WEST VIRGINIA CODE: §11-13O-7

§11-13O-7. Annual computation of the number of new jobs held by full-time employees.

(a) The eligible taxpayer shall annually determine the number of new jobs held by full-time permanent employees of the eligible taxpayer in the taxable year by calculating the average number of full-time employees holding jobs for each month of the taxable year by averaging the beginning and ending monthly employment of full-time employees, then totaling the monthly averages and dividing that total by twelve.

(b) The eligible taxpayer shall also annually determine the number of new jobs filled during the taxable year by full-time employees of the eligible taxpayer employed at a new value-added aluminum or polymer product manufacturing facility, or at a new value-added aluminum or polymer product line at an existing manufacturing facility, located in this state that is owned or operated by the eligible taxpayer, by calculating the average number of new jobs held by full-time employees for each month of the taxable year by averaging the beginning and ending monthly employment of full-time employees holding new jobs, then totaling the monthly averages and dividing that total by twelve.

(c) 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 new 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 new jobs for purposes of the credit allowed under this article.

(d) The Tax Commissioner may prescribe by rule alternative methods for determining the number of jobs held by full-time permanent employees 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 new jobs held by full-time 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 new jobs held by full-time employees in the taxable year.

WV Legislature