

# WEST VIRGINIA CODE: §11-6D-9

## **§11-6D-9. Carryover credit allowed; recapture of credit.**

(a) If the alternative-fuel motor vehicle tax credit allowed under this article in the first taxable year in which the tax credit is allowable to offset tax exceeds the taxpayer's tax liability as determined in accordance with article twenty-one, article twenty-three and article twenty-four of this chapter for that taxable year, the excess may be applied for not more than the four next succeeding taxable years until the excess tax credit is used or the end of the fourth next succeeding taxable year, whichever occurs first. Any excess credit remaining at the end of the fourth next succeeding taxable year shall be forfeited.

(b) If the qualified alternative-fuel vehicle refueling infrastructure tax credit allowed under this article in any taxable year exceeds the taxpayer's tax liability as determined in accordance with article twenty-one, article twenty-three or article twenty-four of this chapter for that taxable year, the excess may be applied for succeeding taxable years until the full amount of the excess tax credit is used.

(c) No carryback to a prior taxable year is allowed for the amount of any unused credit in any taxable year.

(d) A tax credit is subject to recapture, elimination or reduction if it is determined by the State Tax Commissioner that a taxpayer was not entitled to the credit, in whole or in part, in the tax year in which it was claimed by the taxpayer. The amount of credit that flows through to equity owners of a pass-through entity may be recaptured or recovered from either the taxpayer or the equity owners in the discretion of the Tax Commissioner.

(e) The tax credit allowed under this article may not be sold, transferred or assigned to any person or entity. The tax credit allowed under this article does not attach to or follow the qualified motor vehicle or qualified infrastructure upon sale, resale, transfer, assignment or any other change of ownership of such vehicle or infrastructure. Credit shall not be available to any successor owner of any qualified motor vehicle or any qualified infrastructure property for which the credit was available to the original owner or predecessor owner.