WEST VIRGINIA CODE: §11-13D-6

§11-13D-6. Forfeiture of unused tax credits, redetermination of credit required.

(a) Disposition of property or cessation of use. -- If during any taxable year, property with respect to which a tax credit has been allowed under this article:

(1) Is disposed of prior to the end of its useful life, as determined under section four, five, five-a or five-b of this article; or

(2) Ceases to be used in the new or expanded or revitalized industrial business, or in the eligible research and development project, or in the qualified housing development project, or in a management information services facility of the taxpayer in this state prior to the end of its useful life, as determined under said section four, five, five-a or five-b, then the unused portion of the credit allowed for such property shall be forfeited for the taxable year and all ensuing years. Additionally, except when the property is damaged or destroyed by fire, flood, storm or other casualty, or is stolen, the taxpayer shall redetermine the amount of credit allowed in all earlier years by reducing the applicable percentage of cost of such property allowed under said section four, five-a or five-b, to correspond with the percentage of cost allowable for the period of time that the property was actually used in this state in the industrial business or management information services business of the taxpayer. The taxpayer shall then file a reconciliation statement with its annual business franchise tax return for the year in which the forfeiture occurs and pay any additional taxes owed due to reduction of the amount of credit allowable for such earlier years, plus interest and any applicable penalties: Provided, That on and after July 1, 1987, the phrase "taxes imposed by article twelve-a or thirteen, or both, of this chapter" shall mean "taxes imposed by articles thirteen, thirteen-a and twenty-three of this chapter or any one or combination of such articles of this chapter".

(b) Cessation of operation of industrial facility or eligible research and development project, qualified housing development project or management information services facility. -- If during any taxable year, the taxpayer ceases operation of an industrial facility or a management information services facility in this state, or of an eligible research and development project, or a qualified housing development project, for which credit was allowed under this article, or article thirteen-c of this chapter prior to its repeal, before expiration of the useful life of the property with respect to which tax credit has been allowed under this article or article thirteen-c of this chapter prior to its repeal, then the unused portion of the allowed credit shall be forfeited for the taxable year and all ensuing years. Additionally, except when the cessation is due to fire, flood, storm or other casualty, the taxpayer shall redetermine the amount of credit allowed in earlier years by reducing the applicable percentage of cost of such property allowed under section four, five, five-a or five-b, to correspond with the percentage of cost allowable for the period of time that the property was actually used in this state in the industrial business or management information services business of the taxpayer. The taxpayer shall then file a reconciliation

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statement with its annual business franchise tax return for the year in which the forfeiture occurs and pay any additional taxes owed due to reduction of the amount of credit allowable for such earlier years, plus interest and any applicable penalties: Provided, That on and after July 1, 1987, the phrase "taxes imposed by article twelve-a or thirteen, or both, of this chapter" shall mean "taxes imposed by articles thirteen, thirteen-a and twenty-three of this chapter, or any one or combination of such articles of this chapter".

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