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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

HOUSE BILL No. 4007

(By Mr. Speaker, Mr. Kiss and Delegate Ashley)
[By Request of the Executive]



Passed March 4, 1998

In Effect From Passage

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COMMITTEE SUBSTITUTE

FOR

H. B. 4007

(BY MR. SPEAKER, MR. KISS, AND DELEGATE ASHLEY)

[By Request of the Executive]

[Passed March 4, 1998; in effect from passage.]

AN ACT to amend and reenact section four-a, article thirteen-c, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to allowance, determination, computation and application of West Virginia corporate headquarters relocation tax credit; expanding categories of businesses eligible for credits; specifying how new jobs are determined; allowing multiple year headquarter relocation projects; permitting use of alternative apportionment methods when applying credit; adding definitions; and specifying effective date.

Be it enacted by the Legislature of West Virginia:

That section four-a, article thirteen-c, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 13C. BUSINESS INVESTMENT AND JOBS EXPANSION
TAX CREDIT.**

**§11-13C-4a. Credit allowed for locating corporate head-
quarters in this state.**

1 (a) *Credit allowed.* — A corporation that presently
2 has its corporate headquarters located outside this state
3 that relocates its corporate headquarters in this state and
4 employs, on a full-time basis, at its new corporate
5 headquarters location, at least fifteen people, who are
6 domiciled in this state, shall be allowed credit under this
7 article, the amount of which shall be determined as
8 provided in subsection (b). For corporate headquarters
9 relocations occurring on and after the first day of January,
10 one thousand nine hundred ninety-eight, the restrictions
11 set forth in subsection (a), section fifteen of this article and
12 the exceptions thereto set forth in subsection (b) of said
13 section fifteen, shall remain fully applicable and in force
14 and effect for all other tax credits provided or allowable
15 under this article.

16 (b) *Determination of credit.* — The amount of credit
17 allowed by subsection (a) shall be determined at the
18 election of the taxpayer:

19 (1) By multiplying its adjusted qualified investment
20 by its new jobs percentage (as determined under section
21 seven of this article); or

22 (2) By multiplying its adjusted qualified investment
23 by ten percent.

24 (c) *Corporate headquarters relocations after*
25 *December 31, 1997.* For purposes of corporate
26 headquarters relocations occurring on or after the first day
27 of January, one thousand nine hundred ninety-eight, and
28 notwithstanding any other provision of this article to the
29 contrary:

30 (1) New jobs created in this state by relocation of a
31 corporate headquarters may include jobs created in this
32 state within twelve months before or after the month in
33 which the qualified investment in the corporate
34 headquarters relocation is placed into service or use in this
35 state by:

36 (A) Relocation or transfer of employees of the
37 corporation or employees of a related corporation or
38 related person from an out-of-state location to the

39 relocated corporate headquarters in this state, who: (i) Are
40 or become employees of the corporation within twelve
41 months before or after the month in which the qualified
42 investment in the corporate headquarters is placed into
43 service or use in this state; and (ii) whose regular place of
44 work is in the corporate headquarters, or

45 (B) New employees of the corporation whose regular
46 place of work is in the corporate headquarters.

47 (2) Multiple year projects certified under section
48 four-b of this article may be allowed for corporate
49 headquarters relocations under this section.

50 (d) *Application of credit.* — The credit allowed by
51 this section shall be applied in the manner prescribed in
52 section five of this article: *Provided*, That the amount of
53 corporation net income taxes against which the credit
54 allowed by this section may be applied shall be the sum of
55 the corporation net income tax due on adjusted federal
56 taxable income allocated to this state under section seven,
57 article twenty-four of this chapter, plus that portion of the
58 corporation net income tax due on adjusted federal
59 taxable income apportioned to this state under section
60 seven, article twenty-four of this chapter, that is further
61 apportioned to the qualified investment using the payroll
62 factor provided in paragraph (1), subsection (h) of said
63 section five or an alternative means of apportionment as
64 prescribed by the tax commissioner under said section
65 five. For all other purposes, the credit allowed by this
66 section shall be treated as credit allowed by section four of
67 this article.

68 (e) *Definitions.* — For purposes of this section:

69 (1) *Adjusted qualified investment.* — The term
70 "adjusted qualified investment" means the taxpayer's
71 qualified investment in the corporate headquarters as
72 determined under section six of this article and rules of
73 the tax commissioner, plus the cost of the reasonable and
74 necessary expenses it incurred to relocate its corporate
75 headquarters at a location in this state from its present
76 location outside this state.

77 (2) *Corporate headquarters.* — The term "corporate
78 headquarters" means the place at which the corporation
79 has its commercial domicile and from which the business
80 of the corporation is primarily conducted.

81 (3) *Reasonable and necessary expenses incurred to*
82 *relocate corporate headquarters.* — The phrase "reason-
83 able and necessary expenses incurred to relocate corporate
84 headquarters" means only those expenses incurred and
85 paid by the corporation, to unrelated third parties, to move
86 its corporate headquarters and its corporate headquarters
87 employees to this state that are, upon application by the
88 corporation, determined by the tax commissioner to have
89 been both reasonable and necessary to effectuate the
90 move.

91 (4) *The corporation.* — For purposes of this sec-
92 tion, the term "the corporation" means the corporation for
93 which the corporate headquarters is relocated.

94 (f) *Effective date.* — The credit allowed by this
95 section as amended in the year one thousand nine
96 hundred ninety-eight shall be allowable for corporate
97 headquarters placed in service or use on or after the first
98 day of January, one thousand nine hundred ninety-eight.

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

Paul Schoover
Chairman Senate Committee

Nick Fantuzzi
Chairman House Committee

Originating in the House.

Takes effect from passage.

Dorrell Robinson
Clerk of the Senate

Bryson W. Boy
Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

[Signature]
Speaker of the House of Delegates

The within *disapproved* this the *13th*
day of *March*, 1998.

[Signature]
Governor

PRESENTED TO THE

GOVERNOR

Date

3/11/98

Time

6:30 pm