

HB 4530

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LEGISLATIVE SERVICES DIVISION

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



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Com. Sub. for
HOUSE BILL No. 4530

(By Delegates KISS, BURKE, J. MARTIN,)
MEZZATESTA, MICHAEL, ASHLEY AND CLEMENTS



Passed MARCH 9 1996

In Effect July 1, 1996 ~~Passage~~

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COMMITTEE SUBSTITUTE

FOR

H. B. 4530

(BY DELEGATES KISS, BURKE, J. MARTIN,
MEZZATESTA, MICHAEL, ASHLEY AND CLEMENTS)

[Passed March 9, 1996; in effect July 1, 1996.]

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirteen-j; to amend article twenty-three of said chapter by adding thereto a new section, designated section twenty-four-a; and to amend article twenty-four of said chapter by adding thereto a new section, designated section twenty-two-a, all relating generally to agricultural products; relating to income tax credits for purchases of qualified agricultural equipment; defining terms; setting forth the amount of credit; providing for legislative rules; setting forth an effective date; providing credits against business franchise tax and corporate net income tax on value added products; and authorizing promulgation of rules.

Be it enacted by the Legislature of West Virginia:

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article thirteen-j; that article twenty-three of said chapter be amended by adding thereto a new section, designated section twenty-four-a; and that article twenty-four of said chapter be amended by adding thereto

a new section, designated section twenty-two-a, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 13J. TAX CREDIT FOR AGRICULTURAL EQUIPMENT.

§11-13J-1. Findings and purpose.

1 The Legislature finds that it is an important public
2 policy to promote environmentally sound practices within
3 the agricultural industry in this state. Therefore, a credit
4 against the taxes imposed by articles twenty-one and
5 twenty-four of this chapter shall be allowed in an amount
6 equaling twenty-five percent of all expenditures for the
7 purchase and installation of agricultural equipment and
8 structures for agricultural operations within this state
9 which serve to protect the environment.

§11-13J-2. Definitions.

1 As used in this section the following terms shall have
2 the meanings ascribed in this section:

3 (a) "Advanced technology pesticide and fertilizer
4 application equipment" means machinery certified by the
5 West Virginia division of environmental protection as
6 providing precise pesticide and fertilizer application. The
7 agriculture commission and the West Virginia division of
8 environmental protection shall provide technical assistance
9 to the tax commissioner to determine appropriate
10 specifications for machinery which would provide for
11 more precise pesticide and fertilizer application to reduce
12 the potential for adverse environmental impacts for
13 purposes of application of the credit provided by this
14 article. The machinery shall include, but not be limited to:
15 (1) Sprayers for pesticides and liquid fertilizers; (2)
16 pneumatic fertilizer applicators; (3) monitors, computer
17 regulators, and heights adjustable booms for sprayers and
18 liquid fertilizer applicators; (4) manure applicators; and
19 (5) tramline adapters.

20 (b) "Conservation tillage equipment" means a planter
21 or drill commonly known as a "no-till" planter or drill,

22 designed to minimize disturbance of the soil in planting
23 crops, including such planters or drills which may be
24 attached to equipment already owned by the taxpayer.

25 (c) "Dead poultry composting facility" is a structure
26 consisting of a roof, an impervious weight bearing
27 foundation, such as concrete and rot resistant building
28 materials such as pressure treated lumber or similar
29 material, which structure is used to biologically treat
30 poultry carcasses by composting.

31 (d) "Mortality incinerator" means a structure certified
32 by the air pollution control commission which is used for
33 the purpose of burning animal carcasses.

34 (e) "Nutrient management system" means an
35 established procedure for managing the amount, form,
36 placement, and timing of applications of plant nutrients.

37 (f) "Qualified agricultural equipment" means
38 advanced technology pesticide and fertilizer application
39 equipment, conservation tillage equipment, dead poultry
40 composting facilities, nutrient management systems,
41 streambank and shoreline protection systems, stream
42 channel stabilization systems, stream crossing or access
43 plans, waste management systems, waste storage facilities,
44 and waste treatment lagoons located on or at agricultural
45 operations in this state and certified by the tax
46 commissioner in accordance with section five of this
47 article.

48 (g) "Streambank and shoreline protection system"
49 means the consistent use of vegetation or structures to
50 stabilize and protect banks of streams, lakes, estuaries, or
51 excavated channels in order to stabilize or protect banks
52 of streams, lakes, estuaries, or excavated channels for one
53 or more of the following purposes: (1) To prevent the
54 loss of land or damage to utilities, roads, buildings, or
55 other facilities adjacent to the banks; (2) To maintain the
56 capacity of the channel; (3) To control channel meander
57 that would adversely affect downstream facilities; (4) To
58 reduce sediment loads causing downstream damages and
59 pollution; (5) To improve the stream for recreation or as
60 a habitat for fish and wildlife.

61 (h) "Stream channel stabilization system" means an
62 established structure for the stabilization of the channel of
63 a stream.

64 (i) "Stream crossing or access plan" means the
65 maintenance of a stabilized area to provide for crossing of
66 a stream by livestock and farm machinery, or to provide
67 access to the stream for livestock water.

68 (j) "Waste management system" means a planned
69 system in which all necessary components are installed for
70 managing liquid and solid waste, including runoff from
71 concentrated waste areas at an agricultural operation, in a
72 manner that does not degrade air, soil, or water resources.

73 (k) "Waste storage facility" means a waste
74 impoundment made by constructing an embankment
75 and/or excavating a pit or dugout, or by fabricating a
76 facility for the storage of waste from livestock or poultry.

77 (l) "Waste treatment lagoon" means an impoundment
78 made by excavation or earthfill for biological treatment of
79 animal or other agricultural waste.

§11-13J-3. Amount of credit.

1 (a) There shall be allowed to eligible taxpayers who
2 have made investments in qualified agricultural equipment
3 in this state, a credit against taxes imposed by articles
4 twenty-one and twenty-four of this chapter in the amount
5 set forth in subsection (b) of this section.

6 (b) The amount of credit shall be equal to
7 twenty-five percent of the purchase price of qualified
8 agricultural equipment, but not to exceed two thousand
9 five hundred dollars for purchases during a taxable year
10 or the total amount of tax imposed by articles twenty-one
11 or twenty-four of this chapter, whichever is less, in the year
12 of purchase of qualified agricultural equipment. If the
13 amount of the credit exceeds the taxpayer's tax liability
14 for the taxable year, the amount which exceeds the tax
15 liability may be carried over and applied as a credit
16 against the tax liability of the taxpayer pursuant to article
17 twenty-one or twenty-four of this chapter to each of the
18 next five taxable years unless sooner used.

§11-13J-4. Proration of credit.

1 For purposes of this section, the amount of any credit
2 attributable to the purchase of agricultural equipment by a
3 partnership or electing small business corporation (S
4 corporation) shall be allocated to the individual partners
5 or shareholders in proportion to their ownership or
6 interest in the partnership or S corporation.

§11-13J-5. Legislative rules.

1 On or before the thirty-first day of May, one
2 thousand nine hundred ninety-six, the tax commissioner
3 and the agricultural commissioner shall propose legislative
4 rules for promulgation in accordance with article three,
5 chapter twenty-nine-a of this code to determine the
6 equipment which shall be certified as qualified agricultural
7 equipment for purposes of application of the credit
8 provided for in this article not inconsistent with the
9 provisions of section two of this article. The tax
10 commissioner shall also propose legislative rules for
11 promulgation in accordance with article three, chapter
12 twenty-nine-a of this code regarding the administration of
13 the credit established pursuant to this article.

§11-13J-6. Effective date.

1 The credit shall be allowed for taxable years
2 beginning on or after the first day of July, one thousand
3 nine hundred ninety-seven.

ARTICLE 23. BUSINESS FRANCHISE TAX.

**§11-23-24a. Tax credit for value-added products from raw
agricultural products; regulations.**

1 (a) Effective for taxable years beginning the first day
2 of July, one thousand nine hundred ninety-seven,
3 notwithstanding any provisions of this code to the
4 contrary, any person, newly and solely engaged in the
5 production of value-added products from raw agricultural
6 products shall be allowed a credit, in the amount of one
7 thousand dollars for each taxable year against the tax
8 imposed by this article, for a period of five years from the
9 date the person becomes subject to this article. The credit
10 shall be allowed only against the tax imposed on that

11 capital which is attributable to the value-added production
12 activity in this state.

13 (b) For purposes of this section, "value-added
14 product" means the following products derived from
15 processing a raw agricultural product, whether for human
16 consumption or for other use. The following enterprises
17 qualify as processing raw agricultural products into
18 value-added products: (1) The conversion of lumber into
19 furniture, toys, collectibles and home furnishings; (2) the
20 conversion of fruit into wine; (3) the conversion of honey
21 into wine; (4) the conversion of wool into fabric; (5) the
22 conversion of raw hides into semifinished or finished
23 leather products; (6) the conversion of milk into cheese;
24 (7) the conversion of fruits or vegetables into a dried,
25 canned or frozen product; (8) the conversion of feeder
26 cattle into commonly acceptable marketable retail
27 portions; (9) the conversion of aquatic animals into a
28 dried, canned, cooked or frozen product; and (10) the
29 conversion of poultry into a dried, canned, cooked or
30 frozen product.

31 (c) The tax commissioner may propose rules for
32 promulgation in accordance with article three, chapter
33 twenty-nine-a as may be necessary to effectuate the
34 purposes of this section.

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-22a. Tax credit for value-added products from raw agricultural products; regulations.

1 (a) Effective for taxable years beginning the first day
2 of July, one thousand nine hundred ninety-seven,
3 notwithstanding any provisions of this code to the
4 contrary, any new corporation engaged solely in the
5 production of value-added products from raw agricultural
6 products shall be allowed a credit, in the amount of one
7 thousand dollars for each taxable year against the tax
8 imposed by this article, for a period of five years from the
9 date the person becomes subject to this article. The credit
10 shall be allowed only against the tax on taxable income
11 which is attributable to the production of value-added
12 products.

13 (b) Effective for taxable years beginning the first day
 14 of July, one thousand nine hundred ninety-seven, any new
 15 corporation engaged solely in the production of
 16 value-added products in West Virginia shall be allowed a
 17 tax credit, according to the schedule herein, for every one
 18 hour spent by a new permanent, full-time employee
 19 training to learn a skill specific to the production of
 20 value-added products as defined in article twenty-one,
 21 chapter thirty-one of this code. The tax credit shall be
 22 allowed for a maximum of sixty hours, per company, per
 23 year.

24 (c) For purposes of this section, tax credits for hours
 25 spent by a new permanent, full-time employee in training
 26 shall be allowed as follows:

27 (1) Corporations which employ up to five new
 28 employees shall be allowed a tax credit of two dollars for
 29 every one hour spent by a new employee in training as
 30 specified herein;

31 (2) Corporations which employ between six and
 32 twenty-five new employees shall be allowed a tax credit of
 33 one dollar and fifty cents for every one hour spent by a
 34 new employee in training as specified herein;

35 (3) Corporations which employ between twenty-six
 36 and seventy-five new employees shall be allowed a tax
 37 credit of one dollar and twenty-five cents for every one
 38 hour spent by a new employee in training as specified
 39 herein;

40 (4) Corporations which employ between seventy-six
 41 and one hundred and twenty-five new employees shall be
 42 allowed a tax credit of one dollar for every one hour spent
 43 by a new employee in training as specified herein; and

44 (5) Corporations which employ more than one
 45 hundred twenty-five new employees shall be allowed a tax
 46 credit of seventy-five cents for every one hour spent by a
 47 new employee in training as specified herein.

48 (d) For purposes of this section, "value-added
 49 product" means the following products derived from
 50 processing a raw agricultural product, whether for human

51 consumption or for other use. The following enterprises
52 qualify as processing raw agricultural products into
53 value-added products: (1) The conversion of lumber into
54 furniture, toys, collectibles and home furnishings; (2) the
55 conversion of fruit into wine; (3) the conversion of honey
56 into wine; (4) the conversion of wool into fabric; (5) the
57 conversion of raw hides into semifinished or finished
58 leather products; (6) the conversion of milk into cheese;
59 (7) the conversion of fruits or vegetables into a dried,
60 canned or frozen product; (8) the conversion of feeder
61 cattle into commonly acceptable marketable retail
62 portions; (9) the conversion of aquatic animals into a
63 dried, canned, cooked or frozen product; and (10) the
64 conversion of poultry into a dried, canned, cooked or
65 frozen product.

66 (e) The tax commissioner may propose rules for
67 promulgation in accordance with the provisions of article
68 three, chapter twenty-nine-a of this code as may be
69 necessary to effectuate the purposes of this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schoonover
Chairman Senate Committee

Rudy Leacrost
Chairman House Committee

Originating in the House.

Takes effect July 1, 1996.

Parrell Edwards
Clerk of the Senate

Gregory W. Day
Clerk of the House of Delegates

Carl Ray Tomblin
President of the Senate

Paul Calton
Speaker of the House of Delegates

The within is approved this the 18th
day of April, 1996.

Gaston Caperton
Governor

PRESENTED TO THE

GOVERNOR R

Date 4/1/96

Time 11:10 am