

WEST VIRGINIA CODE: §11-13-2Q

§11-13-2q. Exemption from tax for certain merchant power plants.

(a) *Exemption.* — Notwithstanding the provisions of §11-13-2o of this code, for taxable years, or portions thereof, beginning on or after January 1, 2020, a coal-fired merchant power plant is exempt from the business and occupation tax imposed by §11-13-2o of this code on the generating capacity of its generating units located in this state that are owned or leased by the taxpayer and used to generate electricity. When the January 1, 2020, date falls during a taxpayer's taxable year, the tax liability for that year shall be prorated based upon the number of months before and the number of months beginning on and after January 1, 2020, in that taxable year.

(b) *Definition.* — As used in this section, the term "coal-fired merchant power plant" means a coal-fired electricity generating unit or plant in this state with relation to which the owners, operators, interest holders, or any combination thereof do not receive regulated cost recovery pursuant to any tariff, regulated rate, or cost recovery fee mandated or authorized by the West Virginia Public Service Commission, or by any rate-making authority of any other state of the United States, and that: (1) Is not subject to regulation of its rates by the West Virginia Public Service Commission or any rate-making authority of any other state of the United States; (2) sells electricity it generates only on the wholesale market; (3) does not sell electricity pursuant to one or more long-term sales contracts; and (4) does not sell electricity to retail consumers.

(c) *Effective date.* — The amendments to this section enacted in the year 2020 shall be retroactive to January 1, 2020.