

# WEST VIRGINIA CODE: §11-13E-3

## **§11-13E-3. Amount of credit allowed for coal loading facilities.**

(a) There shall be allowed to eligible taxpayers a credit against the business and occupation taxes imposed by article thirteen, thirteen-a or twenty-three of this chapter, for investment in a new or expanded or revitalized coal loading facility. The amount of this credit shall be determined as hereinafter provided in this section.

(b) Pre March 1, 1985 investment. -- For investment in a new or expanded or revitalized coal loading facility made on or after April 1, 1983, and prior to March 1, 1985, the amount of this credit shall be equal to ten percent of the cost of the eligible investment (as determined in section four) made in a coal loading facility and shall reduce the business and occupation taxes imposed by section two, article thirteen of this chapter, under sections two-a, two-b and two-h of said article thirteen of this chapter, subject to the following conditions and limitations:

(1) The allowable credit shall be applied over a ten-year period at the rate of one tenth of the amount thereof per taxable year, beginning with the taxable year in which the eligible investment is first placed in service or use in this state.

(2) The amount of annual credit allowed shall not reduce the business and occupation taxes imposed by section two, article thirteen of this chapter, under section two-a of said article thirteen, on the business of producing coal; under section two-b of said article thirteen, on the business of manufacturing, compounding or preparing coal for sale; and under section two-h of said article thirteen, on the activity of loading coal, below fifty percent of the amount which would be imposed for the taxable year in the absence of the annual exemption allowed by section three, article thirteen of this chapter.

(3) When in any taxable year the eligible taxpayer is entitled to claim credit under this article and article thirteen-d of this chapter, the total amount of credits allowed under sections two-b and two-h, article thirteen of this chapter, shall not exceed fifty percent of the tax liability under said sections, on manufacturing or manufacturing-service activity.

(4) No carryover to a subsequent tax year or carryback to a prior tax year shall be allowed for the amount of any unused portion of the credit allowed under this subsection (b) for the taxable year. Any unused credit shall be forfeited.

(5) No credit shall be allowed under this subsection for any property purchased for a coal loading facility prior to April 1, 1983.

(c) Post February 28, 1985 investment. -- For investment in a new or expanded or revitalized coal loading facility made on or after March 1, 1985, the amount of the credit shall be equal to ten percent of the cost of eligible investment (as determined in section four) made in a

coal loading facility and shall reduce the business and occupation tax imposed under article thirteen of this chapter, subject to the following conditions and limitations:

(1) The amount of credit allowable shall be applied over a ten-year period, at the rate of one-tenth thereof per taxable year, beginning with the taxable year in which the eligible investment is first placed in service or use in this state.

(2) The amount of annual credit allowed shall not reduce the business and occupation taxes under article thirteen of this chapter, below fifty percent of the amount which would be imposed for such taxable year in the absence of this credit against tax, computed before application of the annual exemption allowed by section three, article thirteen of this chapter.

(3) When in any taxable year the eligible taxpayer is entitled to claim credit computed under two or more subsections of this section, the total amount of all credits allowable under this section shall not exceed the fifty percent rule outlined in subdivision (2) of this subsection.

(4) No carryover to a subsequent taxable year or carryback to a prior taxable year shall be allowed for the amount of any unused portion of any annual credit allowance. Such unused credit shall be forfeited.

(5) When in any taxable year the eligible taxpayer is entitled to claim credit under this article and article thirteen-d of this chapter, the total amount of all such credits allowable for the taxable year shall not reduce the amount of business and occupation taxes under article thirteen of this chapter, below fifty percent of the amount which would be imposed for such taxable year computed before allowance of the annual exemption allowed by section three, article thirteen of this chapter.

(6) No credit shall be allowed under this subsection (c) for any property purchased on or after March 1, 1985, for which credit is allowed under article thirteen-c of this chapter.

(7) No credit shall be allowed under this subsection (c) for any property purchased for a coal loading facility prior to March 1, 1985.

(d) Credit limitation. -- The aggregate amount of credit allowable under this article and article thirteen-d of this chapter, against the taxes imposed by article thirteen of this chapter, for the taxable year, shall in no event exceed fifty percent of the tax due for the taxable year computed prior to application of the tax credits provided by this article and article thirteen-d of this chapter, and the annual exemption provided by section three, article thirteen of this chapter.

(e) Application of credit after June 30, 1987. -- On and after July 1, 1987, the credits allowed under subsections (b), (c), (e) and (f) of this section, shall be applied to and reduce the taxes imposed by articles thirteen, thirteen-a and twenty-three of this chapter: Provided, That this credit shall not reduce the sum of the net tax liability of the taxpayer under articles thirteen, thirteen-a and twenty-three of this chapter for the taxable year below fifty percent of the

amount thereof, determined before application of the credits allowed by this article and article thirteen-c or thirteen-d, or both, of this chapter.