WEST VIRGINIA CODE: §11-13Q-22

§11-13Q-22. Credit available for taxpayers which do not satisfy the new jobs percentage requirement.

(a) Notwithstanding any provision of this article to the contrary, a taxpayer engaged in one or more of the industries or business activities specified in §11-13Q-19 of this code which does not satisfy the new jobs percentage requirement prescribed in §11-13Q-9(c) of this code but which otherwise fulfills the requirements prescribed in this article, is permitted to claim a credit against the taxes specified in §11-13Q-7 of this code in the order so specified that are attributable to and the consequence of the taxpayer's business operations in this state which result in the creation of net new jobs. Credit under this section is allowed in the amount of $3,000 per year, per new job created and filled by a new employee, as those terms are defined in §11-13Q-3 of this code for a period of five consecutive years beginning in the tax year when the new employee is first hired. In no case may the number of new employees determined for purposes of this section exceed the total net increase in the taxpayer's employment in this state. Credit allowed under this section shall be allowed beginning in the tax year when the new employee is first hired: *Provided*, That each new job:

(1) Pays at least $32,000 annually. Beginning January 1, 2010, and on January 1 of each year thereafter, the commissioner shall prescribe an amount that shall apply in lieu of the $32,000 amount during that calendar year. This amount is prescribed by increasing the $32,000 figure by the cost-of-living adjustment for that calendar year;

(2) Provides health insurance and may offer benefits including child care, retirement or other benefits; and

(3) Is a full-time, permanent position, as those terms are defined in section three of this article.

(b) Jobs that pay less than $32,000 annually, or less than the amount prescribed by the commissioner pursuant to subdivision (1) of subsection (a) of this section, whichever is higher, or that pay that salary but do not also provide benefits in addition to the salary do not qualify for the credit authorized by this section. Jobs that are less than full-time, permanent positions do not qualify for the credit authorized by this section.

The employer having obtained entitlement to the credit shall not be required to raise wages of employees currently employed in jobs upon which the initial credit was based by reason of the cost-of-living adjustment.

(c) For purposes of this section, the following definitions apply:

(1) Cost-of-living adjustment. — For purposes of subsection (a) of this section, the cost-of-living adjustment for any calendar year is the percentage (if any) by which the consumer

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price index for the preceding calendar year exceeds the consumer price index for the calendar year 2009.

(2) Consumer price index for any calendar year. — For purposes of subdivision (1) subsection (a) of this section, the consumer price index for any calendar year is the average of the federal consumer price index as of the close of the twelve-month period ending on August 31 of that calendar year.

(3) Consumer price index. — For purposes of subdivision (2) of this subsection, the term "federal consumer price index" means the most recent consumer price index for all urban consumers published by the United States Department of Labor.

(4) Rounding. — If any increase under subdivision (1) of this subsection is not a multiple of $50, the increase shall be rounded to the next lowest multiple of $50.

(d) Unused credit remaining in any tax year after application against the taxes specified in section seven of this article is forfeited and does not carry forward to any succeeding tax year and does not carry back to a prior tax year.

(e) The tax credit authorized by this section may be taken in addition to any credits allowable under §11-13C-1 *et seq.*, §11-13D-1 *et seq.*, §11-13E-1 *et seq.*, §11-13F-1 *et seq.*, §11-13G-1 *et seq.*, §11-13J-1 *et seq.*, §11-13R-1 *et seq.*, or §11-13S-1 *et seq.* of this code. However, any taxpayer that is taking, or that has taken, any credit against tax authorized under this article may not take the credit authorized under any other provision of this code for the same qualified investment on which credit allowed by this article was taken.

(f) Reduction in number of employees credit forfeiture. — If, during the year when a new job was created for which credit was granted under this section or during any of the next succeeding four tax years thereafter, net jobs that are attributable to and the consequence of the taxpayer's business operations in this state decrease, counting both new jobs for which credit was granted under this section and preexisting jobs, then the total amount of credit to which the taxpayer is entitled under this section shall be decreased and forfeited in the amount of $3,000 for each net job loss.

(g) Amendments to this section enacted during the 2021 regular session of the Legislature shall be effective for tax years beginning on or after January 1, 2022.

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