WEST VIRGINIA CODE: §11-10-5EE

§11-10-5ee. Limitations on claiming credits and rebates; rulemaking.

(a) No capital investment used to qualify for a state tax credit or rebate can be used to qualify for any additional state tax credit or rebate, unless permission to do so has been specifically set forth in the provisions of this code establishing the relevant state tax credits or rebates.

(b) If the provisions of subsection (a) of this section are violated, the State Tax Commissioner shall allow only one of the credits or rebates based upon the following criteria:

(1) The Tax Commissioner shall allow the credit or rebate that has previously been granted based upon the capital investment in question; or

(2) If no credit or rebate based upon the capital investment in question has previously been granted, the Tax Commissioner shall allow the credit or rebate that is most favorable to the taxpayer and deny the additional credits and rebates for which the capital investment was claimed.

(c) When a liability occurs based upon subsection (b) of this section, the following provisions shall apply:

(1) An assessment shall be issued in accordance with the provisions of §11-10-7 of this code;

(2) Interest shall be charged in accordance with the provisions of §11-10-17 of this code; and

(3) Additions to tax shall be charged in accordance with the provisions of §11-10-18 of this code.

(d) The provisions of this section are effective for capital investments made on or after January 1, 2022.

(e) The State Tax Commissioner has the authority to draft emergency, interpretive, procedural, or legislative rules at his or her discretion to administer and carry out the provisions of this section.

WV Legislature