WEST VIRGINIA CODE CHAPTER 11 ARTICLE 6H

WV Legislature

§11-6H-1. Short title.

This article shall be known and cited as the Special Aircraft Property Valuation Act.

WV Legislature

§11-6H-2. Definitions.

(a) When used in this article, terms defined in subsection (b) of this section have the meanings ascribed to them by this section, unless a different meaning is clearly required by the context in which the term is used.

(b) Terms defined. —

(1) "Aircraft" means a weight-carrying structure for navigation of the air that is supported by the dynamic action of the air against its surfaces and includes, but is not limited to, an airplane or helicopter. For the purposes of this article, the term "aircraft" does not include dirigibles, balloons, kites, rockets, gliders, ornithopters, fan wing vehicles, autogyros and powered lift vehicles other than helicopters.

(2) "Airplane" means a fixed-wing aircraft heavier than air that is driven by a propeller or by jet, turbojet, turbofan, ram jet, pulse jet, scramjet or rocket engine and supported by the dynamic reaction of air against its wings.

(3) "Commercial airline" means an air transportation system used to transport people and tangible personal property for profit and includes carriers that operate with fixed routes and flight schedules as well as charter carriers.

(4) "Helicopter" means an aircraft whose support in the air is derived chiefly from the aerodynamic forces acting on one or more rotors turning about on substantially vertical axes.

(5) "Private carrier" means any firm, partnership, joint venture, joint stock company, any public or private corporation, cooperative, trust, business trust or any other group or combination acting as a unit that is engaged in a primary business other than commercial air transportation that operates an aircraft for the transportation of employees or others for business purposes.

(6) "Salvage value" means the lower of fair market salvage value or five percent of the original cost of the property.

(7) "Special aircraft property" means all aircraft owned or leased by commercial airlines or private carriers, or any parts, materials or items used in the construction, maintenance or repair of aircraft which are, or are intended to become, affixed to or a part of an aircraft or of an aircraft's engine or of any other component of an aircraft, used as such, by a repair station as defined under Part 145 of Title 14 of the United States Code of Federal Regulations, or any succeeding regulations issued by the Federal Aviation Administration or any successor agency.

WV Legislature

§11-6H-3. Valuation of special aircraft property.

Notwithstanding any other provision of this code to the contrary, the value of special aircraft property, for the purpose of ad valorem property taxation under this chapter and under article X of the Constitution of the State of West Virginia, shall be its salvage value.

WV Legislature

§11-6H-4. Initial determination by county assessor.

The assessor of the county in which a specific item of property is located shall determine, in writing, whether that specific item of property is special aircraft property subject to valuation in accordance with this article. Upon making a determination that a taxpayer has special aircraft property, the county assessor shall notify the Tax Commissioner of that determination and shall provide information as the Tax Commissioner requires relating to that determination.

WV Legislature

§11-6H-5. Protest and appeal.

At any time after the property is returned for taxation, but prior to January 1, of the assessment year, any taxpayer may apply to the county assessor for information regarding the issue of whether any particular item or items of property constitute special aircraft property under this article which is subject to valuation in accordance with this article. If the taxpayer believes that some portion of the taxpayer's property is subject to the provisions of this article, the taxpayer may file objections in writing with the county assessor. The county assessor shall decide the matter by either sustaining the protest and making proper corrections or by stating, in writing if requested, the reasons for the county assessor's refusal. The county assessor may, and if the taxpayer requests, the county assessor shall, before January 1, of the assessment year, certify the question to the Tax Commissioner in a statement sworn to by both parties, or if the parties are unable to agree, in separate sworn statements. The sworn statement or statements shall contain a full description of the property and its uses and any other information the Tax Commissioner requires.

The Tax Commissioner shall, as soon as possible upon receipt of the question, but in no case later than the twenty-eighth day of February of the assessment year, instruct the county assessor as to how the property shall be treated. The instructions issued and forwarded by mail to the county assessor are binding upon the county assessor, but either the county assessor or the taxpayer may apply to the circuit court of the county for review of the question of the applicability of this article to the property in the same fashion as is provided for appeals from the county commission in section twenty-five, article three of this chapter. The Tax Commissioner shall prescribe forms on which the questions under this section shall be certified and the Tax Commissioner has the authority to pursue any inquiry and procure any information which may be necessary for disposition of the matter.

WV Legislature

§11-6H-6. Report on economic benefit.

The West Virginia Aeronautics Commission shall provide to the Joint Committee on Government and Finance by March 1, 2012, and on March 1 of each of the two subsequent years, a report detailing the economic benefit of the valuation method specified in this article. The report is to include the number of new jobs created, number of additional aircraft relocated to West Virginia, number of new hangars built and the ad valorem property tax impact.

WV Legislature

§11-6H-7. Effective date.

This article shall be effective for assessment years commencing on and after July 1, 2009.

WV Legislature