WEST VIRGINIA CODE: §11-13U-4

§11-13U-4. High-growth business investment tax credit.

(a) Credit allowed. -- There shall be allowed to each eligible taxpayer in a qualified research and development company that maintains its corporate headquarters in West Virginia a tax credit for the taxable year in which the investment was made. The total tax credit that may be used by an eligible taxpayer shall be equal to fifty percent of the total value of the qualified investment in the taxable year the qualified investment was actually made.

(b) No more than $1 million of the tax credits allowed under subsection (a) of this section shall be allocated by the economic development authority during any fiscal year. The economic development authority shall allocate the tax credits in the order the applications therefor are received.

(c) Business franchise tax. –- The tax credit is first applied to reduce the taxes imposed upon the eligible taxpayer by article twenty-three of this chapter for the taxable year (determined after application of the credits against tax provided in section seventeen of said article, but before application of any other allowable credits against tax).

(d) Corporation net income taxes. -- After application of subsection (c) of this section, any unused tax credit is next applied to reduce the taxes imposed upon the eligible taxpayer by article twenty-four of this chapter for the taxable year (determined before application of allowable credits against tax).

(e) If the eligible taxpayer is a limited liability company, an electing small business corporation (as defined in section 1361 of the United States Internal Revenue Code of 1986, as amended), or a partnership, any unused tax credit remaining after application of subsections (c) and (d) of this section is allowed as a tax credit against the taxes imposed by article twenty-four of this chapter on owners of the eligible taxpayer.

(1) Electing small business corporations (as defined above in subsection (e)), limited liability companies, and partnerships shall allocate the tax credit allowed by this article among their members in the same manner as profits and losses are allocated for the taxable year.

(2) No tax credit is allowed under this article against any withholding tax imposed by, or payable under, article twenty-one of this chapter.

(f) Personal income tax taxes. -- After application of subsections (c), (d) and (e) of this section, any unused tax credit is next applied to reduce the taxes imposed by article twenty-one of this chapter for the taxable year (determined before application of allowable credits against tax) of the eligible taxpayer.

(g) If the eligible taxpayer is a limited liability company, an electing small business

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corporation (as defined in subsection (e) of this section) or a partnership, any unused tax credit remaining after application of subsections (c), (d), (e) and (f) of this section is allowed as a tax credit against the taxes imposed by article twenty-one of this chapter on owners of the eligible taxpayer.

(1) Electing small business corporations (as defined in subsection (e) of this section), limited liability companies, and partnerships shall allocate the tax credit allowed by this article among their members in the same manner as profits and losses are allocated for the taxable year.

(2) No tax credit is allowed under this article against any withholding tax imposed by, or payable under, article twenty-one of this chapter.

(h) The total amount of tax credit that may be used in any taxable year by any eligible taxpayer in combination with the owners of the eligible taxpayer under subsections (e) and (g) of this section may not exceed $50,000. The total amount of qualified investment that a qualified research and development company may accept from all eligible taxpayers in any taxable year is $1 million.

(i) Unused credit carry forward. -- If the tax credit allowed under this article in any taxable year exceeds the sum of the taxes enumerated in subsections (c), (d), (e), (f) and (g) of this section for that taxable year, the eligible taxpayer and owners of eligible taxpayers described in subsections (e) and (g) of this section may apply the excess as a tax credit against those taxes, in the order and manner stated in this section, for succeeding taxable years until the earlier of the following:

(1) The full amount of the excess tax credit is used; or

(2) The expiration of the fourth taxable year after the taxable year in which the investment was made. The tax credit remaining thereafter is forfeited.

(j) No tax credit is allowed or may be applied under this article until the taxpayer seeking to claim the tax credit has:

(1) Filed with the economic development authority a written application for the tax credit;

(2) Filed with the economic development authority the research and development program or project certification issued pursuant to section six, article thirteen-r of this chapter for the qualified research and development company that will benefit from the investment;

(3) Filed with the economic development authority the certificate of incorporation for the qualified research and development company that will benefit from the investment; and

(4) Received from the economic development authority certification of the amount of tax credit to be allocated to the eligible taxpayer.

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