WEST VIRGINIA CODE: §11-13GG-6

§11-13GG-6. Qualified investment.

(a) General. — The qualified investment in property purchased or leased for a new, or expansion of an existing, downstream natural gas manufacturing facility is the applicable percentage of the cost of each property purchased or leased for the purpose of the new, or expansion of an existing, downstream natural gas manufacturing facility which is placed in service or use in this state by the taxpayer during the taxable year.

(b) Applicable percentage. — For the purpose of subsection (a), the applicable percentage of any property is determined under the following table:

If useful life is: The applicable percentage is:

Less than four years 0%

Four years or more but less than six years 33 1/3%

Six years or more but less than eight years 66 2/3%

Eight years or more 100%

The useful life of any property, for purposes of this section, is determined as of the date the property is first placed in service or use in this state by the taxpayer, determined in accordance with such rules and requirements the Tax Commissioner may prescribe.

(c) Cost. — For purposes of subsection (a) of this section, the cost of each property purchased for a new, or expansion of an existing, downstream natural gas manufacturing facility is determined under the following rules:

(1) Trade-ins. — Cost does not include the value of property given in trade or exchange for the property purchased for a new, or for expansion of an existing, downstream natural gas manufacturing facility.

(2) Damaged, destroyed, or stolen property. — If property is damaged or destroyed by fire, flood, storm, or other casualty, or is stolen, then the cost of replacement property does not include any insurance proceeds received in compensation for the loss.

(3) Rental property. —

(A) The cost of real property acquired by written lease for a primary term of 10 years or longer is 100 percent of the rent reserved for the primary term of the lease, not to exceed 20 years.

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(B) The cost of tangible personal property acquired by written lease for a primary term of:

(i) Four years, or longer, is one third of the rent reserved for the primary term of the lease;

(ii) Six years, or longer, is two thirds of the rent reserved for the primary term of the lease; or

(iii) Eight years, or longer, is 100 percent of the rent reserved for the primary term of the lease, not to exceed 20 years: Provided, That in no event may rent reserved include rent for any year subsequent to expiration of the book life of the equipment, determined using the straight-line method of depreciation.

(4) Self-constructed property. — In the case of self-constructed property, the cost thereof is the amount properly charged to the capital account for depreciation in accordance with federal income tax law.

(5) Transferred property. — The cost of property used by the taxpayer out-of-state and then brought into this state, is determined based on the remaining useful life of the property at the time it is placed in service or use in this state, and the cost is the original cost of the property to the taxpayer less straight line depreciation allowable for the tax years or portions thereof the taxpayer used the property outside this state. In the case of leased tangible personal property, cost is based on the period remaining in the primary term of the lease after the property is brought into this state for use in a new or expanded business facility of the taxpayer, and is the rent reserved for the remaining period of the primary term of the lease, not to exceed 20 years, or the remaining useful life of the property, as determined as aforesaid, whichever is less.

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