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New Provincial Legislation Encourages Investment in NB Business May 8, 2007



David Barnett

The New Brunswick government is making some changes to the NB Investor Tax Credit Program. This is great news for New Brunswick corporations with fewer than \$40 Million in net tangible assets. This is a modification of an existing program. Let's take a look at how it works and what improvements have been made:

How it works: Basically, the program allows people to invest in NB companies and receive a tax credit from the provincial government for doing so. Let's say you made a \$100 investment in an eligible company, this would allow you to save \$30 in provincial income taxes. The real effect of the program is to allow NB companies to lure investment capital by offering this immediate 30% return on investment in the form of tax savings. This enticement, of course, is on top of the expected return from normal operations of the business.

Bigger companies: Under the old program, participants could not be bigger than \$25MM in net-tangible assets. This participation cap has been raised to \$40MM.

Bigger Investments: Under the old program, the government would only issue a tax credit based on the first \$50,000 put in by any one investor. This meant a tax credit of \$15,000. Under the new changes, this limit has been raised to \$80,000 allowing a tax credit of up to \$24,000.

Type of Investment: Under the old program, investors had to buy common shares. This sticking point is probably why some companies stayed away from the program. By selling common shares to investors, owners would be diluting their own ownership position in the company. Under the new program, corporations can issue

preferred or convertible shares. This opens up the opportunity to court investment dollars without necessarily diluting the ownership of the existing shareholders. This could be done through using a preferred share structure. You achieve this by creating a class of stock that is legally equity but acts like debt in many ways such as having an interest bearing coupon associated with it.

All of this may sound just great, there are a few program details that must be followed. These include:

- There must be at least 3 investors participating in the share issue
- The total raised must be at least \$10,000
- The company must pass a test of producing "active business income"
- The company's business must be allowed under the legislation (there is a list of ineligible business activities included in the government's documentation.)
- The investment must be necessary for growing the company in some way. For example, you could not use the program to raise money to buy out an existing shareholder.
- The investors must stay on board for 4 years or they may lose their tax credit.

You must still follow the NB Securities Commission rules surrounding finding your investors. These rules provide you with the acceptable exceptions in finding investors without having to create an expensive prospectus for your share offering.

For more information on the program, visit the official website at <http://www.gnb.ca/0162/tax/sbitc/smallbusiness.asp>

For information from the NB Securities Commission, visit <http://www.nbsc-cvmnb.ca/>

Phone (506) 387-4881
Toll-Free..... 1-877-387-4881
Facsimile (506) 387-4797
E-mail: info@alpatlantic.com

Advantage Liquidity Partners Ltd.
Visit us online at
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