WEST VIRGINIA CODE: §11-13CC-3

§11-13CC-3. Amounts of credits; limitations.

(a) Every taxpayer which is a supplier of coal to a West Virginia electric utility providing a special rate to one or more eligible energy intensive industrial consumers of electric power pursuant to subsection (g), section one-j, article two, chapter twenty-four of this code and which is subject to paying the tax on the privilege of severing coal levied and imposed by subsections (a) and (b), section three, article thirteen-a of this chapter, prior to the application of any other credits against the tax, shall be entitled to a credit against that tax in an amount determined by the Public Service Commission pursuant to subsection (g), section one-j, article two, chapter twenty-four of this code, subject to the following limitations:

(1) The tax credits authorized by this article shall only be available when the eligible energy intensive industrial consumer of electric power receives a special rate from a West Virginia electric utility pursuant to subsection (g), section one-j, article two, chapter twenty-four of this code;

(2) The total aggregate credits available to all taxpayers under this section shall not exceed $20 million in any calendar year; and

(3) The total credits available to any taxpayer in a given calendar year shall not exceed ninety-three percent of that taxpayer's tax liability imposed and levied under subsections (a) and (b), section three, article thirteen-a of this chapter, so as to preserve undiminished the seven percent of total coal severance tax revenues that is apportioned among counties and municipalities pursuant to section six, article thirteen-a of this chapter.

(b) If the full amount of the $20 million in credits authorized by this article is not allocated and claimed in any calendar year, during all periods when a special rate is in effect for any one or more eligible energy intensive industrial consumers, the unused credits may be carried forward to future years: Provided, That the maximum aggregate amount of unused credits that may be carried forward to future years shall not exceed $15 million at any time. In no event may the amount of credits allocated and claimed in any single year, including unused credits that have been carried forward, exceed $35 million.

(c) If in any year the taxpayers that are suppliers of coal to a West Virginia electric utility providing a special rate to one or more eligible energy intensive industrial consumers of electric power entitled to receive credits pursuant to this section cannot or do not claim credits in an amount equal to the amount of tax credits designated by the commission, then the affected public utility may allocate the unclaimed tax credits, with such allocated amounts subject to the approval of the Public Service Commission, to and the tax credits may be claimed by any taxpayer that is subject to paying the tax on the privilege of severing coal levied and imposed by subsections (a) and (b), section three, article thirteen-a of this

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chapter: Provided, That taxpayers receiving the reallocation shall comply with the requirements and procedures set forth in this article.

(d) All unused credits authorized under this article expire and cease to be usable for tax years beginning on or after December 31, 2021.

(e) The credits authorized in this article shall not become available for any purpose prior to the Public Service Commission's first approval of a special rate for an eligible energy intensive industrial consumer. The credits provided in this article may be claimed by taxpayers against periodic installment payments of severance tax paid under the provisions of section nine, article thirteen-a of this chapter.

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