WEST VIRGINIA CODE CHAPTER 11 ARTICLE 13F

WV Legislature

§11-13F-1. Legislative Purpose.

In order to reimburse public utilities for the revenue deficiencies that they incur in providing special reduced electric or natural gas, water, or sewer utility rates to low-income residential customers in accordance with the provisions of §24-2A-1 et seq. of this code, there is hereby provided a business and occupation tax credit for reducing electric, natural gas, water, or sewer utility rates for low-income residential customers.

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§11-13F-2. Definitions.

(a) Any term used in this article shall have the same meaning as when used in a comparable context in §11-13-1 et seq. of this code, unless a different meaning is clearly required by the context of its use or by definition in this article.

(b) For purposes of this article, the term:

(1) "Eligible taxpayer" means a utility which has provided electric or natural gas service, or both electric and natural gas service; or water or sewer service, or both water and sewer service, to qualified low-income residential customers at special reduced rates.

(2) "Cost of providing utility service at special reduced rates" means the amount certified by the Public Service Commission under the provisions of §24-2A-2 of this code as the revenue deficiency incurred by a public utility in providing special reduced rates for electric, natural gas, sewer, or water utility service as required by §24-2A-1 or approved pursuant to §24-2A-5 of this code.

(3) "Special reduced rates" means the rates ordered by the Public Service Commission under the authority of §24-2A-1 or §24-2A-5 of this code.

(4) "Qualified low-income residential customers" means those utility customers eligible to receive electric, natural gas, water, or sewer utility service under special reduced rates.

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§11-13F-3. Amount of credit.

(a) There shall be allowed to any eligible taxpayer a credit against the business and occupation taxes imposed by §11-13-1 et seq. of this code, for reducing electric and natural gas utility rates. The amount of the credit available to any eligible taxpayer shall be equal to its cost of providing electric or natural gas service, or both, at special reduced rates as certified by the Public Service Commission under the provisions of §24-2A-2 of this code to qualified residential customers, less any reimbursement of said cost which the taxpayer has received through any other means.

(b) For tax years beginning on or after January 1, 2019, there shall be allowed to any eligible taxpayer a credit against the business and occupation taxes imposed by §11-13-1 et seq. of this code, for reducing rates for providing electric, natural gas, sewer or water service, or any combination of electric, natural gas, water or sewer services. The amount of the credit available to any eligible taxpayer shall be equal to its cost of providing utility service at special reduced rates to qualified residential customers, less any reimbursement of said cost which the taxpayer has received through any other means.

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§11-13F-4. When credit may be taken.

An eligible taxpayer may claim a credit allowed under this article against its business and occupation tax liability for the year in which it receives certification of the amount of its revenue deficiency from the Public Service Commission.

Notwithstanding the provisions of section four, article thirteen of this chapter to the contrary, in determining the amount of estimated business and occupation taxes reported on any monthly or quarterly estimate of business and occupation taxes that is due for any portion of the calendar year prior to July 1, of such year, no estimated credit may be claimed or considered.

In estimating the amount of monthly or quarterly tax due for the months of July and succeeding months in any calendar year, the eligible taxpayer may divide the amount certified as its revenue deficiency by the Public Service Commission, by the number of returns (estimated and annual) that will become due for the period July through December of each year. The resultant quotient shall be the maximum amount allowed to be taken as credit on each said return: Provided, That in no event may application of this credit reduce the tax liability below zero.

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§11-13F-5. Application of credit.

(a) Any unused portion of a credit allowed under this article may be taken as a credit against corporation net income taxes due for the taxable year, as provided in section eleven, article twenty-four of this chapter.

(b) If any portion of the amount certified as its revenue deficiency by the Public Service Commission is not recovered under subsection (a), it may be carried over to the subsequent year for business and occupation tax purposes and shall be applied as a credit before any other credits for that year are applied.

(c) In no event shall an eligible taxpayer be allowed to recover more than one hundred percent of its certified revenue deficiency.

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