



**Invest Kansas
Exemption
(IKE) Offerings:
Basics for Entrepreneurs and
Investors**

The Invest Kansas Exemption (IKE) was adopted by the Kansas Legislature in 2011 in an effort to make it easier for small businesses to secure start-up and expansion financing in Kansas and to allow Kansans to invest in businesses in their home state. The law (KAR 81-5-21) allows certain securities offerings in the state to bypass the sometimes lengthy and expensive registration requirements that apply to larger offerings. Instead, the company offering the securities must meet a few easy requirements and file a one-page form (Form IKE) with the Office of the Securities Commissioner of Kansas. There are also some limits on investors, but, again, they're fairly simple. The rules are outlined in the rest of this document.

Rules for the Business Offering Securities Under IKE

There are nine simple rules that you must comply with to offer securities under the IKE program:

- The business or organization must be organized in the state of Kansas and have filed organization papers with the Kansas Secretary of State. The exemption is available to any lawful for of business or not for profit organization.
- At least 80% of the business' or organization's assets and operations must be in Kansas, and money raised through the IKE program must be used for assets and operations in Kansas.
- Form IKE must be filed with the Securities Commissioner before any securities are advertised or offered for sale.
- Securities offered under the IKE program may only be sold in Kansas to Kansas residents. (See investor rules regarding resale of securities purchased under IKE).
- A maximum of \$1 million worth of securities may be offered in any 12 month period. Securities offered only to someone holding or acquiring a controlling interest in the company are not included in this limit.
- All funds received from an IKE offering must be deposited in a financial institution (bank, savings and loan, or credit union) licensed to do business in Kansas and must be used for the purposes that were represented to the investors.
- The issuer must have a specific business plan regarding the use of the funds, and people with a criminal or disciplinary history under Kansas and/or federal securities regulations are ineligible for the exemption.
- The offering document must *clearly* state that the securities are not registered and that the purchaser must meet certain requirements under Rule 147 of the Securities Act of 1933 to resell the securities.
- No one person may invest more then \$5,000 in the offering(s) or a single company under the IKE program. This does not apply if the investor is an accredited investor under Rule 501 of federal Regulation D (net worth of \$1,000,000 or more or annual income of \$200,000 or \$300,000 if taxes are filed jointly), not does it apply to officers, directors, general partners, or managing members of the issuing organization

As you can see, this isn't a lot to comply with, and we encourage any Kansas entrepreneur who can meet these simple requirements to use this program to get their business or nonprofit going or growing.

Rules for the Investor in IKE Securities

If the rules for issuing securities under IKE are simple, the rules for investing in those securities are even simpler. In fact, there are only two, and if you read the rules for issuers you've seen one: the \$5,000 limit (unless you meet one of the exemptions).

The one other rule an investor needs to be aware of is a requirement under Rule 147 of the federal Securities Act of 1933. Under this rule, if you decide to sell your investment less than nine months after the offering is completed, you *must* sell them in Kansas to a Kansas resident. After the nine months is over, you can sell the securities to anyone. Naturally, you will need to notify the issuer if you sell your securities so that any correspondence with or interest or dividends payable to securities holders will be directed to the new owner. It may be helpful to review Rule 147 at <http://www.sec.gov/divisions/corpfin/forms/smallbus.shtml> to ensure that all federal requirements are met when you sell your securities.

A Few Recommendations

If you plan to offer securities under IKE, we recommend that you write a business plan *and* a prospectus for prospective investors to review. Don't just send your business plan out willy-nilly, though: get a signed confidentiality agreement to protect you from people who might "help themselves" to your hard work in order to make their own offering and start a competing company. Also, if you plan to list your offering on IKE Marketplace, make sure that you meet all of the requirements, because we *will* check in order to protect ourselves.

If you are thinking of investing in an IKE offering, do your due diligence. While both the Securities Commissioner and IKE Marketplace will have done everything in their power to prevent fraudulent offerings, they *could* still happen. Also, remember that these are small businesses, now New York Stock Exchange listed corporations. Don't invest money that you can't afford to lose if the company goes under, and make sure that you're satisfied with the return you're offered in light of the risk you're undertaking.

Kansans are a proud and generous people who love their home state, and we encourage you to put your money where your heart is and invest in Kansas businesses and Kansas jobs.