WEST VIRGINIA CODE: §11-13HH-2

§11-13HH-2. Definitions.

(a) General. – When used in this article, or in the administration of this article, terms defined in subsection (b) of this section have the meanings ascribed to them by this section unless a different meaning is clearly required by the context in which the term is used.

(b) *Terms defined.* –

"Affiliate" means and includes:

(A) An individual, corporation, partnership, affiliate, association or trust or any combination or group thereof controlled by the taxpayer;

(B) An individual, corporation, partnership, affiliate, association or trust or any combination or group thereof that is in control of the taxpayer;

(C) An individual, corporation, partnership, affiliate, association or trust or any combination or group thereof controlled by an individual, corporation, partnership, affiliate, association or trust or any combination or group thereof that is in control of the taxpayer; or

(D) A member of the same controlled group as the taxpayer.

"Commissioner" or "Tax Commissioner" means the Tax Commissioner of the State of West Virginia or the Tax Commissioner's delegate.

"Control", with respect to a corporation, means ownership, directly or indirectly, of stock possessing 50 percent or more of the total combined voting power of all classes of the stock of the corporation which entitles its owner to vote. "Control," with respect to a trust, means ownership, directly or indirectly, of 50 percent or more of the beneficial interest in the principal or income of the trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership or association or of a beneficial interest in a trust shall be determined in accordance with the rules for constructive ownership of stock provided in Section 267(c) of the United States Internal Revenue Code: *Provided,* That paragraph (3), Section 267(c) of the United States Internal Revenue Code does not apply.

"Corporation" means any corporation, joint-stock company or association and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument.

"Delegate" means, when used in reference to the Tax Commissioner, any officer or employee of the Tax Division of the Department of Revenue duly authorized by the commissioner directly, or indirectly by one or more redelegations of authority, to perform the functions mentioned or described in this article.

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"Eligible taxpayer" means any natural gas liquids storer or natural gas liquids transporter that is subject to the taxes imposed under §11-21-1 *et seq.* or §11-24-1 *et seq.* of this code. "Eligible taxpayer" also means and includes those members of an affiliated group of taxpayers engaged in a unitary business, in which one or more members of the affiliated group is a person subject to the tax imposed under §11-21-1 *et seq.* or §11-24-1 *et seq.* of this code. Application of the credit against the taxes is limited to the single entity, from among the affiliated group of taxpayers, that earned the credit. Application of the credit against tax is limited to that single entity's proportionate share of taxable income. No tax credit earned by one member of the affiliated group, may be used, in whole or in part, by any other member of the affiliated group or applied, in whole or in part, against the total income of the combined group.

"Natural gas liquids" or "NGLs" means hydrocarbons removed from a hydrocarbon stream consisting primarily of natural gas (methane) by condensation, cryogenic cooling or other method and maintained in a liquid state for storage, transportation, use in manufacturing or consumption, including, but not limited to, ethane, propane, butane, isobutane and pentanes, and derivatives thereof including, but not limited to, ethylene and propylene, but do not include natural gas which may include some NGLs as part of the gas stream.

"Natural gas liquids inventory and equipment" means, and is limited to, natural gas liquids equipment used in the transport or storage of NGLs by a natural gas liquids transporter or natural gas liquids storer.

"Natural gas liquids transporter" means a person who owns or operates pipeline facilities used for the transportation and delivery of NGLs for storage, use in manufacturing or consumption, but does not include pipelines used for the transportation of natural gas that may include some NGLs as part of the gas stream.

"Natural gas liquids storer" means a person who owns or operates one or more underground facilities designed and developed for the receipt, storage and subsequent delivery of NGLs for use in manufacturing or consumption.

"Natural person" or "individual" means a human being.

"Partnership" and "partner" means and includes a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, financial operation or venture is carried on and which is not a trust or estate, a corporation or a sole proprietorship. The term "partner" includes a member in a syndicate, group, pool, joint venture or organization.

"Person" means and includes any natural person, corporation, limited liability company or partnership.

"Taxpayer" means any person subject to the taxes imposed under §11-21-1 *et seq.* or §11-24-1 *et seq.* of this code.

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"Tax year" or "taxable year" means the tax year of the taxpayer for federal income tax purposes.

"Unitary business" means a unitary business as defined in §11-24-3a of this code.

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