WEST VIRGINIA CODE: §11-21-25

§11-21-25. Nonrefundable credit for matching contribution to employee's Jumpstart Savings Account.

(a) A nonrefundable credit against the tax imposed by the provisions of this article is allowed against the tax liability imposed under this article of a qualified employer, for a matching contribution made to a Jumpstart Savings Account in the taxable year, if the account owner is an employee of the taxpayer and a West Virginia resident, subject to the requirements of §18-30A-1 *et seq*. of this code and the following:

(1) The employer must directly contribute an amount to a Jumpstart Savings Account that is equal to a contribution made by the employee to such account in the same taxable year.

(2) The credit allowed by this section may not exceed $5,000 per employee per taxable year.

(3) The amount of the credit may not exceed the portion of the contribution that is attributable to the employer and that would otherwise be derived by the employer as income from his or her business for the taxable year.

(4) The employer may not claim the credit if the employer himself or herself is the account owner or beneficiary of the account to which the matching contribution was made.

(5) The employer may not claim a credit against more than one type of tax for a single contribution to a Jumpstart Savings Account.

(6) The employer may not claim both the credit and a decreasing modification authorized by §11-21-12m of this code for an amount contributed to an employee's account.

(b) In order to qualify for the credit provided by this section, an employer must submit any forms or other information, as required by the West Virginia Jumpstart Savings Board or the State Treasurer, and the Tax Commissioner, upon making the contribution.

(c) Conduit Entities and Proprietorships Personal Income Taxes. —

(1) If the employer directly contributing an amount to a Jumpstart Savings Account is an electing small business corporation (as defined in Section 1361 of the United States Internal Revenue Code of 1986, as amended), a partnership, a limited liability company that is treated as a partnership for federal income tax purposes, the credit authorized pursuant to this section is allowed as a credit against the taxes imposed by this article on the flow through income of S corporation shareholders, partners, owners, and limited liability company members derived from such electing small business corporation, partnership, or limited liability company attributable to business or other activity.

(2) If the employer directly contributing an amount to a Jumpstart Savings Account is a sole

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proprietor, the credit authorized pursuant to this section is allowed as a credit against the taxes imposed by this article on the income of the sole proprietor attributable to the business.

(3) Electing small business corporations, limited liability companies, partnerships, and other unincorporated organizations shall allocate the credit allowed by this article among its partners, owners, shareholders, or members in the same manner as profits and losses are allocated for the taxable year.

(4) No credit is allowed under this section against any employer withholding taxes imposed by this article.

(5) The credit allowed under this section must be used in the tax year in which the contribution is made. The credit may not be carried back to a prior tax year nor carried forward to a subsequent tax year. Any unused amount of the credit is forfeited.

(d) The amendments to this section adopted during the regular session of the Legislature, 2023, are effective January 1, 2023.

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