



# **BILL NO. 139**

*Government Bill*

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*2nd Session, 63rd General Assembly  
Nova Scotia  
68 Elizabeth II, 2019*

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## **An Act to Amend Chapter 217 of the Revised Statutes, 1989, the Income Tax Act**

CHAPTER 16  
ACTS OF 2019

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR  
APRIL 12, 2019**

The Honourable Karen Casey  
*Minister of Finance and Treasury Board*

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*Halifax, Nova Scotia  
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 217  
of the Revised Statutes, 1989,  
the Income Tax Act**

Be it enacted by the Governor and Assembly as follows:

**1 Subsection 24(2) of Chapter 217 of the Revised Statutes, 1989, the *Income Tax Act*, is repealed and the following subsection substituted:**

(2) In computing an individual's tax payable under this Part, for the 2018 taxation year and subsequent taxation years, the following provisions shall be applied in the following order: subsections 10(1), 10(5) and 10(2), Section 18, subsection 10(3), Sections 10C, 10D, 10E, 10F, 13, 12A, 17, 14 and 15, subsections 19(2) and 19(1), Sections 12, 12B, 11, 21, 35, 50, 38, 36, 37, 37A, 37B, 36A, 36B and 38A, and subsection 50A(3).

**2 (1) Subsection 37A(1) of Chapter 217, as enacted by Chapter 4 of the Acts of 2018, is amended by**

(a) adding "or corporation resident in Nova Scotia" immediately after "individual" in the first line of clause (d);

(b) adding "that applies to the eligible investor" immediately after "regulations" in the second line of clause (f); and

(c) adding "that applies to the eligible investor" immediately after "regulations" in the second line of clause (g).

**(2) Subsection 37A(6) of Chapter 217, as enacted by Chapter 4 of the Acts of 2018, is amended by striking out "individual" in the fifth line and substituting "eligible investor".**

**(3) Subsection 37A(9) of Chapter 217, as enacted by Chapter 4 of the Acts of 2018, is amended by striking out "after 2018" in the last line of clause (a) and substituting "that end after April 1, 2019".**

**(4) Subsection 37A(12) of Chapter 217, as enacted by Chapter 4 of the Acts of 2018, is amended by adding "by individuals" immediately after "made" in the second line.**

**(5) Section 37A of Chapter 217, as enacted by Chapter 4 of the Acts of 2018, is further amended by adding immediately after subsection (12) the following subsection:**

(12A) This Section applies with respect to eligible investments made by corporations on or after April 1, 2019 and before March 1, 2024.

**(6) Subsection 37A(15) of Chapter 217, as enacted by Chapter 4 of the Acts of 2018, is amended by**

(a) adding "for individuals and the innovation equity tax-credit rate for corporations" immediately after "rate" in the second line of clause (d);

**(b) adding** “for eligible investors that are individuals and the maximum eligible investment for eligible investors that are corporations” **immediately after “investment” in the second line of clause (e); and**

**(c) adding immediately after clause (l) the following clause:**

(la) prescribing penalties for failure to comply with this Section or the regulations.

**(7) Section 37A of Chapter 217, as enacted by Chapter 4 of the Acts of 2018, is further amended by adding immediately after subsection (15) the following subsection:**

(16) A regulation made pursuant to this Section may be made retroactive to a day not earlier than January 1, 2019.

**3 Chapter 217 is further amended by adding immediately after Section 37A the following Section:**

37B (1) In this Section,

(a) “annual maximum venture capital tax credit” means the aggregate amount shown on all venture capital tax-credit certificates issued for a period as prescribed by the regulations;

(b) “eligible investment” means an investment made in a qualifying venture capital fund by an eligible investor that satisfies the criteria established by the regulations;

(c) “eligible investor” means an individual or a corporation who invests in a qualifying venture capital fund and satisfies the criteria established by the regulations;

(d) “maximum eligible investment” means the amount prescribed by the regulations;

(e) “qualifying venture capital fund” means a corporation or limited partnership with its head office in the Province that satisfies the conditions established by the regulations and has been registered under subsection (4);

(f) “venture capital tax credit” means, in respect of a taxation year for an eligible investor, 15% of the amount of the eligible investment made in a qualifying venture capital fund

(i) in the then current calendar year or 60 days immediately following that calendar year where the eligible investor is an individual, or

(ii) in the then current taxation year where the eligible investor is a corporation.

(2) For the purpose of this Section and the regulations, “Minister of Finance and Treasury Board of the Province” includes a person designated by the Minister of Finance and Treasury Board of the Province.

(3) A corporation or a limited partnership may apply, in the manner established by the regulations, to be registered as a qualifying venture capital fund.

(4) The Minister of Finance and Treasury Board of the Province may, in the Minister's discretion, register a corporation or a limited partnership as a qualifying venture capital fund if the Minister of Finance and Treasury Board of the Province is satisfied that the applicant meets the requirements established by the regulations.

(5) Where the Minister of Finance and Treasury Board of the Province accepts an application for registration, the Minister of Finance and Treasury Board of the Province shall issue a certificate of registration to that effect, and the applicant is considered to be registered on the date of the certificate of registration.

(6) The Minister of Finance and Treasury Board of the Province may revoke the certificate of registration of a corporation or limited partnership in the circumstances established by the regulations.

(7) A tax-credit certificate that is revoked by the Minister of Finance and Treasury Board of the Province is considered never to have been issued.

(8) A qualifying venture capital fund that intends to raise equity capital and apply for tax-credit certificates on behalf of its eligible investors shall apply to the Minister of Finance and Treasury Board of the Province and the Minister of Finance and Treasury Board of the Province may approve the raising of equity capital subject to any conditions that the Minister of Finance and Treasury Board of the Province may determine or that are established by the regulations.

(9) A qualifying venture capital fund that has made a raise of equity capital that was approved under subsection (8) may, on behalf of its eligible investors, apply to the Minister of Finance and Treasury Board of the Province in the manner and in the time prescribed by the regulations for a tax-credit certificate entitling each of the eligible investors who has made an eligible investment to a deduction under this Section.

(10) Where, in respect of a taxation year, an eligible investor has been issued a tax-credit certificate, the eligible investor may deduct from the tax otherwise payable under this Act for the taxation year an amount not exceeding the lesser of

- (a) the aggregate of the venture capital tax credit and any amount eligible for deduction under subsection (11); and
- (b) the maximum eligible investment multiplied by 15%.

(11) Where an eligible investor has been issued a tax-credit certificate and the amount of the venture capital tax credit exceeds the amount of tax payable by the eligible investor for the taxation year, the eligible investor may

- (a) carry forward and deduct any unused balance of the venture capital tax credit from tax otherwise payable by the eligible investor in any one or more of the eligible investor's seven subsequent taxation years; or
- (b) carry back and deduct any unused balance of the venture capital tax credit from tax otherwise payable by the eligible investor in any one or more of the eligible investor's three previous taxation years that end on or after April 1, 2019

if, in the taxation year to which the unused balance is carried back or forward, the aggregate amount deducted from tax otherwise payable does not exceed the product, for that taxation year, of the maximum eligible investment multiplied by 15%.

(12) Where in any year the Minister of Finance and Treasury Board of the Province considers that the total amount paid under subsections (10) and (11) will be greater than the annual maximum venture capital tax credit,

(a) the Minister of Finance and Treasury Board of the Province shall suspend further registrations of applicants as qualifying venture capital funds under subsection (4) for that year; and

(b) the Minister of Finance and Treasury Board of the Province may not approve, for the remainder of that year, the raising of additional equity capital under subsection (8).

(13) The Minister of Finance and Treasury Board for the Province may not register an applicant under subsection (4) or approve the raising of equity capital under subsection (8) if the registration or approval would be, in the opinion of the Minister of Finance and Treasury Board for the Province, contrary to the spirit and intent of the Act.

(14) The Minister of Finance and Treasury Board for the Province may not issue a tax-credit certificate if, in the opinion of the Minister of Finance and Treasury Board for the Province, the eligible investment to which the tax-credit certificate relates is an avoidance transaction as defined in Section 80A.

(15) This Section applies with respect to eligible investments made after March 31, 2019, and before April 1, 2024.

(16) The Minister of Finance and Treasury Board for the Province shall conduct or cause to be conducted, no later than March 31, 2022, a review of the tax credit established by this Section and prepare a written report of the results of the review no later than March 31, 2023.

(17) The Minister of Finance and Treasury Board for the Province shall table the report referred to in subsection (16) in the Assembly if the Assembly is then sitting or, where the Assembly is not then sitting, file the report with the Clerk of the Assembly.

(18) The Governor in Council may make regulations

(a) establishing the criteria for determining

(i) who is an eligible investor in a qualifying venture capital fund, and

(ii) what is an eligible investment in a qualifying venture capital fund;

(b) establishing the criteria that a qualifying venture capital fund must meet in order to be registered under subsection (4);

(c) establishing the criteria that a qualifying venture capital fund must meet to be approved to raise equity capital under subsection (8);

(d) respecting how funds may be used by a qualifying venture capital fund;

(e) respecting how and when funds from an equity capital raise that was approved under subsection (8) must be invested by a qualifying venture capital fund;

(f) respecting the holding period of an eligible investment;

(g) respecting the registration of qualifying venture capital funds and the grounds for revoking registrations;

(h) prescribing the manner and the time within which an applicant may apply for a tax-credit certificate;

(i) establishing the circumstances in which an eligible investor who has made a deduction under this Section is liable to pay to the Minister of Finance and Treasury Board for the Province an amount equal to the deduction;

(j) establishing the circumstances in which a qualifying venture capital fund or its general partner is jointly and severally liable for any liability incurred by an eligible investor for a deduction made by the eligible investor in respect of the qualifying venture capital fund;

(k) prescribing the amount of the annual maximum venture capital tax credit and the period to which the amount applies;

(l) prescribing the maximum eligible investment amount;

(m) establishing penalties for failure to comply with this Section or the regulations;

(n) requiring a corporation or limited partnership to supply information or documents respecting any matter required in assessing eligibility and compliance with this Section or the regulations;

(o) defining any word or expression used but not defined in this Section;

(p) respecting any matter or thing the Governor in Council considers advisable or necessary to effectively carry out the intent and purpose of this Section.

(19) A regulation made pursuant to this Section may be made retroactive to a date not earlier than April 1, 2019.

**4 (1)** Section 2, except clause 2(6)(c), has effect on and after April 1, 2019.

**(2)** Clause 2(6)(c) has effect on and after January 1, 2019.

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