WEST VIRGINIA CODE CHAPTER 11 ARTICLE 13K

WV Legislature

§11-13K-1. Findings and purpose.

The Legislature finds that it is an important public policy to promote environmentally sound practices within the agricultural industry in this state. Therefore, a credit against the taxes imposed by articles twenty-one and twenty-four of this chapter shall be allowed in an amount equaling twenty-five percent of all expenditures for the purchase and installation of agricultural equipment and structures for agricultural operations within this state which serve to protect the environment.

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§11-13K-2. Definitions.

As used in this section the following terms have the meanings ascribed in this section:

(a) "Advanced technology pesticide and fertilizer application equipment" means machinery certified by the West Virginia Division of Environmental Protection as providing precise pesticide and fertilizer application. The agriculture commission and the West Virginia Division of Environmental Protection shall provide technical assistance to the Tax Commissioner to determine appropriate specifications for machinery which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts for purposes of application of the credit provided by this article. The machinery shall include, but not be limited to:

(1) Sprayers for pesticides and liquid fertilizers;

(2) Pneumatic fertilizer applicators;

(3) Monitors, computer regulators and heights adjustable booms for sprayers and liquid fertilizer applicators;

(4) Manure applicators; and

(5) Tramline adapters.

(b) "Conservation tillage equipment" means a planter or drill commonly known as a "no-till" planter or drill, designed to minimize disturbance of the soil in planting crops, including such planters or drills which may be attached to equipment already owned by the taxpayer.

(c) "Dead poultry composting facility" is a structure consisting of a roof, an impervious weight bearing foundation, such as concrete and rot resistant building materials such as pressure treated lumber or similar material, which is used to biologically treat poultry carcasses by composting.

(d) "Mortality incinerator" means a structure certified by the director of the Division of Environmental Protection which is used for the purpose of burning animal carcasses.

(e) "Nutrient management plan" or "best management practice" means an established procedure for managing the amount, form, placement and timing of applications of poultry litter, certified by the commissioner of agriculture as being free from organisms that are not found in poultry litter produced in this state, as fertilizer application.

(f) "Nutrient management system" means an established procedure for managing the amount, form, placement and timing of applications of plant nutrients.

(g) "Qualified agricultural equipment" means advanced technology pesticide and fertilizer application equipment, conservation tillage equipment, dead poultry composting facilities,

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nutrient management plans, best management practices, nutrient management systems, streambank and shoreline protection systems, stream channel stabilization systems, stream crossing or access plans, waste management systems, waste storage facilities, and waste treatment lagoons located on or at agricultural operations in this state and certified by the Tax Commissioner in accordance with section five of this article.

(h) "Streambank and shoreline protection system" means the consistent use of vegetation or structures to stabilize and protect banks of streams, lakes, estuaries, or excavated channels in order to stabilize or protect banks of streams, lakes, estuaries or excavated channels for one or more of the following purposes:

(1) To prevent the loss of land or damage to utilities, roads, buildings, or other facilities adjacent to the banks;

(2) To maintain the capacity of the channel;

(3) To control channel meander that would adversely affect downstream facilities;

(4) To reduce sediment loads causing downstream damages and pollution; or

(5) To improve the stream for recreation or as a habitat for fish and wildlife.

(i) "Stream channel stabilization system" means an established structure for the stabilization of the channel of a stream.

(j) "Stream crossing or access plan" means the maintenance of a stabilized area to provide for crossing of a stream by livestock and farm machinery, or to provide access to the stream for livestock water.

(k) "Waste management system" means a planned system in which all necessary components are installed for managing liquid and solid waste, including runoff from concentrated waste areas at an agricultural operation, in a manner that does not degrade air, soil or water resources.

(l) "Waste storage facility" means a waste impoundment made by constructing an embankment or excavating a pit or dugout, or both, or by fabricating a facility for the storage of waste from livestock or poultry.

(m) "Waste treatment lagoon" means an impoundment made by excavation or earthfill for biological treatment of animal or other agricultural waste.

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§11-13K-3. Amount of credit.

(a) There is allowed to eligible taxpayers who have made investments in qualified agricultural equipment in this state, a credit against taxes imposed by articles twenty-one and twenty-four of this chapter in the amount set forth in subsection (b) of this section.

(b) The amount of credit is equal to twenty-five percent of the purchase price of qualified agricultural equipment, but not to exceed $2,500 for purchases during a taxable year or the total amount of tax imposed by articles twenty-one or twenty-four of this chapter, whichever is less, in the year of purchase of qualified agricultural equipment. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the amount which exceeds the tax liability may be carried over and applied as a credit against the tax liability of the taxpayer pursuant to article twenty-one or twenty-four of this chapter to each of the next five taxable years unless sooner used.

(c) The amount of credit for the investment in the plan or practice described in subsection (e), section two of this article is equal to twenty-five percent of the purchase price of the poultry litter certified in writing to the Tax Commissioner by the commissioner of agriculture as having been applied in the established procedure described in legislative rules promulgated by the commissioner of agriculture in accordance with the provisions of article three, chapter twenty-nine-a of this code.

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§11-13K-4. Proration of credit.

For purposes of this section, the amount of any credit attributable to the purchase of agricultural equipment by a partnership or electing small business corporation (S corporation) shall be allocated to the individual partners or shareholders in proportion to their ownership or interest in the partnership or S corporation.

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§11-13K-5. Legislative rules.

On or before May 31, 1996, the Tax Commissioner and the agricultural commissioner shall propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code to determine the equipment which shall be certified as qualified agricultural equipment for purposes of application of the credit provided for in this article not inconsistent with the provisions of section two of this article. The Tax Commissioner shall also propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code regarding the administration of the credit established pursuant to this article.

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§11-13K-6. Effective date.

The credit shall be allowed for taxable years beginning on or after July 1, 1997.

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