WEST VIRGINIA CODE: §11-13EE-3

§11-13EE-3. Rebate allowable.

(a) *Rebate allowable*. — Eligible taxpayers shall be allowed a rebate against a portion of severance taxes imposed by §11-13A-3 of this code on the privilege of engaging in the production of coal in an amount not to exceed 35 percent of the eligible taxpayer's qualified investment in tangible personal property purchased or leased for business expansion, subject to the limitations in subsections (b) and (c).

(b) *Maximum rebate limited to 80 percent of increase above base period severance taxes. —* The maximum amount of rebate allowable for any given tax year is limited to an amount not to exceed 80 percent of the increase in the state portion of severance taxes paid for coal mined at the specific mine where the qualified investment is made when compared to the state portion of severance taxes paid for coal mined at the specific mine where the qualified investment is made during the base period.

(c) *Additional Limiting Factors. —*

(1) In order to qualify for any severance tax rebate under this article in a given rebate year, the eligible taxpayer must meet the following requirements:

(A) No credit shall be allowed unless the aggregate total coal production tonnage from all mines operated by the eligible taxpayer in this state during the year for which the rebate or rebate carryover is claimed has increased above the annual average aggregate total coal production tonnage from all mines operated by the eligible taxpayer during the base period; and

(B) No credit shall be allowed unless the aggregate total number of full-time employees, along with full-time equivalent employees, at all mines operated by the eligible taxpayer in this state during the rebate year has increased above the annual average aggregate total number of full-time employees, along with full-time equivalent employees, at all mines operated by the eligible taxpayer in this state during the base period.

(2) The increase in the state portion of severance taxes paid against which the rebate may be taken is further limited by a factor, the numerator of which is the increase in coal production, measured in tons produced, at all mines operated by the taxpayer, the denominator of which is the increase in coal production, measured in tons produced, at the specific mine where investment is made: *Provided*, That in no instance may the factor exceed one. The increase in coal production is determined by subtracting the base period coal production, measured in tons produced, from the coal production, measured in tons produced, during the tax year for which the rebate is claimed.

(d) When the eligible taxpayer has produced coal in this state for two years before making

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the capital investment in new machinery and equipment, but was not in business during a full five-year base period, then the eligible taxpayer's base severance tax amount shall be the amount of state severance tax due under §11-13A-3 of this code on coal produced in this state during the most recent tax year prior to making the investment.

(e) No rebate shall be allowed under this article when credit is claimed under any other article of this chapter for capital investment in the new machinery and equipment. No credit shall be allowed under any other article of this chapter when rebate is allowed under this article for the capital investment in new machinery and equipment.

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