WEST VIRGINIA CODE: §11-13J-6

§11-13J-6. Application of annual credit allowance.

(a) In general. -- The aggregate annual credit allowance for a current tax year is an amount equal to the sum of the following:

(1) The portion allowed under section five of this article for an eligible contribution placed into service or use during a prior tax year; plus

(2) The portion allowed under section five of this article for an eligible contribution placed into service or use during the current tax year.

(b) Application of credit allowance. -- The amount determined under subsection (a) of this section shall be allowed as a credit for tax years ending on and after July 1, 1996, as follows:

(1) Business franchise taxes. --

The amount determined under subsection (a) of this section shall be applied to reduce up to fifty percent of the taxes imposed by article twenty-three of this chapter for the tax year determined after application of the credits against tax provided in section seventeen of said article, but before application of any other allowable credits against tax.

(2) Corporation net income taxes. -- After application of subdivision (1) of this subsection, any unused credit shall next be applied to reduce up to fifty percent of the taxes imposed by article twenty-four of this chapter, for the tax year determined before application of allowable credits against tax.

(3) Personal income taxes. --

(A) If the eligible taxpayer is an electing small business corporation as defined in Section 1361 of the United States Internal Revenue Code, a limited liability company treated as a partnership for purposes of the federal income tax, a partnership or a sole proprietorship, then any unused credit, after application of subdivisions (1) and (2) of this subsection, shall be allowed as a credit against up to fifty percent of the taxes imposed by article twenty-one of this chapter on income of proprietors, partners or shareholders, subject to the limitations set forth in paragraphs (B) and (C) of this subdivision.

(B) Electing small business corporations, partnerships and other unincorporated organizations shall allocate the credit allowed by this article among the members thereof in the same manner as profits and losses are allocated for the tax year.

(C) Any taxpayer subject to the personal income tax under article twenty-one of this chapter, who makes an eligible contribution to a qualified charitable organization, and receives back from that organization a properly completed neighborhood investment program tax credit

WV Legislature

voucher, is eligible to claim the credit. The credit shall be allowed without regard to the source of that income, whether it is from wages, passive investment or retirement income, income from a trade or business or any other source.

(c) Unused credit forfeited. -- If any credit to an eligible taxpayer remains after application of subsections (a) and (b) of this section, the amount thereof may be carried forward no more than four years from the tax year in which the contribution was made. Unused credits of an eligible taxpayer may not be carried forward beyond the time limits imposed under section five of this article and the total maximum aggregate tax credits certified in any state fiscal year may not exceed $3,000,000.

(d) Addition of deductions, decreasing adjustments or decreasing modifications taken in determining taxable income for which credit is taken. -- Any deduction, decreasing adjustment or decreasing modification taken by any taxpayer in determining federal taxable income which affects West Virginia taxable income or in determining West Virginia taxable income under article twenty-one or twenty-four of this chapter for the taxable year for any charitable contribution, or payment or portion thereof, which qualifies as an eligible contribution under this article and for which credit is claimed, shall be added to West Virginia taxable income in determining the tax liability of the taxpayer under article twenty-one or twenty-four of this chapter, as appropriate, before application of the credit allowed under this article for the taxable year.

(e) Annual limit. –- The aggregate annual credit allowance to any taxpayer may not exceed $100,000 in any tax year.

WV Legislature