

WEST VIRGINIA CODE: §11-21-8h

§11-21-8h. Distribution, sale, transfer or assignment of qualified rehabilitated building investment tax credit.

(a) Any person eligible for credit under section eight-a or eight-g of this article may transfer, sell or assign any unused credits. Any person that transfers, sells or assigns any unused portion of a tax credit shall obtain a certificate of approval from the Division of Culture and History to transfer, sell or assign the stated amount of unused tax credit. The Division of Culture and History shall, by the last day of January each year provide in an electronic medium acceptable to the Tax Commissioner, a report listing the name of the transferor, the transferor's tax identification number, the name of the transferee, the transferee's tax identification number, the amount of credit transferred, sold or assigned and the date of the transfer, sale or assignment for each transfer, sale or assignment approved by the Division of Culture and History during the preceding calendar year.

(b) Credits granted to or acquired by a pass-through entity created or recognized under West Virginia law, or by multiple owners of property, if not transferred, sold or assigned, may be divided among the partners, members, shareholders or owners either according to the distributive shares of income of the entity or pursuant to an executed agreement among the partners, members, shareholders or owners if the agreement documents an alternate method of distribution, as provided in section eight-e of this article.

(c) Any transferee, purchaser or assignee of tax credits under this section may use the acquired credits to offset the tax imposed by this article or article twenty-four of this chapter upon the transferee, purchaser or assignee. To claim the tax credit, the transferee, purchaser or assignee shall attach the certificate obtained by the transferor, seller or assignor in accordance with subsection (a) of this section to the tax return against which the credit is claimed when the tax return is filed with the Tax Commissioner.

(d) If the credit allowed under this section exceeds the transferee's, purchaser's or assignee's tax due for the current tax year, the transferee, purchaser or assignee of the tax credit may carry forward the excess in accordance with section eight-e of this article, or section twenty-three-e, article twenty-four of this chapter when the transferee, purchaser or assignee is subject to the tax imposed by that article.

(e) The Tax Commissioner may promulgate procedural rules in accordance with article three, chapter twenty-nine-a of this code, necessary to provide procedures for the distribution, transfer, or assignment and the claiming of the credit allowed by sections eight-a and eight-g of this article.