



Box 2703, Whitehorse, Yukon Y1A 2C6

## **Yukon Small Business Investment Tax Credit**

### **Introduction**

The Yukon Small Business Investment Tax Credit (YSBITC) is a personal tax credit that reduces Yukon income tax for eligible investors who invest in eligible business corporations making qualified investments.

### **Purpose**

The YSBITC is intended to create jobs and promote economic growth and expansion in Yukon by reducing financial risk for investors in Yukon companies. It may also repatriate some of the substantial capital Yukon people have invested in southern companies through their Registered Retirement Savings Plans (RRSPs).

### **Scope**

The YSBITC permits eligible investors to claim 25 per cent of their investment in an eligible Yukon company as a credit on their individual income tax returns. For example a Yukon taxpayer that invests \$1000 in an eligible corporation will be able to claim a credit of \$250 on their income tax return. The result is a \$250 reduction in the Yukon portion of that investor's personal income tax. The credit is calculated at 25 per cent of the value of an investment. Investors are permitted to claim a credit to a maximum of \$25,000 per year. In addition, they may carry forward unused credits for seven (7) years, or carry them back 3 years. The credit became available to Yukon investors on July 1, 1999. Credits cannot be claimed nor carried back prior to the 1999 taxation year.

The Minister of Economic Development can issue a total of \$1 million in credits per year. Credits will be issued on a first come first served basis until such time as the program is fully subscribed after which it will be unavailable to additional investors until the new calendar year. With \$1 million in credits available per year the YSBITC holds the potential to raise \$4 million of financing for Yukon companies annually.

## **Eligibility**

Several requirements must be met before the Minister of Economic Development may issue a certificate enabling a taxpayer to claim the YSBITC.

### **Eligible Investors**

In order to claim the YSBITC an investor must:

- be a Yukon resident on December 31<sup>st</sup> of the year in which they claim their YSBITC; and
- be 19 years of age or older.

### **Eligible Small Business Corporations**

Investors must invest in an eligible small business corporation in order to claim the credit. In order to be considered an eligible small business corporation a company must:

- be incorporated;
- be a private corporation (note Registrar's Order 99/38 exempts a SBITC corporation from some registration & filing requirements of the Securities Act. This exemption essentially allows the corporation to publicly advertise for investors. A copy of the registrar's exemption order is available from the Department of Economic Development and from the website at [www.economicdevelopment.gov.yk.ca](http://www.economicdevelopment.gov.yk.ca)).
- maintain a permanent establishment in Yukon;
- have at least 50 per cent of its assets (plant, property, and equipment) located in Yukon;
- pay at least 50 per cent of its salaries and wages to Yukon residents; and
- not exceed \$25 million in total capitalization.

### **Qualified Investments**

The funds raised by an eligible small business corporation must be through one of the following:

- a common share or shares in a corporation (equity) which carry voting privileges;
- a share of a cooperative corporation; or
- debt of a corporation that is
  - 1) subordinated
  - 2) does not limit the corporation from additional borrowing

- 3) equal to or less than the equity held by the same investor and
- 4) secured by not more than a floating charge.

In addition an investment will only be qualified if:

- it is bought for cash;
- it is not financed by the corporation;
- the corporation does not redeem shares from shareholders only to resell those shares to the same shareholders so they can claim the credit retroactively;
- investors are at arms length from the corporation (according to the definitions of the Income Tax Act of Canada); and
- cash raised under the YSBITC program is not used to pay dividends; redeem stock; settle an account owed by the corporation to a shareholder or another corporation; make loans; or make payments to persons not at arms length from the corporation.

### **Active Business Requirement**

Corporations applying for a YSMITC certificate on behalf of investors must be active businesses. That is to say they must earn business income. The credit is not available for real estate investment or to earn passive income. For example a business whose principal purpose is to derive rental income would be ineligible. Professional practices of an accountant, chiropractor, dentist, lawyer, medical doctor or veterinarian are also excluded.

### **Information Requirements by Corporations**

Applications by a business for a YSBITC certificate must include specific documents to enable monitoring and compliance. These materials also provides the Minister with some assurance that corporations and investors have reasonably evaluated the risks and rewards associated with the proposed investment. The specific documents required include:

- the corporations most recent annual financial statements;
- the corporation's most recent income tax return;
- articles of incorporation;
- a list of the corporation's officers and directors;
- a list of the investors to whom the Minister will issue a YSBITC certificate including their names, addresses, and the amount of their investment;
- the type of qualified investment e.g. shares of a corporation, debt

- a business plan for the corporation including proforma financial statements; and
- a declaration attesting to the validity of the information provided.

Corporations to whom the Minister issues a YSBITC certificate (on behalf of investors) will also be required to file an annual information return for a period of four years following the year in which a certificate was issued. The information contained in the return will be used to determine whether or not the financing raised by the corporation for a qualified investment was used for its intended purpose. The information return is due on the same date as the corporation's income tax return.

### **Application Process**

Applications must be made by corporations to determine if their corporation is eligible, if their investment qualifies, and if their intended usage of the funds is in accordance with the Act. Upon approval of the application, YSBITC certificates will be issued to the corporation to be given to their investors.

### **Use of RRSPs**

Investors may use their retirement savings plans to take advantage of the credit. In this instance an investor would purchase a qualified investment through their RRSP and the RRSP would hold the qualified investment on their behalf. Investments made through an RRSP may involve either contributions of money to the RRSP for the purposes of the investment, or selling assets already held within an RRSP to finance the investment. In either case the investor may be eligible to receive a YSBITC certificate. If the investor has made additional cash contributions to an RRSP in order to make the investment, the investor may claim both the YSBITC as well as the credits normally available to RRSP contributors.

### **Holding Requirements for Investors**

Investors must hold their investments for which they received an SBITC tax credit for a period of four years. If the investment is disposed of sooner than four years, then the tax credit will be withdrawn and the investor will be liable for the full amount of the income tax that was reduced using this credit.

### **Investor Beware**

The Government of Yukon will in no way assume any financial or legal risk from the issuance of YSBITC certificates. Investors must realize they are assuming the risk where their investment is concerned. Similarly the Government of Yukon cannot provide any assurances to investors that eligible corporations will fulfill their obligations under the program and thus ensure the continuing integrity of a certificate. Investors should be

aware that the Minister may revoke a certificate in some circumstances. Should that occur the certificate will be deemed to have never been issued and would result in the retroactive withdrawal of the SBITC credit with resulting tax liabilities for investors.

### **Application Packages**

Application packages for the YSBITC program are available from the Department Economic Development or from the [www.economicdevelopment.gov.yk.ca](http://www.economicdevelopment.gov.yk.ca).

### **More Information**

The preceding information has been a generalization of the Act. For a comprehensive list of the requirements, please contact the Department of Economic Development. If you have any further questions, please contact Bob Snyder at 667-3014.

Eligible investors and corporations are also advised to seek professional assistance if they are unsure about any component of the YSBITC program.