WEST VIRGINIA CODE: §11-13O-8

§11-13O-8. Availability of credit to successors.

(a) Transfer or sale. -- When there is a transfer or sale of the business assets of an eligible taxpayer to a successor taxpayer which continues to operate the new value-added aluminum or polymer product manufacturing facility located in this state, or the new value-added aluminum or polymer product line of an existing manufacturing facility located in this state, the successor taxpayer is entitled to the credit allowed under this article: Provided, That the successor taxpayer otherwise remains in compliance with the requirements of this article for entitlement to the credit.

(b) Allocation of credit between eligible taxpayer and successor eligible taxpayer. -- For any taxable year during which a transfer, or sale of the business assets of an eligible taxpayer to a successor taxpayer under this section occurs, or a merger allowed under this section occurs, the credit allowed under this article shall be apportioned between the predecessor eligible taxpayer and the successor taxpayer based on the number of days during the taxable year that each taxpayer acted as the legal employer of individuals filling new jobs for which the credit allowed under this article is based and the number of days during the taxable year that each taxpayer owned the new value-added aluminum or polymer product manufacturing facility located in this state, or the new value-added aluminum or polymer product line of an existing manufacturing facility located in this state.

(c) Stock purchases. -- When a corporation which is an eligible taxpayer entitled to the credit allowed under this article is purchased through a stock purchase by a new owner, and the corporation remains a legal entity so as to retain its corporate identity, the entitlement of that corporation to the credit allowed under this article will not be affected by the ownership change.

(d) Mergers. --

(1) When a corporation or other entity which is an eligible taxpayer entitled to the credit allowed under this article is merged with another corporation or entity, the surviving corporation or entity, shall be entitled to the credit to which the predecessor eligible taxpayer was originally entitled only if the surviving corporation or entity, otherwise complies with the provisions of this article.

(2) The amount of credit available in any taxable year during which a merger occurs shall be apportioned between the predecessor eligible taxpayer and the successor eligible taxpayer based on the number of days during the taxable year that each taxpayer acted as the legal employer of employees holding the new jobs upon which the credit allowed under this article is based and the number of days during the taxable year that each owned the transferred business assets: Provided, That when the taxable year of the predecessor eligible taxpayer and the taxable year of the successor eligible taxpayer are different, the apportionment shall

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be made in accordance with legislative rules prescribed by the Tax Commissioner.

(e) No provision of this section or of this article shall be construed to allow sales or other transfers of the tax credit allowed under this article. The credit allowed under this article may be transferred only in circumstances where there is a valid successorship as described under this section.

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