WEST VIRGINIA CODE: §11-13EE-7

§11-13EE-7. Burden of proof; application required; failure to make timely application.

(a) *Burden of proof*. — The burden of proof is on the taxpayer to establish by clear and convincing evidence that the taxpayer is entitled to the benefits allowed by this article.

(b) *Application for rebate required*.

(1) Notwithstanding any provision of this article to the contrary, no rebate shall be paid under this article for any capital investment in new machinery and equipment placed in service or use until the person asserting a claim for the allowance of rebate under this article makes written application to the Tax Commissioner for allowance of rebate as provided in this section.

(2) An application for rebate shall be filed, in the form prescribed by the Tax Commissioner, no later than the last day for filing the severance tax return, determined by including any authorized extension of time for filing the return, for the taxable year in which the machinery and equipment to which the rebate relates is placed in service or use and all information required by the form is provided.

(3) A separate application for rebate is required for each taxable year during which the taxpayer places new machinery and equipment in service or use in a mine or coal preparation and processing facility in this state.

(c) *Failure to make timely application*. — The failure to timely apply for the rebate results in the forfeiture of 25 percent of the rebate amount otherwise allowable under this article. This penalty applies annually until the application is filed.

WV Legislature