Angel Tax Benefit Legislation
Benchmark Criteria

The Angel Capital Association believes that it is important to have a balanced federal tax policy to support access to capital for the entrepreneurial small businesses that create jobs and innovation in the United States. This balance includes a combination of low capital gains tax rates (for investments that help early-stage companies reach success) and tax credits that create additional incentives for accredited private individuals to invest in startup businesses.

ACA recommends that the ideal legislation incorporate the following criteria:

1. **Significant** – The tax benefit is generous enough to appreciably reduce the risk of investing in startups for the average angel investor. Benefits must be allocated within a reasonable period of time.

2. **Alternative Minimum Tax (AMT)** – The tax benefit is not eliminated by AMT.

3. **Appropriately Targeted** – The tax credit is focused on equity investment and/or acquisition of convertible debt by angel investors in startup firms that may grow in value quickly (and does not include businesses such as gambling, alcohol, etc.). The small businesses that are most likely to grow and create jobs are less than five years old and are structured for growth in sales and value.

4. **Broadly Applicable** – The credit is not too narrowly restricted by type of investor, business, or industry, and is not be limited only to companies that participate in another federal program. The benefit should apply to high-growth and innovative industries and not be restricted only to manufacturing firms.

5. **Tradable** – Investors, including tax exempt investors, can trade the tax benefit to other investors who can make use of it.

6. **Light Weight Administration** – The program does not require individual certification of investors, businesses, or create a new office in the government (such as the Small Business Administration or Treasury Department) to administer the benefit. Eligibility for the credit should be clearly delineated by the statute and should not rely excessively on the discretion of a federal agency.

7. **Proximate and Certain** – The tax benefit generally accrues soon after the investment and with a high degree of certainty, not years later. However, tax benefits that align the interests of investors with the public interest in launching a successful, job creating business may be acceptable in some cases, even if the benefits are not proximate.

8. **Long Term** - The time window to make an investment that qualifies for the benefit is at least one year, ideally longer, or the benefit is permanent.

9. **Brief Holding Period** – The required holding period for investors should be as brief as possible. Ideally, the holding period should be three years or less.