

# WEST VIRGINIA CODE: §11-13L-6

## **§11-13L-6. Annual computation of the number of jobs held by qualified employees.**

(a) The taxpayer shall determine the number of jobs held by qualified employees of the taxpayer in the taxable year by calculating the average number of qualified employees holding jobs for each month of the taxable year by averaging the beginning and ending monthly employment of qualified employees, then totalling the monthly averages and dividing that total by twelve.

(b) If, as a result of business growth, merger, expansion or any other growth in the number of jobs in place, the number of full-time employees employed by a taxpayer in the taxable year exceeds (1) the number of qualified employees employed by the taxpayer on January 1, 1996, or (2) the number of qualified employees employed by the taxpayer during the prior taxable year, then only that portion of the increase in the number of full-time jobs that results from the creation of new jobs, as defined in section two of this article, shall be counted, along with qualified jobs in place from the prior taxable year, as part of the total number of qualified jobs in place for the taxable year. Preexisting jobs carried over from a corporation or other entity merged with the taxpayer, and not reflective of a true increase in the number of jobs in West Virginia, or preexisting jobs formerly in place with a contract service provider which are taken over or supplanted by the internal operations of the taxpayer, or any other increase in the count of jobs in place with a taxpayer which is not reflective of new jobs, as defined in section two of this article, shall not count as qualified jobs for purposes of the credit allowed under this article.

(c) The Tax Commissioner may prescribe alternative methods for determining the number of jobs held by qualified employees in place in the taxable year upon a finding by the Tax Commissioner that an alternative method is appropriate for ascertaining an accurate and realistic determination of jobs held by qualified employees in the taxable year. For purposes of prescribing alternative methods, the Tax Commissioner may require the deduction or inclusion of jobs in place with contract service providers that provide or at any time provided any service to any eligible taxpayer or to any member of the affiliated group related to any eligible taxpayer or to any one or more entities related to the eligible taxpayer: Provided, That deduction, or inclusion of those jobs shall only pertain to jobs held by employees of the contract service provider that are attributable or that were formerly attributable to the service provided by the contract service provider to the taxpayer. The Tax Commissioner may require any deconsolidation of any filing entity, or may require an alternative method based on separate accounting, unitary combination, combination of the affiliated group or combination of the taxpayer and one or more entities related to the taxpayer, or any other method determined by the Tax Commissioner to be appropriate for ascertaining an accurate and realistic determination of jobs held by qualified employees in the taxable year.