WEST VIRGINIA CODE: §11-13E-5

§11-13E-5. 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 three of this article; or

(2) Ceases to be used in a coal loading facility by the eligible taxpayer, in this state, prior to the end of its useful life, as determined under said section three of this article, 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 three of this article, to correspond with the percentage of cost allowable for the period of time that the property was actually used in this state as a coal loading facility of the eligible taxpayer. The taxpayer shall then file a reconciliation statement with its annual business and occupation tax return for the year in which the forfeiture occurs and pay any additional business and occupation taxes, 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 coal loading facility. -- If during any taxable year the eligible taxpayer ceases operation of a coal loading facility in this state, for which credit was allowed under this article, before expiration of the useful life of the property with respect to which tax credit has been allowed under this article, 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 three of this article, to correspond with the percentage of cost allowable for the period of time that the property was actually used in this state in a coal loading facility of the eligible taxpayer. The taxpayer shall then file a reconciliation statement with its annual business and occupation tax return for the year in which the forfeiture occurs and pay any additional business and occupation taxes, 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)."

WV Legislature