2) "Certified venture capital partnership" means any corporation, partnership, general or
12 limited, or limited liability company with a principal place formed under the laws of business in
13 Rhode Island that (i) has at least three (3) partners each of whom has contributed at least five
14 thousand dollars (\$5,000) and who have contributed in the aggregate at least two hundred ~~fifty~~
15 thousand dollars ~~(\$250,000)~~ (\$200,000) to the partnership, and (ii) ~~employs a professional~~
16 ~~manager who is an individual with prior experience managing venture capital funds,~~ (iii) is
17 organized and operated to invest at least ninety percent (90%) of the amounts contributed to its
18 capital in qualifying activities and is registered or exempt from registration under the securities

1 laws of Rhode Island, ~~and (iv) (iii) has bonding of its employees to fully cover all funds received~~
2 ~~from partners, (v)~~ has filed with the department information as may be requested describing its
3 organization, operation, and programs and has received certification and annual recertification
4 from the department pursuant to rules and regulations promulgated by the department, that its
5 organization, operation, and proposed programs comply with the requirements of this chapter,
6 and ~~(vi) (iv)~~ has not violated the requirements prescribed in this chapter, or the conditions and
7 requirements imposed by the department.

8 (3) "Department" means the department of economic development.

9 (4) "Entrepreneur" means any individual ~~in the employ~~ working on a full-time basis of a
10 qualifying business entity who owns an interest in the entity equal to at least five percent (5%) in
11 value of the entity.

12 (5) "Qualifying activities" means to provide capital; (i) to invest in one or more
13 qualifying business entities whose principal office and the majority of whose assets are located in
14 Rhode Island; or (ii) to invest a portion of its funds, as stated in this section, in one or more
15 qualifying business entities whose principal office is located outside of Rhode Island and who
16 have entered into binding commitments to establish, expand, or increase its operations at a regular
17 place of business in Rhode Island; or (iii) to invest a portion of its funds, as stated in this section,
18 in research and experimental expenditures (as defined in 26 U.S.C. section 174) conducted in
19 Rhode Island to assist those qualifying business entities in which the partnership has or would be
20 able to invest. A certified venture capital partnership commencing with its first year of operation,
21 or after there has been a forty percent (40%) change in ownership or the admission of new
22 partners whose contributions have increased the capital of the partnership by at least sixty-five
23 percent (65%), may invest in the aggregate up to the following total portion of its investments
24 made during each year in the types of investments described in subdivisions (6) (ii) and (6) (iii) of
25 this section.

26	Year	Portion
27	1	50%
28	2	40%
29	3	30%
30	4	30%
31	5	30%
32	6 and subsequent years	20%

33 (6) "Qualifying business entity" means any corporation, partnership or other business
34 entity that meets all of the following criteria and the predecessors and successors of any

1 corporation, partnership or other business entity: (i) whose average annual gross revenue is less
2 than two million five hundred thousand dollars (\$2,500,000); (ii) which has been in business for
3 less than four (4) years; and (iii) which will expend an amount which is not less than the amounts
4 allowed as a deduction under section 44-43-2 to establish, expand or increase its operations ~~at a~~
5 ~~regular place of business in Rhode Island or to purchase the interest of one or more prior owners~~
6 ~~of the entity if the entity has entered into binding commitments to expend an amount not less than~~
7 ~~the amount paid to establish, expand or increase the entity's operations at~~ with a regular place of
8 business in Rhode Island; and (iv) has either: (a) received fifty thousand dollars (\$50,000), in the
9 form of an equity investment or loan, from a Slater Center within the last three (3) years; or (b)
10 received certification and annual recertification within the last three (3) years from the
11 department, either pursuant to rules and regulations promulgated by the department, or in
12 consultation with a board, appointed by the director of the department, of no less than five (5)
13 individuals with experience in the private equity markets, that the preceding requirements have
14 been satisfied. A qualifying business entity cannot be, as its primary business purpose, engaged in
15 retail sales, real estate, or the provision of health care or other professional services.

16 (7) "Qualifying investment" means that portion, determined based on a taxpayer's interest
17 in a certified venture capital partnership under 26 U.S.C. section 702(a) (8), of the taxpayer's
18 investment in the partnership that is invested by the partnership in qualifying activities during the
19 taxpayer's taxable year.

20 (8) "Slater Center" means any of: Slater Center for Interactive Technologies, a Rhode
21 Island nonprofit corporation; Slater Center for Marine and Environmental Technologies, a Rhode
22 Island nonprofit corporation; Slater Center for Design and Manufacturing, a Rhode Island
23 nonprofit corporation; or Slater Center for Biomedical Technology, a Rhode Island nonprofit
24 corporation, or any predecessor or successor entity to one of the Slater Centers.

25 **44-43-7. Rules and regulations.** -- The tax administrator is authorized and empowered to
26 make rules and regulations that he or she may deem necessary for the proper administration and
27 enforcement of this chapter, excepting those matters committed by sections 44-43-1(2) ~~(4)~~ and
28 (6) as well as section 44-43-2.1 to the supervision of the department of economic development.

29 SECTION 2. Chapter 44-43 of the General Laws entitled "Tax Incentives for Capital
30 Investment in Small Businesses" is hereby amended by adding thereto the following section:

31 **44-43-2.1. Credit for investors.** – (a) Any taxpayer who makes a cash investment by
32 purchasing shares of the capital stock or interests in a partnership or LLC, of a qualifying
33 business entity for an aggregate purchase price of twenty-five thousand dollars (\$25,000) or more
34 shall be eligible for a credit against the tax imposed by chapter 30 of this title in an amount equal

1 to twenty-five percent (25%) of the aggregate purchase price of the investment as paid in cash by
2 the taxpayer.

3 (b) With regard to this section, taxpayer means any person, corporation, partnership,
4 trust, limited liability company association or other entity. Any credit to which a partnership, or
5 any other entity treated as a partnership for federal income tax purposes, becomes entitled may be
6 shared among its partners, including the partners of any such partnership, in accordance with any
7 written agreement among such partners or, in the absence of any such agreement, pro rata in
8 accordance with their capital contributions.

9 (b) The credit allowed a taxpayer under this section shall be limited to two hundred and
10 fifty thousand dollars (\$250,000) a year and shall not reduce the taxes set forth in chapter 30 of
11 this title to less than zero.

12 (c) The credit authorized by this section ceases in the next taxable year following the
13 taxable year in which the average gross revenue of the qualifying business entity equals or
14 exceeds three million five thousand dollars (\$3,500,000).

15 SECTION 3. Section 44-43-6 of the General Laws in Chapter 44-43 entitled "Tax
16 Incentives for Capital Investment in Small Businesses" is hereby repealed:

17 ~~**44-43-6. Recapture.** (a) A taxpayer or entrepreneur which has been allowed a~~
18 ~~deduction or modification in accordance with section 44-43-2 is required to recapture all the~~
19 ~~deductions or modifications taken in any taxable year:~~

20 ~~(1) in which the taxpayer or entrepreneur sells or exchanges or there is a reduction in his~~
21 ~~or her interest in a qualifying business entity; or~~

22 ~~(2) in which there is a reduction in the taxpayer's interest in a qualifying investment in a~~
23 ~~certified venture capital partnership.~~

24 ~~(b) Any recapture is limited to the proceeds resulting from the reduction in subsections~~
25 ~~(a) (1) or (a) (2). There is no recapture as the result of or following the death of any entrepreneur~~
26 ~~or taxpayer. There is no recapture with respect to any investment held by an entrepreneur or~~
27 ~~taxpayer for at least five (5) years.~~

28 SECTION 4. This act shall take effect upon passage and shall apply retroactively to
29 January 1, 2003 for tax years beginning on or after that date.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO TAXATION - TAX INCENTIVES FOR CAPITAL INVESTMENT IN
SMALL BUSINESSES

1 This act would make changes to the tax incentives for capital investment in small
2 businesses law.

3 This act would take effect upon passage and would apply retroactively to January 1, 2003
4 for tax years beginning on or after that date.

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