

BILL

No. 20

An Act respecting the Small and Medium Enterprise (SME) Investment Tax Credit

TABLE OF CONTENTS

	PART 1	27	Non-arm's length investment prohibited
	Preliminary Matters	28	Aggregate investment by venture capital corporation
1	Short title	29	Action to be taken if investment becomes prohibited
2	Definitions	30	Tax credit certificates
3	Interpretation	31	Repayment of tax credit amounts
	PART 2	32	Voluntary cancellation of registration
	Eligible Businesses	33	Repayment on revocation, dissolution, amalgamation or cancellation
4	Registration as an eligible business	34	Revocation or suspension of registration, other enforcement measures
5	Register of eligible businesses	35	Annual return
6	Raising equity capital as an eligible business		PART 4
7	Limits on equity capital for eligible businesses		Administration and Enforcement
8	Control of eligible business	36	Change in circumstances
9	Application for tax credit certificates	37	Record keeping requirements
10	Issuance and revocation of tax credit certificates	38	Power to require information or material
11	Limit on money forgone by tax rebate	39	Inspectors
12	Prohibited use of funds	40	Routine inspection
13	Revocation or suspension of registration	41	Warrant
14	Restrictions on registration of share transfers	42	Copies of records
15	Consequences of revocation	43	Cooperation with inspectors
16	Liability of third party	44	Offences and penalties
17	Voluntary cancellation of registration	45	Recovery
18	Repayment of tax credit amount on early redemption, acquisition or cancellation	46	Limitation on prosecution
19	Annual return		PART 5
	PART 3		General
	Venture Capital Corporations	47	Immunity
20	Registration as a venture capital corporation	48	Service of notice or documents
21	Register of venture capital corporations	49	Confidentiality
22	Restrictions re share structure and articles	50	Regulations
23	Requirements for venture capital corporations		PART 6
24	Investment in eligible business		Coming into Force
25	Investment for certain purposes prohibited	51	Coming into force
26	Control of business – prohibitions		

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

(Assented to)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

PART 1
Preliminary Matters

Short title

1 This Act may be cited as *The Small and Medium Enterprise (SME) Investment Tax Credit Act*.

Definitions

2 In this Act:

“**affiliate**” means an affiliate as defined in *The Business Corporations Act, 2021*;

“**common interest group**”, with respect to a corporation, means 2 or more persons, whether or not associated or affiliated, who, under an agreement, commitment or understanding, exercise, or intend to exercise, in concert, any rights attached to or associated with their shares;

“**eligible business**” means a business registered pursuant to section 4;

“**eligible investment**” means an investment permitted pursuant to section 6;

“**eligible investor**” means a prescribed person or prescribed class of persons;

“**equity capital**” means the consideration in money received:

- (a) by a corporation for its issued shares before or after its registration pursuant to section 20 as a venture capital corporation; or
- (b) by a business for its issued equity shares;

“**equity share**” means:

- (a) a share or a class of shares, whether or not the share carries voting rights, but does not include a share having prescribed rights and restrictions;
- (b) any warrant, option or right entitling the holder to purchase or acquire a share mentioned in clause (a); or
- (c) any other prescribed security;

“**inspector**” means a person appointed or designated pursuant to section 39;

“**major shareholder**” means a person who holds 10% or more of the voting rights attached to all equity shares of an eligible business or venture capital corporation for the time being outstanding;

“**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

“**ministry**” means the ministry over which the minister presides;

“**prescribed**” means prescribed in the regulations;

“**related persons**” means related persons as defined in the *Income Tax Act* (Canada);

“**third party**” means:

- (a) a director or officer of an eligible business;
- (b) a member of a common interest group that controls an eligible business; or
- (c) a majority shareholder of an eligible business;

“**venture capital corporation**” means a corporation registered pursuant to section 20.

Interpretation

3(1) For the purposes of this Act and the regulations, except if they are at variance with the definitions and interpretations contained in this Act or the regulations, the definitions and interpretations contained in or made by or pursuant to the *Income Tax Act* (Canada) or *The Income Tax Act, 2000* apply.

(2) If there is any conflict between the definitions or interpretations found in the *Income Tax Act* (Canada) and those found in *The Income Tax Act, 2000*, the definitions or interpretations found in *The Income Tax Act, 2000* prevail.

PART 2

Eligible Businesses

Registration as an eligible business

4(1) A business may apply, on or before June 30, 2028 or any later date that may be set by the Lieutenant Governor in Council, to the minister in an approved form and manner to be registered as an eligible business.

(2) The minister shall register the business if the minister is satisfied that the applicant is a business that, as of the date on which the application is submitted, meets the prescribed requirements.

(3) On the registration of a business as an eligible business pursuant to subsection (2), the minister shall issue a certificate of registration containing the prescribed information.

(4) If the minister determines that the business does not meet the criteria mentioned in subsection (2), the minister shall:

- (a) inform the business in writing specifying the reasons that the business is ineligible; and
- (b) provide the business with an opportunity to make representations respecting the minister’s determination.

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

Register of eligible businesses

- 5(1)** The minister shall maintain a register of eligible businesses approved pursuant to section 4.
- (2) The minister may cause the register mentioned in subsection (1) to be published in any manner that the minister considers appropriate, including publishing the register on the ministry's website.
- (3) The register mentioned in subsection (1) must contain the prescribed information related to each eligible business.

Raising equity capital as an eligible business

- 6(1)** An investment in an eligible business is an eligible investment if:
- (a) the equity shares issued:
 - (i) are directly issued by the eligible business;
 - (ii) are purchased by an eligible investor;
 - (iii) do not have the prescribed rights or restrictions;
 - (iv) do not establish control by an eligible investor over the eligible business pursuant to section 8 or 26; and
 - (v) are fully paid for in cash;
 - (b) the investment meets the prescribed minimum investment threshold for individuals and corporations; and
 - (c) the investment is made on or before June 30, 2028.
- (2) No equity shares shall be issued to a person that, at any time during the 2 years before the date of issue, has disposed of a share or any class of shares issued by the eligible business.

Limits on equity capital for eligible businesses

- 7(1)** An eligible business must not raise equity capital pursuant to section 6 that exceeds the prescribed amount.
- (2) For the purposes of subsection (1), if the minister determines that one of the reasons for the separate existence of 2 or more eligible businesses is to increase the amount of equity capital raised, the minister may deem the eligible businesses to be 1 eligible business.
- (3) If the minister makes a determination pursuant to subsection (2), the minister shall:
- (a) give notice of that determination to the eligible businesses to which that determination applies; and
 - (b) provide the eligible business with an opportunity to make representations respecting the minister's determination.

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

Control of eligible business

8(1) Subject to subsection (2), an eligible investor must not make or hold an investment in an eligible business if the eligible investor, either alone or in conjunction with one or more of the prescribed related persons:

- (a) would own, directly or indirectly, shares carrying 50% or more of the voting rights for the election of directors of the eligible business; or
- (b) would, in any manner, control the eligible business.

(2) If the minister considers that an eligible business in which an eligible investor has invested is in financial difficulty, the minister may, by order, authorize the eligible investor to temporarily control the eligible business, under the circumstances and on the terms and conditions that the minister determines.

Application for tax credit certificates

9(1) Subject to subsections (2) and (4), subsection 7(1) and section 11, an eligible business may apply to the minister for a tax credit certificate entitling each eligible investor in that eligible business to a tax rebate up to a maximum of 45% of the amount received from that investor by the eligible business for shares issued pursuant to section 6.

(2) The maximum annual investment in an eligible business for which a tax credit certificate may be issued with respect to any eligible investor is \$500,000.

(3) If a business that becomes an eligible business in 2025 has issued equity shares to a person on or after July 1, 2025 that meet the requirements of section 6, those equity shares are deemed for the purposes of that section to have been equity capital raised in 2025.

(4) No applications are to be submitted or accepted pursuant to this section after June 30, 2029.

Issuance and revocation of tax credit certificates

10(1) On the receipt of an application mentioned in subsection 9(1), the minister shall, if the prescribed conditions are met, issue a tax credit certificate in the amount of the rebate mentioned in that subsection to each of the eligible investors mentioned in that subsection.

(2) If the minister refuses to issue a tax credit certificate pursuant to this section, the minister shall give notice within 30 days after that refusal, together with reasons for the refusal, to the eligible business.

(3) The minister may revoke a tax credit certificate issued pursuant to this section if the minister determines that, at the time the tax credit certificate was issued or at a subsequent time, the eligible business was in contravention of this Act or the regulations.

(4) If the minister revokes a tax credit certificate issued pursuant to this section, the minister shall promptly give notice of that revocation, together with reasons for the revocation, to the eligible business and to the minister responsible for the administration of *The Income Tax Act, 2000*.

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

Limit on money forgone by tax rebate

11(1) If, in the minister's opinion, the number of eligible businesses and venture capital corporations registered pursuant to this Act will be sufficient to take up the prescribed amount of money that is forgone by way of tax credit, the minister may, by order, suspend the issuance of tax credit certificates.

(2) An order issued pursuant to subsection (1) may be in force for any period that the minister may specify in the order.

(3) No order made pursuant to subsection (1) operates to prevent the minister from allowing a tax rebate if the eligible investment was fully paid for and beneficially owned by the eligible investor before the making of the order.

Prohibited use of funds

12 An eligible business must not use for any prescribed purposes, directly or indirectly, any equity capital raised by an issue of equity shares for which tax credits have been or are entitled to be claimed under tax credit certificates issued pursuant to this Act.

Revocation or suspension of registration

13(1) The minister may suspend or revoke the registration of an eligible business in the prescribed circumstances.

(2) If the minister suspends a registration pursuant to subsection (1), the minister may:

- (a) impose conditions to be complied with by the suspended eligible business during the period of suspension; and
- (b) reinstate the registration, with or without conditions.

Restrictions on registration of share transfers

14(1) An eligible business must not register a transfer of an equity share for which a tax credit certificate has been issued pursuant to this Act, except as permitted by the regulations.

(2) Subsection (1) does not apply to a transfer of an equity share if the transfer occurs more than 3 years after the date of issue of the share.

Consequences of revocation

15(1) If, pursuant to section 13, the minister revokes the registration of an eligible business after it has raised equity capital, the eligible business must, subject to subsection (2), pay to the minister responsible for the administration of *The Income Tax Act, 2000* an amount equal to the aggregate of all the amounts of tax credit certificates issued pursuant to this Act, including interest at the prescribed rate that is to be calculated from the prescribed date.

(2) For the purposes of this section, on the recommendation of the minister and in the prescribed circumstances, the minister responsible for the administration of *The Income Tax Act, 2000* may specify an amount less than the amount determined in accordance with subsection (1), in which case the eligible business must pay to the minister responsible for the administration of that Act that lesser amount.

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

Liability of third party

16(1) In this section, “**transaction or event**” means a transaction or event that a third party knew or reasonably ought to have known at the time of the authorization of or acquiescence in that transaction or event would render the eligible business liable to make the payment to the minister responsible for the administration of *The Income Tax Act, 2000* required pursuant to section 15.

(2) If a third party authorizes or acquiesces in a transaction or event or a series of transactions or events, the third party is jointly and severally liable for the amount of the payment required pursuant to section 15.

Voluntary cancellation of registration

17(1) On the written request of an eligible business, the minister may, if the minister is satisfied that the eligible business has met the requirement set out in subsection (2), cancel the registration of the eligible business.

(2) The eligible business must pay to the minister responsible for the administration of *The Income Tax Act, 2000* all of the amounts of tax credits issued in the 3 years before the date on which its registration was cancelled for equity shares issued by it pursuant to section 6.

(3) On the recommendation of the minister, the minister responsible for the administration of *The Income Tax Act, 2000* may reduce the amount payable pursuant to subsection (2) if the minister responsible for the administration of that Act determines that the eligible business mentioned in subsection (1):

- (a) has conducted its business and affairs in a manner consistent with this Act; and
- (b) has incurred investment losses.

Repayment of tax credit amount on early redemption, acquisition or cancellation

18(1) Except in the prescribed circumstances, if an eligible business, within the 3 years after the date of issue of an equity share for which a tax credit certificate was issued pursuant to this Act, redeems, acquires or cancels the share, the eligible business must pay to the minister responsible for the administration of *The Income Tax Act, 2000* an amount equal to the amount shown on the tax credit certificate.

(2) If an eligible investor, within the 3 years after the date of purchase of an equity share for which a tax credit certificate has been issued pursuant to this Act, disposes of the equity share in a transaction other than a transaction mentioned in subsection (1), the person must pay to the minister responsible for the administration of *The Income Tax Act, 2000* an amount equal to the amount shown on the tax credit certificate.

(3) The payments mentioned in subsections (1) and (2) are subject to the prescribed interest rate that is to be calculated from the prescribed date.

(4) On the recommendation of the minister, the minister responsible for the administration of *The Income Tax Act, 2000* may reduce the amount payable by an eligible business pursuant to subsection (1) if the minister determines that the eligible business:

- (a) has conducted its business and affairs in a manner consistent with this Act; and
- (b) has incurred investment losses.

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

Annual return

19(1) Within 6 months after its fiscal year end, an eligible business must prepare an annual return in a form approved by the minister and file the return with the minister, accompanied by the prescribed information.

(2) An eligible business must comply with subsection (1) in each of the 4 consecutive calendar years following the date of its most recent issue of equity shares to which this Act applies.

PART 3 Venture Capital Corporations

Registration as a venture capital corporation

20(1) A corporation may apply, on or before June 30, 2028 or any later date that may be set by the Lieutenant Governor in Council, in an approved form and manner to the minister to be registered as a venture capital corporation.

(2) If the minister is satisfied that the corporation mentioned in subsection (1) meets the prescribed requirements and is registered to carry on business in Saskatchewan, the minister shall issue a certificate of registration to the venture capital corporation.

(3) The venture capital corporation is deemed to be registered as of the date of registration contained in the certificate issued pursuant to subsection (2).

(4) If the minister determines that a corporation does not meet the criteria mentioned in subsection (2), the minister shall:

- (a) inform the corporation in writing specifying the reasons that the corporation is ineligible for registration; and
- (b) provide the corporation with an opportunity to make representations respecting the minister's determination.

Register of venture capital corporations

21(1) The minister shall maintain a register of venture capital corporations that have been issued certificates of registration pursuant to subsection 20(2).

(2) The minister may cause the register mentioned in subsection (1) to be published in any manner that the minister considers appropriate, including publishing the register on the ministry's website.

(3) The register mentioned in subsection (1) must contain the prescribed information related to each registered venture capital corporation.

Restrictions re share structure and articles

22 Without the prior written approval of the minister, a venture capital corporation must not alter:

- (a) its share structure; or
- (b) a provision of its articles respecting its business activities.

Requirements for venture capital corporations

23(1) A venture capital corporation must comply with the prescribed requirements and any additional terms and conditions imposed by the minister.

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

(2) All share certificates issued by a venture capital corporation must state the prescribed information.

(3) The total amount of the tax credits for which a venture capital corporation may apply on behalf of any of its shareholders must not exceed \$225,000 in any calendar year.

Investment in eligible business

24 If a venture capital corporation intends to invest in an eligible business, it must do so in accordance with this Act and the regulations.

Investment for certain purposes prohibited

25(1) Subject to subsection (2), a venture capital corporation must not make or hold an investment in an eligible business if all or part of the proceeds of that investment are directly or indirectly used or intended to be used by the eligible business for any of the prescribed prohibited purposes.

(2) Subsection (1) does not prohibit a venture capital corporation from making or holding an investment in an eligible business if the funds invested by the venture capital corporation were raised other than for the purposes of this Act and no tax credit certificate is given related to those investments.

Control of business – prohibitions

26(1) Subject to subsection (2), a venture capital corporation must not make or hold an investment in an eligible business if the venture capital corporation and any other venture capital corporation or corporations, either alone or in conjunction with one or more of the prescribed related persons:

- (a) would own, directly or indirectly, shares carrying 50% or more of the voting rights for the election of directors of the eligible business; or
- (b) would, in any manner, control the eligible business.

(2) If the minister considers that an eligible business in which a venture capital corporation has made an eligible investment is in financial difficulty, the minister may, by order, authorize the venture capital corporation to temporarily control the eligible business under the circumstances and on the terms and conditions that the minister determines.

Non-arm's length investment prohibited

27(1) A venture capital corporation must not make or hold an investment in an eligible business if any of the shares of the venture capital corporation are held by a prescribed shareholder who is, or was at any time during the 2 years before the date of the investment, a prescribed related person.

(2) A venture capital corporation must not make or hold an investment in an eligible business if the eligible business, an associate, affiliate, director, officer or shareholder of the eligible business or other prescribed person provides or has provided, directly or indirectly, as part of any transaction or series of transactions, a loan, guarantee or any other financial assistance to a prescribed related person.

Aggregate investment by venture capital corporation

28(1) If the minister determines that one of the reasons for the separate existence of 2 or more eligible businesses is to increase the amount of equity capital received from one or more venture capital corporations, the minister may deem the eligible businesses to be 1 eligible business.

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

(2) If the minister makes a determination pursuant to subsection (1), the minister shall:

- (a) give notice of that determination to the venture capital corporations to which that determination applies; and
- (b) provide the venture capital corporations with an opportunity to make representations respecting the minister's determination.

Action to be taken if investment becomes prohibited

29(1) Subject to the regulations, if the minister is satisfied that an investment of a venture capital corporation becomes non-compliant with or prohibited pursuant to this Act or the regulations, the venture capital corporation and the eligible business are jointly and severally liable for repayment of the tax credit related to that investment.

(2) On the recommendation of the minister, the minister responsible for the administration of *The Income Tax Act, 2000* may reduce the amount payable pursuant to subsection (1) if the minister determines that the venture capital corporation and eligible business:

- (a) have conducted their business and affairs in a manner consistent with this Act; and
- (b) have incurred investment losses.

Tax credit certificates

30(1) Subject to subsections (2) and (4) and sections 11 and 23, a venture capital corporation must apply to the minister for a tax credit certificate entitling each of its shareholders to a tax rebate up to a maximum of the product of:

- (a) 45% of the amount invested in an eligible business by the venture capital corporation pursuant to section 24 in the current calendar year; and
- (b) the percentage that the number of equity shares held by the shareholder bears to the total number of equity shares issued by the venture capital corporation pursuant to section 23.

(2) If the total amount of tax credits issued to a shareholder pursuant to subsection (1) is equal to 45% of the amount received by the venture capital corporation for equity shares issued to the shareholder pursuant to section 23:

- (a) no further tax credit may be issued to the shareholder pursuant to that subsection with respect to those shares; and
- (b) those shares must be excluded from the total number of equity shares issued by the venture capital corporation for the purposes of clause (1)(b).

(3) The minister shall issue a tax credit certificate mentioned in subsection (1) if the minister is satisfied that the prescribed requirements have been met.

(4) No applications are to be submitted or accepted pursuant to this section after June 30, 2029.

(5) If the minister refuses to issue the tax credit certificate, the minister shall provide notice within 30 days after that refusal, together with reasons for the refusal, to the venture capital corporation.

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

(6) The minister may revoke a tax credit certificate issued pursuant to subsection (3) if the minister determines at a later date that, at the time of the issuance of the tax credit certificate, the venture capital corporation was in contravention of this Act or the regulations.

(7) If the minister revokes a tax credit certificate issued pursuant to this section, the minister shall promptly give notice of that revocation, together with reasons for the revocation, to the venture capital corporation and to the minister responsible for the administration of *The Income Tax Act, 2000*.

Repayment of tax credit amounts

31(1) Subject to the regulations, if a venture capital corporation, within the 3 years after the date of purchase of an equity share for which a tax credit certificate has been issued pursuant to this Act, disposes of the equity share, the venture capital corporation must pay to the minister responsible for the administration of *The Income Tax Act, 2000* an amount equal to the amount shown on the tax credit certificate.

(2) Subject to the regulations, if a venture capital corporation, within the 3 years after the date of purchase of an equity share for which a tax credit certificate has been issued pursuant to this Act, reduces the venture capital corporation's stated capital, the venture capital corporation must pay to the minister responsible for the administration of *The Income Tax Act, 2000* an amount equal to the amount shown on the tax credit certificate.

(3) The payments mentioned in subsections (1) and (2) are subject to the prescribed interest rate that is to be calculated from the prescribed date.

(4) On the recommendation of the minister, the minister responsible for the administration of *The Income Tax Act, 2000* may reduce the amount payable by a venture capital corporation pursuant to subsection (1) or (2) if the minister determines that the venture capital corporation:

- (a) has conducted its business and affairs in a manner consistent with this Act; and
- (b) has incurred investment losses.

Voluntary cancellation of registration

32(1) If a venture capital corporation passes a special resolution requesting the cancellation of its registration and the minister is satisfied that the venture capital corporation is otherwise in compliance with this Act and the regulations, the minister shall cancel the venture capital corporation's registration.

(2) Notwithstanding the cancellation of its registration pursuant to subsection (1), the corporation mentioned in that subsection may carry on business if it is otherwise permitted to do so in accordance with *The Business Corporations Act, 2021*.

Repayment on revocation, dissolution, amalgamation or cancellation

33(1) This section applies if a venture capital corporation:

- (a) has its registration revoked pursuant to section 34;
- (b) is dissolved or has been ordered by a court to dissolve;

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

- (c) without the prior written approval of the amalgamation from the minister, with or without conditions, in accordance with the regulations:
 - (i) enters into an amalgamation agreement; or
 - (ii) passes a resolution to approve an amalgamation;
 - (d) passes a resolution requesting cancellation pursuant to section 32; or
 - (e) does any other prescribed thing.
- (2) In any of the circumstances mentioned in subsection (1) and subject to the regulations:
- (a) the venture capital corporation and its shareholders are jointly and severally liable to repay to the minister responsible for the administration of *The Income Tax, 2000* the amount of any tax credits that were given to the shareholders in relation to the investment in the eligible business; and
 - (b) the minister may recover the amount mentioned in clause (a) from all or any of the persons mentioned in that clause:
 - (i) in any manner authorized by *The Financial Administration Act, 1993*; or
 - (ii) in any other prescribed manner.

Revocation or suspension of registration, other enforcement measures

34(1) The minister may suspend or revoke the certificate of registration of a venture capital corporation if:

- (a) the minister considers that the venture capital corporation:
 - (i) is contravening or has contravened this Act or the regulations or a condition that the minister imposes, makes or gives pursuant to this Act;
 - (ii) has misrepresented any information to the minister, either knowingly or through circumstances amounting to negligence; or
 - (iii) obtained its registration fraudulently or by providing false or misleading information or documents;
- (b) the venture capital corporation fails to supply information, records or documents when they are required pursuant to this Act;
- (c) the venture capital corporation provides information, records or documents mentioned in clause (b) that contain false or misleading information;
- (d) the minister is satisfied on reasonable grounds that there has been:
 - (i) a change in circumstances relating to the venture capital corporation that affects its continued eligibility for registration pursuant to this Part; or
 - (ii) a change in the affairs, business, status or circumstances of the venture capital corporation that causes that corporation to no longer meet the criteria for registration; or
- (e) any prescribed circumstances apply.

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

(2) If the minister suspends a certificate of registration pursuant to subsection (1), the minister may:

- (a) impose conditions to be complied with by the suspended venture capital corporation during the period of suspension; and
- (b) reinstate the registration, with or without conditions.

Annual return

35 Within 6 months after its fiscal year end, a venture capital corporation must prepare an annual return in a form approved by the minister and file the return with the minister, accompanied by the prescribed information.

PART 4

Administration and Enforcement**Change in circumstances**

36(1) Every eligible business that is registered pursuant to Part 2 and every venture capital corporation that is registered pursuant to Part 3 shall immediately notify the minister of any change in circumstances that might affect its continued eligibility for registration.

(2) On receiving a notification pursuant to subsection (1), the minister shall promptly provide the details included in that notification to the minister responsible for the administration of *The Income Tax Act, 2000*.

Record keeping requirements

37(1) Every eligible business that is registered pursuant to Part 2 and every venture capital corporation that is registered pursuant to Part 3 shall:

- (a) maintain any records that relate or may relate to its status or eligibility to be registered; and
- (b) forward to the minister for the purpose of inspection, examination or audit, any records required to be maintained pursuant to clause (a), or any extract from those records, at the time and in the manner that the minister considers appropriate.

(2) The records mentioned in subsection (1) are to be maintained in a form acceptable to the minister and are to contain the prescribed information.

(3) The minister may specify that an eligible business or a venture capital corporation required to maintain records pursuant to this section must maintain those records in Saskatchewan unless other suitable arrangements are made with the minister, and, if the minister so specifies, the eligible business or venture capital corporation, as the case may be, shall maintain those records in Saskatchewan.

(4) The records required to be maintained pursuant to subsection (1) must be retained until the later of:

- (a) 6 years after the end of the taxation year for which the eligible business or venture capital corporation is registered; and
- (b) the final disposition of any objection, appeal or other proceedings to which the records may be relevant.

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

Power to require information or material

38(1) At any time, the minister may direct an applicant for registration, an eligible business or a venture capital corporation to provide the minister with any information or material the minister reasonably requires for the purposes of this Act and the regulations.

(2) Every applicant for registration, eligible business and venture capital corporation shall comply with the direction of the minister within the period and in the manner that the minister may require as set out in the direction.

Inspectors

39(1) Inspectors required for the administration of this Act may be appointed in accordance with *The Public Service Act, 1998*.

(2) The minister may designate any person or category of persons to be an inspector or inspectors pursuant to this Act.

Routine inspection

40 Subject to subsection 41(4), for the purpose of ensuring that any person governed by this Act and the regulations is complying with this Act and the regulations, an inspector may do all or any of the following:

- (a) enter at any reasonable time and inspect any premises used by the person;
- (b) audit or examine any records that relate or may relate to the application for registration as an eligible business or a venture capital corporation;
- (c) require any person, including any agent, representative, director, officer or employee of an eligible business or a venture capital corporation, to provide reasonable assistance;
- (d) make any inquiries of a person mentioned in clause (c);
- (e) after giving a receipt, remove any records mentioned in clause (b) and retain them for any time the inspector considers appropriate in order to examine them and make copies in accordance with section 42.

Warrant

41(1) If a justice or a provincial court judge is satisfied by information on the oath or affirmation of an inspector that there are reasonable grounds to believe that an offence against this Act or the regulations has occurred and that evidence of that offence is likely to be found, the justice or the provincial court judge may issue a warrant to do all or any of the following:

- (a) enter and search any place or premises named in the warrant;
- (b) stop and search any vehicle described in the warrant;
- (c) seize and remove anything that may be evidence of an offence against this Act or the regulations.

(2) With a warrant issued pursuant to subsection (1), an inspector may:

- (a) enter at any time and search any place or premises named in the warrant;
- (b) stop and search any vehicle described in the warrant;
- (c) open and examine any trunk, box, bag, parcel, closet, cupboard or other receptacle that the inspector finds in the place, premises or vehicle;

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

- (d) require the production of and examine any record that the inspector believes, on reasonable grounds, may contain information related to an offence against this Act or the regulations;
 - (e) remove, for the purposes of making copies, any records examined pursuant to this section; and
 - (f) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act or the regulations.
- (3) Subject to subsection (4), an inspector may exercise all or any of the powers mentioned in subsection (2) without a warrant if:
- (a) the conditions for obtaining a warrant exist; and
 - (b) the inspector has reasonable grounds to believe that the delay necessary to obtain a warrant would result in the loss, removal or destruction of evidence.
- (4) An inspector shall not enter a private dwelling without the consent of the occupant or without a warrant obtained pursuant to this section.

Copies of records

- 42(1)** If any records are removed pursuant to section 40 or 41, the inspector may make copies of those records.
- (2) The inspector shall:
- (a) make copies of the records with reasonable dispatch; and
 - (b) as soon as is reasonably practicable, return the originals of the records to:
 - (i) the place from where they were removed; or
 - (ii) any other place that may be agreed to by the inspector and the person who provided the records or from whom they were seized.
- (3) A record certified by the inspector to be a copy made pursuant to this section:
- (a) is admissible in evidence without proof of the office or signature of the person making the certificate; and
 - (b) has the same probative force as the original record.

Cooperation with inspectors

- 43** No person shall resist, obstruct, hinder or interfere with inspectors who are acting in the course of their duties.

Offences and penalties

- 44(1)** Every person is guilty of an offence who:
- (a) makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that:
 - (i) at the time and in the light of the circumstances pursuant to which the statement was made, is false or misleading with respect to a material fact; or
 - (ii) omits to state any material fact, the omission of which makes the statement false or misleading;

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

- (b) is required to keep records pursuant to this Act and fails or refuses to:
 - (i) keep those records; or
 - (ii) forward those records or extracts from those records to the minister when required by the minister to do so;
 - (c) resists, obstructs, hinders or interferes with inspectors who are acting in the course of their duties; or
 - (d) contravenes any provision of this Act or the regulations.
- (2) Every person who is guilty of an offence is liable on summary conviction to:
- (a) in the case of an individual, a fine not exceeding \$10,000 and, in default of payment, to imprisonment for a term not exceeding 90 days; and
 - (b) in the case of a corporation, a fine not exceeding \$100,000.
- (3) If a corporation commits an offence pursuant to this Act, any officer or director of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties mentioned in this section whether or not the corporation has been prosecuted or convicted.

Recovery

45(1) If a person obtains a tax credit to which the person is not entitled pursuant to this Act, the amount of the tax credit is a debt due to the Crown in right of Saskatchewan and may be recovered:

- (a) by deducting that amount from any payments or tax credits pursuant to *The Income Tax Act, 2000* for which the person is eligible;
 - (b) by any other manner authorized by *The Financial Administration Act, 1993*; or
 - (c) by filing with the Court of King's Bench, at any judicial centre, a certificate of the minister certifying the amount of the tax credit, together with interest at the prescribed rate to the date of the certificate.
- (2) A certificate filed pursuant to clause (1)(c) has the same force and effect as if it were a judgment obtained in the Court of King's Bench for the recovery of a debt in the amount specified in the certificate, together with any reasonable costs and charges with respect to its filing.

Limitation on prosecution

46 No proceeding to enforce any provision of this Act or the regulations is to be commenced more than 6 years after the facts on which the proceeding is based first came to the knowledge of the minister.

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

PART 5
General**Immunity**

47 No action or proceeding lies or shall be commenced against the Crown in right of Saskatchewan, the minister, the ministry, an inspector or any other person acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or any responsibility imposed by this Act or the regulations.

Service of notice or documents

48(1) Any notice, decision or other document required by this Act or the regulations to be given or served is to be served personally or mailed by ordinary or registered mail to the last known address of the person being served or by any other prescribed means.

(2) A document served by ordinary mail or registered mail is deemed to have been received on the 10th day after the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person, the person did not receive the document or received it at a later date.

(3) Irregularity in the service of a notice, decision or other document does not affect the validity of an otherwise valid notice, decision or other document.

Confidentiality

49(1) Subject to the regulations, no return, record or information submitted by an eligible business, an eligible investor or a venture capital corporation pursuant to this Act or the regulations and no information obtained by way of inspection is open to inspection except by officers of the ministry whose duty it is to inspect that return, record or information.

(2) Unless authorized by this Act, the regulations or any other law or with the consent of the person to whom a return or information relates, no person employed in the public service of Saskatchewan shall:

- (a) communicate, or allow to be communicated, any return or information obtained pursuant to this Act or the regulations to any person who is not legally entitled to the return or information; or
- (b) allow any person who is not legally entitled to a return or information obtained pursuant to this Act or the regulations to inspect or have access to the return or information.

Regulations

50(1) The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) for the purposes of the definition of “eligible investor” in section 2, prescribing persons or classes of persons;

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

- (c) for the purposes of the definition of “equity share” in section 2:
 - (i) prescribing the rights and restrictions that, if attached to a share, exclude that share from the definition; and
 - (ii) prescribing other securities that are equity shares;
- (d) for the purposes of subsection 4(2), prescribing requirements for a business to be registered;
- (e) for the purposes of subsection 4(3), prescribing the information to be included in a certificate of registration;
- (f) for the purposes of subsection 5(3), prescribing the information to be contained in the register;
- (g) for the purposes of subsection 6(1):
 - (i) prescribing the rights or restrictions that must not be attached to equity shares; and
 - (ii) prescribing the minimum investment thresholds for individuals and corporations;
- (h) for the purposes of subsection 7(1), prescribing an amount;
- (i) for the purposes of subsection 8(1), prescribing related persons;
- (j) for the purposes of subsection 10(1), prescribing the conditions to be met;
- (k) for the purposes of section 11, prescribing the amount of money forgone by way of tax credit;
- (l) for the purposes of section 12, prescribing the purposes for which an eligible business must not use equity capital raised;
- (m) for the purposes of subsection 13(1), prescribing the circumstances in which the minister may suspend or revoke a registration;
- (n) for the purposes of subsection 14(1), prescribing exceptions to the prohibition against registering the transfer of an equity share;
- (o) for the purposes of subsection 15(1), prescribing the rate of interest and the date from which interest is to be calculated;
- (p) for the purposes of subsection 15(2), prescribing circumstances;
- (q) for the purposes of subsection 18(1), prescribing the circumstances in which an eligible business is not required to repay an amount equal to the amount shown on the tax credit certificate;
- (r) for the purposes of subsection 18(3), prescribing the interest rate and the date from which interest is to be calculated;
- (s) for the purposes of subsection 19(1), prescribing the information to accompany the annual return;

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

- (t) for the purposes of subsection 20(2), prescribing the requirements for a venture capital corporation to be registered;
- (u) for the purposes of subsection 21(3), prescribing the information to be contained in the register;
- (v) for the purposes of subsection 23(1), prescribing the requirements with which a venture capital corporation must comply, including prescribing the total amount of tax credits for which a venture capital corporation may apply on behalf of its shareholders in any calendar year;
- (w) for the purposes of subsection 23(2), prescribing the information to be stated on share certificates;
- (x) for the purposes of section 24, respecting the investments that venture capital corporations may make in eligible businesses;
- (y) for the purposes of subsection 25(1), prescribing the prohibited purposes;
- (z) for the purposes of sections 26 and 27, prescribing related persons;
- (aa) for the purposes of subsection 27(1), prescribing shareholders;
- (bb) for the purposes of subsection 27(2), prescribing persons;
- (cc) for the purposes of subsection 29(1), respecting the liability of the venture capital corporation and the eligible business for repayment of the tax credit;
- (dd) for the purposes of subsection 30(3), prescribing the requirements to be met in order for the minister to issue a tax credit certificate;
- (ee) for the purposes of subsection 31(1), governing the disposition of an equity share by a venture capital corporation within the 3 years after the date of purchase of the equity share;
- (ff) for the purposes of subsection 31(2), governing the reduction of a venture capital corporation's stated capital within the 3 years after the date of purchase of an equity share;
- (gg) for the purposes of subsection 31(3), prescribing the interest rate and the date from which interest is to be calculated;
- (hh) for the purposes of subsection 33(1):
 - (i) respecting the approval of an amalgamation; and
 - (ii) prescribing any other thing that, if done by a venture capital corporation, makes the venture capital corporation and its shareholders liable to repay tax credits;
- (ii) for the purposes of subsection 33(2):
 - (i) respecting the repayment of tax credits; and
 - (ii) prescribing the manner in which the minister may recover amounts that are to be repaid;

SMALL AND MEDIUM ENTERPRISE (SME) INVESTMENT TAX CREDIT ACT

- (jj) for the purposes of subsection 34(1), prescribing circumstances in which the minister may suspend or revoke the certificate of registration;
 - (kk) for the purposes of section 35, prescribing the information that is to accompany the annual return;
 - (ll) for the purposes of section 37, prescribing the information that the records must contain;
 - (mm) for the purposes of subsection 48(1), prescribing other means by which notices, decisions or other documents may be given or served;
 - (nn) with respect to any matter governed by this Act:
 - (i) adopting, as amended from time to time or otherwise, all or any part of any code, standard or guideline;
 - (ii) amending for the purposes of this Act or the regulations any code, standard or guideline adopted pursuant to subclause (i); and
 - (iii) requiring compliance with a code, standard or guideline adopted pursuant to subclause (i);
 - (oo) authorizing the minister:
 - (i) with respect to any matter or thing for which regulations may be made pursuant to clauses (a) to (nn), to set out any additional matters or things that the minister considers appropriate; and
 - (ii) to determine any additional criteria, terms, conditions or requirements that must be met to carry out any activity governed by this Act;
 - (pp) requiring compliance with the matters, things, criteria, terms, conditions or requirements mentioned in clause (oo);
 - (qq) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
 - (rr) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2) A regulation made pursuant to this section may be made retroactive to a day not earlier than July 1, 2025.

PART 6
Coming into Force

Coming into force

- 51** This Act comes into force by order of the Lieutenant Governor in Council.

FIRST SESSION

Thirtieth Legislature

SASKATCHEWAN

BILL

No. 20

An Act respecting the Small and
Medium Enterprise (SME) Investment Tax Credit

Received and read the

First time

Second time

Third time

And passed

Honourable Warren Kaeding
