WEST VIRGINIA CODE: §11-13BB-8

§11-13BB-8. Transfer of certified eligible safety property to successors.

(a) Mere change in form of business. -- Certified eligible safety property may not be treated as disposed of under section seven of this article, by reason of a mere change in the form of conducting the business as long as the certified eligible safety property is retained in a business in this state for use in a coal mine in West Virginia, and the taxpayer retains a controlling interest in the successor business. In this event, the successor business is allowed to claim the amount of credit still available with respect to the certified eligible safety property transferred, and the taxpayer (transferor) may not be required to forfeit the credit for the years remaining at the time of transfer in the original five year credit period.

(b) Transfer or sale to successor. -- Certified eligible safety property will not be treated as disposed of under section seven of this article by reason of any transfer or sale to a successor business which continues to use the certified eligible safety property in a coal mine in West Virginia. Upon transfer or sale, the successor shall acquire the amount of credit that remains available under this article in the original five year credit period for each subsequent taxable year, and the transferor shall not be required to forfeit the credit for subsequent years. Upon transfer or sale, the successor shall acquire the amount of credit that remains available under this article for each taxable year subsequent to the taxable year of the transferor during which the transfer occurred and, for the year of transfer, an amount of annual credit for the year in the same proportion as the number of days remaining in the transferor's taxable year bears to the total number of days in the taxable year and the transferor shall not be required to redetermine the amount of credit allowed in earlier years.

WV Legislature