WEST VIRGINIA CODE: §11-13D-7

§11-13D-7. Transfer of eligible investment to successors.

(a) Mere change in form of business. -- Property may not be treated as disposed of under section six of this article by reason of a mere change in the form of conducting the business as long as the property is retained in a similar industrial business or management information services business activity in this state and the taxpayer retains a controlling interest in the successor business. In this event, the successor business may claim the amount of credit still available with respect to the industrial facility or facilities transferred or to the eligible research and development project or management information services facility and the taxpayer (transferor) may not be required to redetermine the amount of credit allowed in earlier years.

(b) Transfer or sale to successor. -- Provided that the Tax Commissioner gives prior approval for a transfer or sale, property may not be treated as disposed of under section six by reason of any transfer or sale to a successor business which continues to operate the industrial facility or management information services facility in this state. This requirement for prior approval may be waived by the Tax Commissioner at any time prior to, or subsequent to, the transfer or sale. 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 taxpayer (transferor) shall not be required to redetermine the amount of credit allowed in earlier years. In determining whether or not to approve a disposition pursuant to this subsection, the Tax Commissioner shall take into account the legislative findings and purpose contained in section one of this article in making the decision.

WV Legislature