WEST VIRGINIA CODE: §11-13C-6

§11-13C-6. Qualified investment.

(a) General. -- The qualified investment in property purchased or leased for business expansion shall be the applicable percentage of the cost of each property purchased or leased for the purpose of business expansion which is placed in service or use in this state by the taxpayer during the taxable year.

(b) Applicable percentage. -- For the purpose of subsection (a), the applicable percentage of any property shall be determined under the following table:

If useful life is: The applicable percentage is:

4 years or more but less than 6 years 33 1/3%

6 years or more but less than 8 years 66 2/3%

8 years or more 100%

The useful life of any property, for purposes of this section, shall be determined as of the date such property is first placed in service or use in this state by the taxpayer, determined in accordance with federal income tax law.

(c) Cost. -- For purposes of subsection (a), the cost of each property purchased for business expansion shall be determined under the following rules:

(1) Trade-ins. -- Cost shall not include the value of property given in trade or exchange for the property purchased for business expansion.

(2) Damaged, destroyed or stolen property. -- If property is damaged or destroyed by fire, flood, storm or other casualty, or is stolen, then the cost of replacement property shall not include any insurance proceeds received in compensation for the loss.

(3) Rental property.

(A) The cost of real property acquired by written lease for a primary term of ten years or longer shall be one hundred percent of the rent reserved for the primary term of the lease, not to exceed twenty years.

(B) The cost of tangible personal property acquired by written lease for a primary term of:

(i) Four years, or longer, shall be one third of the rent reserved for the primary term of the lease;

(ii) Six years, or longer, shall be two thirds of the rent reserved for the primary term of the lease; or

(iii) Eight years, or longer, shall be one hundred percent of the rent reserved for the primary term of the lease, not to exceed twenty years: Provided, That in no event shall rent reserved include rent for any year subsequent to expiration of the book life of the equipment, determined using the straight-line method of depreciation.

(4) Property purchased for multiple use. -- In the case of property purchased for use as a component part of a new or expanded business taxable under article twelve-a of this chapter, and use as a component part of a new or expanded business taxable under article thirteen of this chapter, the cost thereof shall be apportioned between such businesses. The amount apportioned to each such new or expanded business for which credit is allowed under this article, shall be considered as a qualified investment subject to the conditions and limitations of this article.

(5) Self-constructed property. -- In the case of self-constructed property, the cost thereof shall be the amount properly charged to the capital account for depreciation in accordance with federal income tax law.

(6) Transferred property. -- The cost of property used by the taxpayer out-of-state and then brought into this state, shall be determined based on the remaining useful life of the property at the time it is placed in service or use in this state, and the cost shall be the original cost of the property to the taxpayer less straight line depreciation allowable for the tax years or portions thereof taxpayer used the property outside this state. In the case of leased tangible personal property, cost shall be based on the period remaining in the primary term of the lease after the property is brought into this state for use in a new or expanded business facility of the taxpayer, and shall be the rent reserved for the remaining period of the primary term of the lease, not to exceed twenty years, or the remaining useful life of the property (determined as aforesaid), whichever is less.

(7) Natural resources in place. -- In the case of natural resources in place, the property must be capable of sustained production for a period of at least ten years. If this qualification is met, then the qualified investment is one hundred percent of the purchase price of the natural resource in place that is attributable to ten years of production, but not more than twenty years of production. If such price is not quantifiable at the time the mining operation is placed into production, cost shall be determined annually and shall be the amount of royalties actually paid to the owner of the natural resource in place during each year for a total period of ten years. The amount of such royalties multiplied by the taxpayer's new jobs percentage (determined at the time the mining operation is placed in service or use) divided by ten establishes the credit allowable each year for ten successive years beginning with the year in which the royalties were paid.