WEST VIRGINIA SMALL BUSINESS INVESTMENT AND JOBS EXPANSION TAX CREDIT

INSTRUCTIONS AND FORMS

The following information, instructions and form are not a substitute for tax laws and regulations.

GENERAL INFORMATION

A Small Business Investment and Jobs Expansion Credit was enacted by the 1987 West Virginia Legislature as an extension to the Business Investment and Jobs Expansion Credit (Super Credit). The purpose of the Small Business Investment and Jobs Expansion Credit is to promote net employment growth within West Virginia. In return for net employment (e.g. new jobs) through capital investment, credit is claimed against a portion of certain taxes imposed by this State that are attributable to the qualified investment. The credit is available to an eligible small business taxpayer making a qualified investment in a new or expanded business facility in the State which resulted in the creation of new jobs. (The amount of the qualified investment is determined by the cost, or other basis, and the useful life of the property.)

LEGISLATIVE CHANGES

The Super Credit was expanded in 1986 to include certified projects and relocation of corporate headquarters to the State. In 1987, the Small Business Credit was added. Additional changes involving credit restrictions and new filing requirements were added in 1990.

In 1993 and 1994, the following major revisions were made to restrict the use of the credit:

- The credit may not be applied against the Consumers Sales and Service Tax and Use Tax for purchases made on or after July 1, 1993.
- There is a suspension of new credit entitlement for property placed into service or use after April 10, 1993. The suspension does not apply to manufacturing; information processing; warehousing; goods distribution; destination-oriented recreation and tourism; or to qualified investments for which credit applications were filed before April 10, 1993.
- New language in the law strengthened the Tax Commissioner's authority to use alternate procedures when the payroll fraction for determining tax attributable to qualified investment method does not fairly represent the tax liability directly attributable to the qualified investment.
- For tax years ending after May 31, 1993, all taxpayers claiming the Business Investments and Jobs Expansion Tax Credit (Super Credit) must now defer 20% of the value of their annual credit until the tenth, eleventh, and twelfth tax years subsequent to the year investment is placed in service or use.
- Certain taxpayers also may claim an additional amount of credit to "free-up" super credit value lost as a result of the increase in the minimum coal severance tax rate. This free-up credit may be used against Business Franchise, Corporation Net Income Tax and Personal Income Tax.
- Special recapture tax provisions may apply to taxpayers who place qualified investment property into service on or after March 12, 1994.

ELIGIBLE TAXPAYERS

Small business taxpayers which make qualified investment shall be allowed credit for the qualified investment placed in service or use over three hundred sixty-five (365) consecutive days without regard to when the end of the taxpayer's taxable year occurs. The determination of the number of new jobs created for the first taxable year and the determination of median compensation shall be made at the end of the three hundred sixty-five (365) day period. The annual gross receipts determination shall equal the highest annual gross revenues of the business (including domestic and foreign affiliates, if the investment was placed into service after 3/9/90) from among the past three tax years. If the business has been in business for less than three full tax years, then the annual gross receipts determination shall equal the total receipts for the period in business, divided by the number of weeks in business, and multiplied by 52. The annual payroll determination shall equal the payroll of employees of the business (including domestic and foreign affiliates, if the investment was placed into service after 3/9/90) during the preceding 12 months, divided by the number of weeks in business, and multiplied by 52. Such determinations shall be made for the next succeeding tax year and subsequent years based upon the taxpayer's actual tax year.

EXAMPLE:

A small business taxpayer commences business on August 1, 1998, and places its first item of property purchased or leased for business expansion into service or use on that date. The small business elects to file its federal and State income taxes and other taxes on a calendar year basis.

The small business taxpayer will be required to file its annual federal and State tax returns for its first tax year for the period from August 1, 1998 to December 31, 1998. However, the small business taxpayer's qualified investment upon which credit will be based will be the qualified investment attributable to property purchased or leased for business expansion placed in service or use by the small business taxpayer over the three hundred sixty- five (365) day period from August 1, 1998 to July 31, 1999, notwithstanding the fact that the taxpayer's tax year ended on December 31, 1998.

The determination of annual gross payroll and annual gross income shall be made at the end of the short tax year (ending December 31, 1998). The determination of median compensation and the determination of the number of new jobs in place attributable to qualified investment shall be made on July 31, 1999 based upon the preceding three hundred sixty-five (365) days, including July 31, 1998.

The amount of qualified investment actually in service or use in the short tax year shall be the qualified investment upon which credit for that year shall be based, i.e., property placed in service or use from August 1, 1998 to December 31, 1998. Total qualified investment in service or use as of July 31, 1999, shall be the amount of qualified investment upon which the 1999 and subsequent year's credit shall be based.

The current tax year of the taxpayer during which the three hundred sixty-five (365) day period ends (on July 31, 1999) is the tax year of January 1 to December 31, 1999.

The amount of credit allowable is determined by multiplying the amount of the taxpayer's **qualified investment** in "property purchased or leased for business expansion" by the taxpayer's new jobs percentage.

Small business project - A small business may apply to the Tax Commissioner under West Virginia Code § 11-13C-4b for project certification, if that project will create at least ten (10) new jobs. Only multiple year projects may be certified for small business tax credit. **Multiple party projects may not be certified for small business credit participants**. The small business credit is allowable for qualified investment property purchased or leased after June 30, 1987.

A taxpayer making qualified investment and operating with a multiple year certified project would use substantially the same procedure as a taxpayer entitled to credit for investment made over one (1) year except that qualified investment would be made over three (3) taxable years. The amount of qualified investment actually in service or use at the end of each tax year is the amount upon which credit for such tax year is determined.

The maximum allowable credit is determined by multiplying the **qualified investment** by the new jobs percentage.

QUALIFIED INVESTMENT

Qualified investment property is property constructed, purchased, leased or transferred into West Virginia and placed in service or use, as a component of a new or expanded business facility located in this State. The amount of the qualified investment is determined by the cost, or other basis, and the useful life of the property.

Critical elements in the determination of qualified investment property for purposes of this credit are how, and from whom, the property is acquired; the acquisition date; date and term of a lease; transfer date; date placed in service or use in this State; as well as the useful life of the property.

For the Business Investment and Jobs Expansion Credit, qualifying investment property acquired and placed in service or use in this State on or after March 1, 1985 may be counted toward the credit.

QUALIFIED INVESTMENT PROPERTY MAY INCLUDE:

1. Natural resources in place, purchased or leased on or after **July 1, 1987**, but prior to **March 10, 1990**, capable of sustained production for a period of ten (10) or more years.
2. Real property and improvements thereto, having a useful life of four (4) or more years, placed in service or use, in West Virginia, on or after **July 1, 1987**.
3. Real property and improvements thereto, or tangible personal property acquired by written lease with a primary term of ten (10) or more years, placed in service or use, in West Virginia, on or after **July 1, 1987.**
4. Depreciable or amortizable tangible personal property, placed in service or use in West Virginia, on or after **July 1, 1987**, with a useful life of four (4) or more years at the time the property is placed in service or use in this State.

5. Tangible personal property acquired by written lease having a primary term of four (4) or more years that was commenced and executed on or after **July 1, 1987.**
6. Tangible personal property owned or leased, used at a business location outside this State which is moved into this State on or after **July 1, 1987**. If owned, property must be depreciable or amortizable and have a useful life of four (4) or more years remaining at the time the property is placed in service or use in this State. If leased property, the primary term of the lease remaining at the time the property is placed in service or use in this State, must be four (4) or more years.

QUALIFIED INVESTMENT PROPERTY MAY NOT INCLUDE:

1. Property owned or leased, for which the Tax Credit for Industrial Expansion (former W.Va. Code § 11-13C-1 et seq., repealed April 13, 1985); Tax Credit for Industrial Expansion and Revitalization and for Research and Development Projects (W.Va. Code § 11-13D-1 et seq.) et al; Tax Credit for Coal Loading Facilities (W.Va. Code § 11-13E-1 et seq.); has been taken.
2. Repair costs, unless capitalized for federal income tax purposes.
3. Airplanes.
4. Property which is primarily used outside this State.
5. Property which is acquired incident to the purchase of the stock or assets of the seller. This restriction can be waived by the Tax Commissioner.
6. Natural resources in place purchased or leased prior to **March 10, 1990**, and not subject to a statutory transition rule or prior to **March 1, 1985,** or pursuant to an option acquired prior to **March 1, 1985** but exercised on or after **March 10, 1990**.
7. Property purchased or leased on or after **March 10, 1990**, the cost of which cannot be quantified when such property is placed in service.

   Generally, property acquired from a related taxpayer or by one component member of a controlled group from another member of the same group or property which has a carryover federal income tax basis in the hands of the purchaser will not qualify as investment property.

DATE PLACED IN SERVICE OR USE

Property is considered to be placed in service or use in the earlier of:

1. The taxable year in which, under the taxpayer's depreciation practice, the period for depreciation for such property begins.
2. The taxable year in which the property is placed in a condition or state of readiness and availability for a specifically assigned function.

REQUIRED RECORDS

A taxpayer claiming this tax credit must maintain records to establish, for each item of qualified property:

(1) Its identity.

(2) Its actual or reasonably determined cost.

(3) Its straight line depreciation.

(4) The month and taxable year in which it was placed in service.

(5) The amount of credit taken.

(6) The date it was disposed of or otherwise ceased to be qualified property.

Such records must be retained for a period of three (3) years after the last year for which the credit is claimed.

The tax credit computation schedule is designed to accommodate all or any part of these tax credits. Contained within the schedule and in the instructions for completing this schedule is more detailed information for completion of the Small Business Investment and Jobs Expansion Credit.

COST OR OTHER BASIS

1. The cost of purchased property may not include the value of property given in trade or exchange for the property purchased.
2. The cost of replacement property may not include any insurance proceeds received as compensation for property damaged or destroyed by fire, flood, storm or other casualty or stolen.

3. To qualify as investment property, natural resources in place must be purchased only during specific time periods or subject to a statutory transition rule, and must be capable of sustained production for a period of at least ten (10) years. The cost for purchased natural resources in place, that meet these qualifications, is 100% of the purchase price that is attributable to at least ten (10) years of production, but not more that twenty (20) years of production.
4. The cost of real property with a written primary lease term of ten (10) or more years is 100% of the rent reserved for the primary term of the lease, not to exceed twenty (20) years.
5. For leased natural resources in place which qualify, capable of ten or more years of sustained production, the cost is 100% of the rent reserved for the primary term of the lease, not to exceed twenty years, or royalties paid for ten years. Leases of natural resources must have a primary term of at least ten years.
6. The cost of tangible personal property with a written primary lease term of at least four (4) years but less than six (6) years is one third (1/3) of the rent reserved for the primary term of the lease.
7. For tangible personal property with a written primary lease term of at least six (6) years but less that eight (8) years, the cost is two thirds (2/3) of the rent reserved for the primary term of the lease.
8. For tangible personal property with a written lease term of eight (8) or more years, the cost is 100% of the rent reserved for the primary term of the lease, not to exceed twenty (20) years.

   The rent reserved may not include rent for any year subsequent to the expiration of the book life of the property, determined by use of the straight line method of depreciation.
9. For qualifying property purchased for multiple use, the cost must be pro-rated.
10. For self-constructed property, the cost is the amount properly charged to the capital account for depreciation in accordance with federal income tax law.
11. The cost of property transferred into this State is determined based on the remaining useful life of the property at the time it is placed in service or use in this State. The cost is the original cost of the property to the taxpayer less straight line depreciation allowable for tax years, or portions of tax years, the property was used outside West Virginia.

    For leased tangible personal property transferred into this State, the cost is based on the period remaining in the primary term of the lease after the property is brought into this State for use in a new or expanded business. The cost is the rent reserved for the remaining period of the primary lease term, not to exceed twenty (20) years or the remaining useful life, whichever is less.
12. For leased property placed into service on or after **March 10, 1990**, for which the cost is not quantifiable at the outset of the lease, only the quantifiable portion, if any, may be aggregated as a qualified investment.

JOBS CALCULATION

The new jobs percentage is based on the number of new jobs created in this State that are directly attributable to the qualified investment in a new or expanded business facility. The number of new jobs created by the investment is determined by the net increase in employment by the business (or controlled group of businesses) in West Virginia over a base year level. The base year is the 12 month period immediately preceding the placement of qualified investment into service or use. The hours of qualified part-time employees may be aggregated to determine the number of equivalent full-time employees for the purpose of ascertaining the number of new jobs created.

A **New Job** is one that did not exist in the business of the taxpayer in this State prior to the investment in the new or expanded business facility. This position must be filled by a new employee. The number of new jobs is the net of new jobs created less any jobs lost in any part or segment of the employer's business in West Virginia over the same time period.

If at least ten (10) new jobs are created and filled during the taxable year in which the qualified investment is placed in service or use, the applicable new jobs percentage shall be thirty percent (30%): Provided, That for each new job over ten (10), up to forty (40) such additional new jobs, the applicable new jobs percentage shall be increased by adding one half of one percent (.5%), with the maximum new jobs percentage not to exceed fifty percent (50%).

During each of the remaining nine (9) years of the ten (10) year credit period, the annual new jobs percentage shall be based on the average number of new jobs that were filled during that taxable year: Provided, That for purposes of estimating the new jobs percentage that will be applicable for each subsequent credit year, the taxpayer shall use the new jobs percentage allowable for the taxable year immediately prior thereto, and in the annual income tax return filed under West Virginia Code, Chapter § 11-13C-7a for the then current tax year, on the average number of new employees employed in new jobs during that year, (determined on a monthly basis) and calculated as a direct result of taxpayer's qualified investment.

For purposes of the small business tax credit, the taxpayer estimates the number of new jobs which will be in place for the first taxable year in which qualified investment is placed in service or use, and the taxpayer files monthly or quarterly tax returns and pays estimated tax for the estimated number of new jobs. At the end of the taxable year, the actual number of new jobs in place attributable to qualified investment is determined. The amount of tax paid in monthly and quarterly tax returns for years two (2) through ten (10) is then based upon estimated credit calculated using the prior year's actual new jobs number.

After the close of the taxable year for years two (2) through ten (10), annual returns are filed reconciling the estimated tax paid in the monthly and quarterly filings through the year and the actual amount of annual tax due based upon the actual new jobs percentage for the year determined at the end of the year.

The annual payroll, annual gross receipts and annual median compensation requirements applicable to any small business shall be determined when qualified investment is first placed in service or use. The median compensation requirement is subject to inflation adjustment during the ten (10) through thirteen (13) year credit period.

The following constraints apply for tax years 1987 thru 2001:

SMALL BUSINESS CREDIT CRITERIA

YEAR	ANNUAL PAYROLL		ANNUAL GROSS RECEIPTS	MEDIAN ANUUAL COMPENSATION
1987 -88	$1,500,000	or	$5,000,000	$11,000
1989	1,562,050	or	5,206,850	11,450
1990*	1,700,000	and	5,500,000	12,000
1991	1,716,300	and	5,721,050	12,550
1992	1,806,950	and	6,023,200	13,250
1993	1,862,200	and	6,207,350	13,650
1994	1,919,100	and	6,397,150	14,050
1995	1,969,150	and	6,563,800	14,400
1996	2,025,150	and	6,750,600	14,850
1997	2,081,100	and	6,937,000	15,250
1998	2,137,800	and	7,126,050	15,650
1999	2,174,050	and	7,246,950	15,900
2000	2,212,000	and	7,373,450	16,200
2001	2,280,800	and	7,602,650	16,700

***** Beginning with investments placed into service in 1990, the small business criteria must also apply to the taxpayer's controlled group.

Annual payroll - The annual payroll of a business shall include the employees of the business whether employed on a full-time, part-time, temporary, or other basis, during the preceding twelve (12) months. The payroll of the business shall be divided by the number of weeks, including fractions of a week that it has been in business, and the result multiplied by fifty-two (52).

Annual gross receipts - The annual gross receipts of a business which has been in business for three (3) or more complete fiscal years means the highest annual gross revenues of the business from among the last three (3) fiscal years. For purposes of this definition, the gross revenues of the business includes revenues from sales of tangible personal property and services, interest, rents, royalties, fees, commissions and receipts from any other sources, but less returns and allowances, sales of fixed assets, interaffiliated transactions between a business and its domestic and foreign affiliates, and taxes collected for remittance to a third party, as shown on its books for federal income tax purposes.

Median annual compensation - The median annual compensation shall be determined by arranging the annual compensation amount of each employee in a hierarchy ranking from lowest to highest and then selecting that element from the range of so arranged amounts (elements) which is the **middle number**, (i.e., that element which has an equal number of elements in the range of elements which rank above and below it).

In the case of a range having an even number of elements, the median is the average of the two (2) **middle numbers**, i.e., one half (1/2) of the sum of the highest ranked element of the lower half of the range and the lowest ranked element of the upper half of the range.

The compensation of an employee employed on a seasonal or temporary basis shall not be counted in the determination of the median salary.

For purposes of determining median compensation for part-time employees, the salaries of such employees shall be **annualized**.

The salary of a part-time employee is annualized by multiplying the hourly compensation of the part-time employee by the number of hours in the normal work year for full-time employees of the business.

The annualized compensation for each part-time employee is treated as an element in the range of numbers used to determine median annual compensation of the business.

EXAMPLE:

A part-time employee of a business works 27 hours per week, 50 weeks per year, and is not entitled to paid vacation. The normal work week of a full-time employee of the business is 40 hours per week, and full-time employees are paid for 52 weeks per year, including 2 weeks paid vacation. The part-time employee makes $6.00 per hour. The number of hours in a normal work year for full-time employees is:

40 Hours/Week x 52 Weeks Per Year = 2080 Hours/Year

Although the part-time employee works only 1350 hours per year for total annual gross compensation of $8,100, the annualized compensation of the part-time employee would be 2080 Hours/Year x $6.00 Per Hour = $12,480.

The figure to be used in the range of numbers determining median compensation is $12,480, and not $8,100. However, for purposes of finding annual gross payroll for the determination of whether a business has annual gross receipts and annual gross payroll in amounts which are less than the threshold amounts specified, the actual payroll, which would include only $8,100 for this employee, would be used.

The term **new employee** means a person residing and domiciled in this State, hired by the taxpayer to fill a position or a job in this State which previously did not exist in taxpayer's business enterprise in this State prior to the date on which the taxpayer's qualified investment is placed in service or use in this State. In no case shall the number of new employees directly attributable to such investment for purposes of this credit exceed the total net increase in the taxpayer's employment in this State.

A person shall be deemed to be a **new employee** only if such person's duties in connection with the operation of the business facility are on a regular, full-time and permanent basis.

Full-time employment means employment for at least one hundred forty hours per month at a wage not less than the prevailing state or federal minimum wage, depending on which minimum wage provision is applicable to the business.

Regular and part-time employment provides that such person is customarily performing their duties at least twenty hours per week for at least six months during the taxable year.

Permanent employment does not include employment that is temporary or seasonal and therefore the wages, salaries and other compensation paid to such temporary or seasonal employees will not be considered for purposes of the job creation criteria.

FORFEITURE AND REDETERMINATION

If, during any taxable year, property used as a qualified investment for this credit is disposed of prior to the end of its useful life, or ceases to be used in an eligible business of the taxpayer in this State prior to the end of its useful life, any unused portion of the credit attributable to that investment is forfeited for the taxable year and subsequent years.

The amount of credit allowed in all earlier years must be redetermined by reducing the percentage of cost of the property to the percentage applicable to the period of time the property was actually used in the new or expanded business facility. The redetermination is not required for the earlier years if the forfeiture occurs because the property is damaged or destroyed by fire, flood, storm or other casualty, or is stolen.

The forfeiture and redetermination provisions also apply if, during any taxable year, the taxpayer ceases operation of a business facility in this State, for which credit was allowed, before expiration of the useful life of the qualified investment property.

If the average number of employees employed in positions created because of and directly attributable to the qualified investment falls below the minimum number of new jobs created upon which the taxpayer's annual credit allowance is based, the taxpayer shall calculate what the annual credit allowance would have been had the new jobs percentage been determined based upon the average number of employees, for the then current taxable year, employed in positions created because of and directly attributable to the qualified investment. The difference between the result of this calculation and the taxpayer's annual credit allowance for the qualified investment shall be forfeited for the then current taxable year, and for each succeeding taxable year, unless the taxpayer's average employment in positions directly attributable to the qualified investment once again meets the level required to enable the taxpayer to utilize its full annual credit allowance for that taxable year.

In the event of forfeiture and redetermination, the taxpayer must file a reconciliation statement with the annual return for the year in which the forfeiture occurs and pay any additional taxes owed due to the reduction of the credit for the earlier year, plus interest and applicable penalties. For investments placed into service on or after March 12, 1994, a recapture tax may apply in lieu of the reconciliation procedure.

A mere change in the form of conducting business, as long as the property is retained in a business in this State and the taxpayer retains a controlling interest in the successor business will not activate the forfeiture and redetermination provisions.

If the business is transferred or sold to a successor business which continues to operate the business facility in this State, any available credit remaining is allocated to the successor for subsequent tax years and redetermination for earlier years is not required.

New Jobs percentage - The annual new jobs percentage is based on the number of new jobs created in this State by the taxpayer that is directly attributable to taxpayer's qualified investment.

INSTRUCTIONS

PART I SECTIONS 1 - 3

These sections should be completed for qualified investment placed in service or use in this taxable year, unless an election to defer the credit was made. If such election was made for the prior year, then these sections should be completed for qualified investment placed in service during that prior year.

If this is a certified multiple year project, then include qualified investment placed in service or use in the prior year, (if an election to defer credit was made for the previous year) along with current year qualified investment.

Leased property placed into service or use prior to **January 1, 1990** for which the cost is not quantifiable at outset should be reported in section 5 (see instructions below).

Make entries in each column as indicated on the credit schedule, as applicable.

SECTION 4

Enter the amount from Section 1, line (d), Column 3 on line (a) of Section 4; the amount from Section 2, line (d), Column 3 on line (b), of Section 4; the amount from Section 3, line (c), Column 3 on line (c), of Section 4.

Add the amounts on lines (a)(b) and (c) and enter the result on line (d). When claiming the Small Business Credit, divide the amount on line (d) by ten (10) and enter the result in Part III, Section 1, line 1.

SECTION 5

(Only applies to non-quantifiable leases of property first placed in service or use or leased prior to **March 10, 1990**).

The qualified investment property may include leased properties for which the cost is not quantifiable at the outset of the lease.

In this event, the cost of these properties must be determined annually and is the amount of royalties or payments actually paid to the owner of the properties during each taxable year for a total period of ten (10) years for realty, or for the primary term of a lease of tangible personal property for at least four (4) years up to ten (10) years, multiplied by the appropriate percentage determined according to the lease term and useful life of tangible personal property.

The amount of such cost each year, multiplied by the new jobs percentage, (determined at the time the leased properties are placed in service or use) divided by ten (10), establishes the allowable credit each year for ten (10) successive years, beginning with the year in which the payments were made.

Make entries in each column in Part I, Section 5 as indicated on the credit schedule, as applicable.

Enter the amount from line (d), Column 3 of Part I, Section 5 in Part III, Section 2, line 1.

PART II - SECTION 1

NEW JOBS

Line 1. Enter in Column 1, the total number of employees in West Virginia prior to the time the qualified investment in a new or expanded business facility was placed in service or use in this State. Enter in Column 2, the total dollar amount of the annual payroll of those employees.

Line 2. Enter in Column 1, the total number of employees in West Virginia this taxable year. Enter in Column 2, the total dollar amount of the annual payroll of those employees.

Line 3. Enter in Column 1, the average number of employees in West Virginia during this taxable year. (The average is attained by adding the number of employees in West Virginia at the beginning of the year to the number of employees in West Virginia at the end of the year and dividing the result by 2).

Line 4. Enter in Column 1, the number of new jobs in West Virginia directly attributable to the qualified investment in the new or expanded business facility in this State. Enter in Column 2, the total dollar amount of the annual payroll of those employees.

Line 5. Enter in Column 1, the number of jobs, filled both by West Virginia domiciled West Virginia residents and by nonresidents working in West Virginia, created during and subsequent to the new jobs redetermination period, which are directly attributable to the qualified investment.

Enter in Column 2, the total dollar amount of the payroll, during the taxable year, of these jobs directly attributable to the qualified investment.

SECTION 2

PAYROLL FACTOR COMPUTATION

Line 1. Enter the amount of compensation paid to employees hired as a result of the new investment.

Line 2. Enter the amount of compensation paid to all West Virginia employees.

Line 3. Divide line 1 by line 2 and round to six decimals. Enter result on Part IV, Column 2.

SECTION 3

AFFILIATED COMPANIES OR CONTROLLED GROUP

AFFILIATES

The term **affiliates** includes all concerns which are affiliates of each other when either directly or indirectly owned, the concern controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management and contractual relations.

CONCERN

The term **concern** means any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity), having a place of business located in this State, and which makes a contribution to the economy of this State through payment of taxes, or the sale or use in this State of tangible personal property, or the procurement or providing of services in this State, or the hiring of employees who work in this State.

CONTROLLED GROUP OF CORPORATIONS

For purposes of these regulations, the term **controlled group of corporations** means any group of corporations which is either a **parent-subsidiary controlled group**, a **brother -sister controlled group**, or a **combined group**.

Parent - subsidiary controlled group - One or more chains of corporations connected through stock ownership with a common parent corporation if stock possessing at least fifty percent (50%) of the combined voting power of all classes of stock.

Brother - sister controlled group - The term **brother - sister controlled group** means two or more corporations if the same five or fewer persons who are individuals, estates, or trusts own (directly or indirectly) singly or in combination, stock possessing at least fifty percent (50%) of the total combined voting power of all classes of stock.

Combined Group - The term **combined group** means any group of three or more corporations, if each corporation is a member of either a parent - subsidiary controlled group of corporations or a brother - sister controlled group of corporations, **and** at least one of such corporations is the common parent of a parent - subsidiary controlled group and also is a member of a brother - sister controlled group.

Section 3, enter the names of the affiliated companies or member of the controlled group along with the FEIN Number of each.

SECTION 4

ANNUAL PAYROLL

Line 1. Enter the payroll of all firms operating on a full-year basis during the preceding year.

Line 2a. Enter the total payroll of all firms operating on a partial year basis during preceding year.

Line 2b. Enter the amount of payroll in line 2-a divided by the number of weeks in operation including the fractions.

Line 2c. Enter the amount in line 2-b multiplied by 52 weeks.

Line 3. Enter the sum of lines 1 and 2-c.

SECTION 5

ANNUAL GROSS RECEIPTS

Line 1. Enter the gross receipts for each year the firm was in operation during the preceding three years.

(Complete line 2 (a-d) if firm was in operation for less than three (3) complete fiscal years).

Line 2 (a). Enter the total gross receipts for the entire period in operation.

Line 2 (b). Enter the number of weeks, including the fraction of a week, firm was in operation.

Line 2 (c). Line 2 (a) divided by line 2 (b).

Line 2 (d). Line 2 (c) multiplied by fifty two (52) weeks. (This is the derived **Annual Gross Receipts**).

SECTION 6

MEDIAN ANNUAL COMPENSATION

Arrange the annual compensation amount of each employee in a hierarchy ranking such amounts from lowest to highest, then select the middle number.

*Information as to required certification is included on the computation schedule immediately following Part II.

PART III - COMPUTATION OF CREDITS

SECTION I

COMPUTATION OF SMALL BUSINESS INVESTMENT AND JOBS EXPANSION TAX CREDIT (Quantifiable Investment)

Line 1. The amount of the qualified investment was determined in Part I. Enter the amount from Part 1, Section 4, line (d).

Line 2. For Small Business Investment and Jobs Credit, the new jobs percentage is based on the number of new jobs created in this State that are directly attributable to the qualified investment in a new or expanded business facility located in West Virginia.

The hours of part-time employees may be aggregated to determine the number of equivalent full time employees for the purpose of determining the applicable new jobs percentage, but not for the purpose of determining when a job is attributable to the qualified investment for use in the tax apportionment payroll fraction to be shown in Part IV of this schedule.

A job is attributable to the qualified investment if:

1. The employee's service is performed or his base of operations is at the new or expanded facility.
2. The position did not exist prior to the making of the investment in the new or expanded facility.
3. The position exists only because of the investment in the new or expanded facility.

The number of new jobs created by the investment is determined by the net increase in employment by the business in West Virginia. The hours of part-time employees may be aggregated to determine the number of equivalent full-time employees for the purpose of ascertaining the number of new jobs created.

The determination of the number of new jobs created by the investment is made **each** year beginning with the first year in which qualified investment is placed in service or use. A **small business** taxpayer is allowed a credit for a qualified investment in a new or expanded business facility in this State that results in the creation of at least ten (10) new jobs.

Enter on line 2 the applicable new jobs percentage.

Line 3. Multiply the amount on line 1 by the percentage on line 2. This is the total allowable credit.

Line 4. The allowable credit is taken over a ten (10) year period, one-tenth each taxable year. The credit period begins with the taxable year in which the qualified investment is placed in service or use, in West Virginia, or with the next succeeding tax year. In either event, the taxable year percentage is ten percent (.10).

Line 5. Multiply the amount on line 3 by ten percent (.10). The result is the amount of credit for the taxable year.

SECTION 2

CALCULATION OF SMALL BUSINESS INVESTMENT AND JOBS EXPANSION TAX CREDIT (Nonquantifiable Investment)

If you have included, as part of your qualified investment, property for which the cost is not ascertainable at the time the property is placed in service or use, (Part 1, Section 5, line (d), Column (3)), this section must be completed each year for ten (10) successive years.

This section of the computation schedule, as well as Section 5 of Part I, must be completed each year, for ten (10) years, and attached to the annual tax return filed for each of the years.

The amount of credit computed annually in this section, plus the annual credit allowance computed on line 5 of Section 1, Part III, (if any), is the amount of credit available each year.

Line 1. The amount of the qualified investment on this type of property was determined in Part 1. Enter the amount from Part I, Section 5, line (d), Column (3).

Line 2. Read the information and instructions for Part III, Section 1, line 2. Enter the applicable percentage.

Line 3. Multiply the amount on line 1 by the percentage on line 2. This is the total allowable credit for qualifying investment made this year in property for which the cost is not quantifiable.

Line 4. The taxable year percentage is ten percent (.10).

Line 5. Multiply the amount on line 3 by the percentage on line 4. This is the credit allowable each year for ten successive years beginning with the year in which the royalties or payments were made.

Line 6. Beginning with the second year of the ten (10) year credit period, the amount of credit available is the sum of the annual credit as computed for the second year and the annual credit as computed for the first year. This process is followed in succeeding years until the total allowable credit computed separately for each of the ten (10) successive years is used or forfeited.

Enter on line 6, beginning with the second year, the cumulative amount of annual credit allowance for a prior year or years from nonquantifiable investment.

Line 7. Add the amounts on lines 5 and 6. This is the amount of credit available for this taxable year from nonquantifiable investment.

PART IV - TAX CREDIT COMPUTATION SCHEDULE

The credit may be applied to the taxes as listed and must be applied in the order shown.

Column 1. Enter your tax liability, if any, for each of the taxes listed, determined before application of any other allowable credits or exemptions. In the case of Business Franchise Tax, the tax liability is the amount remaining after deductions for any Subsidiary Credit, Business and Occupation Tax Credit and Bank Shares Tax Credit available to the taxpayer.

Column 2. Enter the payroll factor calculated in Part II, Section 2.

Column 3. Multiply the tax liability in column 1, for each of the taxes by the payroll factor in Column 2 (where applicable), and enter the result in Column 3. This is the amount of tax liability attributable to the qualified investment.

The credits may be used to offset eighty percent (80%) of the tax attributable to the qualified investment of the taxes listed.

The credits must be claimed against the taxes in the order shown.

Legislation enacted in early 1990 eliminated the application of the Business Investment and Jobs Expansion Credit against the West Virginia Severance Tax. As a result, line (b)(Severance Tax) should be skipped unless the qualified investment was placed into service or use prior to January 1, 1990 or the taxpayer qualified under one of the transition rules of W. Va. Code § 11-13C-14 and filed Form WV/BCS- SEV (Notice of Intent to Claim Credit Against Severance Tax) with the Department on or before July 2, 1990.

Column 4. Multiply the amounts in Column 3 by the percentages shown and enter the result in Column 4.

Column 5. Enter the amount of your annual credit allowance that you are applying to each of the taxes listed. The annual credit allowance is applied to the first of the listed taxes to which you are subject. If the annual credit allowance is used up, you may then use any rebate credit carried forward from prior years against tax subject to credit. If there is annual credit allowance or rebate credit carried forward from prior years remaining after that application, it is next applied to the second of the listed taxes. Follow this procedure for each of the taxes to which you are subject, carefully monitoring the application to see that the amount of the annual credit allowance used does not exceed the annual credit allowance available and/or rebate credit carried forward from prior years. Add the amounts in Column 5 and enter the result on line g, Column 5.

If the annual credit allowance and rebate credit carried forward from prior years is absorbed in the application to the various taxes, you will have no entries for Columns 6 and 7. If the annual allowance is absorbed you will not need to complete Part V.

If, after application to the various taxes, you have annual credit allowance or rebate credit carried forward from prior years remaining, the unused credit is applied as a rebate of: 80% of ad valorem property taxes on all property attributable to the qualified investment; 80% of unemployment compensation tax attributable to the compensation of new employees, filling the new jobs that are attributable to the qualified investment; and 20% of workers compensation premiums attributable to the compensation paid to new employees, filling the new jobs that are attributable to the qualified investment.

The rebate amount, or the remaining credit, whichever is less, may be applied to the remaining 20% of the various taxes attributable to the qualified investment.

Subtract the amount in Column 4, if any, for each of the taxes from the amount in Column 3 and enter the result in Column 6. This is the amount of taxes against which the rebate may be applied. Add the amounts in Column 6 and enter the result on line g, Column 6.

Column 7. **This column cannot be completed until Part V through Section 2, Line (g) is completed.** Enter the smaller of Part V, Section 2, Line (g) and Part IV, Column 6. (The total of the entries in column 7 cannot exceed the smaller of Part V, Section 2, Line (g) and Part IV, Column 6, Line g).

Column 8. Enter the sum of Column 5 and Column 7 for each of the applicable taxes.

The New Twenty Percent Annual Credit Deferral

For tax years ending after May 31, 1993, taxpayers claiming the Business Investment and Jobs Expansion Tax Credit (Super Credit) must now defer 20% of the value of the annual credit applications until the tenth, eleventh, and twelfth tax years subsequent to the year qualified investment is placed into service or use. The amount of credit deferment is determined after the calculations have been made for the Super Credits claimed in step one and step two. Twenty percent of the total of the credit claimed is to be carried forward annually until the eleventh year of the credit. Then, the deferred amount is drawn upon as a credit to be taken against the taxpayer's liability for business taxes in the same order as mandated for the taking of the Super Credits. The deferred credits may offset up to one hundred percent (100%) of the tax liability directly attributable to the qualified investment and new jobs only in the tenth, eleventh and twelfth subsequent tax years. Those with Severance Tax eligible credits must separate the deferrals of those credits from other credit deferrals.

Column 9. Enter 20% of Column 8. This amount is a reduction of the credit actually claimed, not of the credit available.

Column 10. Subtract Column 9 from Column 8 and enter the result. Enter the result of line g, Column 10 on Part VII, Section 1 (d) for the applicable year.

The New Additional Allowance for Minimum Coal Severance Taxpayers
("Free-Up" Credit) - W.Va. Code § 11-13C-5 (p)

Beginning June 1, 1993, the Minimum Coal Severance Tax rate increases from 50 cents per ton to 75 cents per ton. To lessen the impact on taxpayers affected by the increased minimum tax on coal, these taxpayers may possibly be able to free-up a portion of the credit previously calculated. The value of this free-up credit is equal to the lesser of (a) one-third of the taxpayer's minimum severance tax on coal (i.e. the minimum tax imposed at a rate of 75 cents) or (b) the amount of the taxpayer's net minimum severance tax on coal. The net minimum severance tax on coal is the amount of the State Severance Tax on coal severed and extracted by the taxpayer after application of available Super Credits and the annual $500 exemption.

Free-up credit may be used against Business Franchise Tax, Corporation Net Income Tax and Personal Income Tax.

Column 11. Subtract Column 10 from Column 3. This free-up credit may be used against Business Franchise Tax, Corporation Net Income Tax, and Personal Income Tax.

Column 12. Enter the amount from Part VI, line 9 applicable to Business Franchise Tax, Corporation Net Income Tax and Personal Income Tax liabilities.

Column 13. Enter the sum of the entries in Column 10 and Column 12 for each of the listed taxes in the amount to be claimed as credit on the appropriate annual returns filed.

Part V - REBATE

Section 1 Determination of Maximum Rebate Allowable

Line a, Column 1. Enter the total amount of ad valorem property taxes imposed and paid pursuant to West Virginia Code § 11-8, for the taxable year.

Line a, Column 2. Enter the amount of such property taxes imposed and paid that are directly attributable to the qualified investment in a new or expanded business facility, for the taxable year. Multiply the amount in Column 2, line a by the percentage shown in Column 3, line a and enter the result in Column 4, line a.

Line b, Column 1. Enter the total amount of Unemployment Compensation Tax imposed and paid under West Virginia Code § 21A-5, for the taxable year.

Line b, Column 2. Enter the amount of such tax imposed and paid that is directly attributable to the compensation of new employees filling the new jobs that are attributable to the qualified investment. Multiply the amount in Column 2, line b by the percentage shown in Column 3, line b and enter the result in Column 4, line b.

Line c, Column 1. Enter the total amount of Workers Compensation premiums imposed and paid under West Virginia Code § 23-2, for the taxable year.

Line c, Column 2. Enter the amount of such premiums imposed and paid that is attributable to the compensation paid new employees filling the new jobs that are directly attributable to the qualified investment.

Multiply the amount in Column 2 line c by the percentage shown in Column 3, line c and enter the result in the Column

4, line c.

Line d. Enter the sum of Column 4, lines a, b, and c.

Section 2 - Rebate to be applied in Current Tax Year

Line a. Enter the amount of the annual credit allowance from Part VII, Section 1, line a (1), or line b (4), whichever is applicable.

Line b. Enter the amount of credit allowance applied from Part IV, line g, Column 5.

Line c. Subtract the amount on line b from the amount on line a. This is the amount of the annual credit allowance available for rebate.

Line d. Maximum rebate allowable current year. (From Part V, Section 1, line d).

Line e. Enter the lesser of line c or line d. If less than zero (0), enter zero (0).

Line f. Maximum rebate allowable from prior years. (From Part VII, Section 1, line c (16).

Line g. Add the amount on line e and the amount on line f. This amount may be used to offset tax liability in Part IV, Column 6.

Line h. Enter the total amount of applied rebate from Part IV, line g, Column 7.

Line i. Subtract line h from line g. (This number may never be less than zero). Also, enter this amount in Part VII, Section 1, Line c for the applicable tax year. This number represents the total amount of rebate available to be carried forward to future years.

> The amount of applied rebate for the current taxable year is the amount of rebate carried forward from prior years plus the lesser of:
>
> 1. The unused portion of the annual credit allowance (Part V, Section 2, line c); or
> 2. The maximum rebate allowable (Part V, Section 2, line d).

PART VI - FREE-UP CREDIT CALCULATION SCHEDULE

(For Taxpayers subject to the Minimum Severance Tax on Coal)

Line 1. Enter total tons produced for sale on or before May 31, 1993 in Column 1 and total tons produced for sale on or after June 1, 1993 in Column 2. Add Columns 1 and 2 and enter the total tons sold in Column 3.

Line 2. Multiply line 1, Column 1, by $0.50 and line 1, Column 2 by $0.75. Add Columns 1 and 2 and enter in Column 3.

Line 3. Enter the total from Schedule A, line 1, WV/SEV 401-C, Coal Severance Tax Return.

Line 4. Enter the total from Schedule A, line 2a plus line 2f. Do not claim Industrial Expansion and Revitalization, Research and Development, Coal Loading Facility and/or Capital Company Credits.

Line 5. Subtract line 4 from line 3.

Line 6. Multiply line 5 by 0.93.

Line 7. Subtract the amount in Column 3, line 6, from the amount in Column 3, line 2, and enter the difference. (If less than zero, enter zero).

Line 8. Enter the amount on line 2, Column 2 divided by the number 3.

Line 9. Enter in Column 3 the lesser of lines 7 or 8. Enter this amount on applicable line, Part IV, Column 12 of Tax Credit Computation Schedule.

PART VII - RECAP OF ANNUAL CREDIT APPLICATION

Section 1

Line a. Enter the annual credit allowance for Business Investment and Job Expansion Credit and Corporate Headquarters Relocation and Business Investment and Jobs Expansion Credit for qualified investments for which the cost is not quantifiable. Enter on line a the sum of Part III, Section 1, line 5 and Section 2, line 7.

Line a (1). Enter your first year of credit utilization on line a (1). If you have a multiple year project certification, skip lines a and a (1) and complete lines b (1) through line b (4).

Line b (1). If you received a multiple year project certification then enter your annual credit allowance for investments placed in service during the first taxable year. Include any annual credit allowance for which a yearly computation was required. Also enter the applicable year in the space provided.

Line b (2). Enter your annual credit allowance for investments placed into service during the second taxable year (if applicable). Include any annual credit allowance for which a yearly computation was required.

Line b (3). Enter your annual credit allowance for investments placed in service during the third taxable year (if applicable). Include any annual credit allowance for which a yearly computation was required.

Line b (4). Add the amounts on lines b (1), b (2), and b (3) and enter the result on line 4. This is the amount of credit available for the current year. Note, this credit is only available to taxpayers who obtain a multiple year project certification from the Tax Commissioner. All others must use the instructions for line a to compute their credit. Depending upon the type of credit period, (i.e., single year or multiple year), the amount on line a or b, whichever is applicable, will be used in Part IV to reduce up to eighty percent (80%) of the tax liability, for certain taxes, that is attributable to and the direct result of the qualified investment.

Line c. After completing Part IV and Part V, enter any rebate amount remaining to be carried forward from the respective years. Rebate credit carried forward should be taken beginning with the earliest credit year.

Line d. Enter the amount of deferred tax credit from Tax Credit Computation Schedule, line g, Column 9 for each applicable tax period.

Section 2

Line 1. Enter the amount from Part VII, Section 1 line a or line b (4).

Line 2. Enter the amount from Part IV line g, Column 5.

Line 3. Enter the amount from Part V, Section 2, line e.

Line 4. Enter the amount from Part V, Section 2, line f.

Line 5. Enter the amount from Part IV, line g, Column 7.

Line 6. Enter the sum of lines 3 and 4, minus line 5.

Line 7. Enter the amount from Tax Credit Computation Schedule, Part IV, line g, Column 9. The deferred credit(s) may offset up to 100% of tax liability directly attributed to the qualified investment and new jobs in the tenth, eleventh, and twelfth tax years subsequent to the year such investment is placed into service or use.

Line 8. Enter the amount of deferred credit applied. Provide detailed information for taxable year(s) and amounts that gives rise to the deferred credit being used in the tenth, eleventh, and twelfth tax years subsequent to the year such investment is placed into service or use.

Line 9. Enter the amount of available free-up credit, Part VI, line 9.

Line 10. Enter the amount of available free-up credit applied for the current taxable year from Part IV, Column 12, line g.

PART VIII

This part of the credit schedule must be completed, all questions answered and information provided. Failure to do so will result in a delay or could result in the disallowance of the credit claimed on the tax returns.

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Taxable year beginning ____________________, Ending ____________________

NAME	IDENTIFICATION NUMBER	
STREET ADDRESS		
CITY, TOWN, OR POST OFFICE	STATE	ZIP CODE

SCHEDULE - WEST VIRGINIA SMALL BUSINESS INVESTMENT AND JOBS EXPANSION TAX CREDIT

PART I QUALIFIED INVESTMENT PLACED IN SERVICE OR USE IN THIS TAXABLE YEAR IN WEST VIRGINIA	Date Placed In Service or Use MONTH/DAY/YEAR	(1) Cost or Other Basis	(2) Applicable Percentage	(3) Qualified Investment Col. 1 X Col. 2
Section 1. PURCHASED PROPERTY				
(a) Land				
(1) Natural resources in place*			100%	
(2) Land			100%	
(b) Buildings and Other Improvements to Real Property				
(1) Useful life less than 4 years			0%	
(2) 4 years but less than 6 years			33.33%	
(3) 6 years but less than 8 years			66.66%	
(4) 8 years or more			100%	
(c) Machinery, Equipment, and Other Depreciable or Amortizable Tangible Personal Property**				
(1) Useful life less than 4 years			0%	
(2) 4 years but less than 6 years			33.33%	
(3) 6 years but less than 8 years			66.66%	
(4) 8 years or more			100%	
(d) TOTAL				
Section 2. LEASED PROPERTY				
(a) Land				
(1) Natural resources in place capable of 10 or more years of sustained production.			100%	
(2) Land with primary lease term of 10 or more years			100%	
(b) Buildings and Other Improvements to Real Property				
(1) Primary lease term and useful life of property 10 years or more			100%	
(c) Machinery, Equipment, and Other Depreciable or Amortizable Tangible Personal Property				
(1) Primary lease term or useful life less than 4 years			0%	
(2) Primary lease term and useful life of property 4 to 6 years			33.33%	
(3) Primary lease term and useful life of property 6 to 8 years			66.66%	
(4) Primary lease term and useful life of property 8 years or more			100%	
(d) TOTAL				

*Natural resources in place must be capable of sustained production for a period of ten (10) or more years.

**Tangible personal property is that eligible for depreciation or amortization for federal income tax purposes having a useful life (economic life) of four (4) or more years.

Taxable year beginning ____________________, Ending ____________________

NAME	IDENTIFICATION NUMBER

	Date Placed In Service or Use MONTH/DAY/YEAR	(1) Adjusted Cost or Other Basis*	(2) Applicable Percentage	(3) Qualified Investment Col. 1 X Col. 2
Section 3. TRANSFERRED PROPERTY				
(a) Owned Machinery, Equipment, and Other Tangible Personal Property				
(1) Remaining useful life less than 4 years			0%	
(2) Remaining useful life 4 to 6 years			33.33%	
(3) Remaining useful life 6 to 8 years			66.66%	
(4) Remaining useful life 8 or more years			100%	
(b) Leased Machinery, Equipment, and Other Tangible Personal Property				
(1) Remaining years of primary lease term **and** useful life less than 4 years			0%	
(2) Remaining years of primary lease term **and** useful life 4 to 6 years			33.33%	
(3) Remaining years of primary lease term **and** useful life 6 to 8 years			66.66%	
(4) Remaining years of primary lease term **and** useful life 8 years or more			100%	
(c) TOTAL				

Section 4. SUMMARY OF QUALIFIED INVESTMENT	
(a) Amount from Part 1, Section 1, line (d), Column 3	
(b) Amount from Part 1, Section 2, line (d), Column 3	
(c) Amount from Part 1, Section 3, line (c), Column 3	
(d) Total (add lines (a) (b) and (c))	

*Adjusted cost or other basis is original cost or other basis, less straight line depreciation for period of time the taxpayer used the transferred property outside this State. In the case of leased property it is the rent reserved for the remainder of the primary term of the lease.

ONLY FOR PROPERTY INITIALLY PLACED INTO SERVICE PRIOR TO 3/10/90	Date Placed In Service or Use MONTH/DAY/YEAR	(1) Cost or Other Basis	(2) Applicable Percentage	(3) Qualified Investment Col. 1 X Col. 2
Section 5. LEASED PROPERTY - FOR WHICH THE COST IS NOT QUANTIFIABLE AT THE OUTSET OR WHICH VARIES ANNUALLY*				
(a) Natural resources in place - Royalties actually paid to owner of the natural resource during this taxable year			100%	
(b) Real property - Payments made during this taxable year			100%	
(c) Tangible personal property				
(1) Primary lease term or useful life of property less than 4 years			0%	
(2) Primary lease term or useful life of property 4 to 6 years			33.33%	
(3) Primary lease term or useful life of property 6 to 8 years			66.66%	
(4) Primary lease term or useful life of property 8 years or more			100%	
(d) TOTAL				

*Natural resources in place must be capable of sustained production for a period of ten (10) or more years. Any other qualifying real property must have a primary lease term of ten (10) or more years.

Taxable year beginning ____________________, Ending ____________________

NAME	IDENTIFICATION NUMBER

PART II **Section 1.** New Jobs	Number of Employees Column 1	Payroll of Column 1 Employees Column 2
1. What was the taxpayer's total employment in this State prior to this qualified investment being placed in service or use?		
2. What was taxpayer's total employment in this State during the taxable year?		
3. What was the taxpayer's total average employment in this State during the taxable year?		
4. How many new jobs filled by West Virginia domiciled West Virginia residents are directly attributable to this qualified investment?		
5. How many jobs filled by both West Virginia residents and nonresidents working in the state, including new jobs filled by new employees, are directly attributable to this qualified investment?		

Section 2.
Payroll Factor Computation

____________________ (Part II Section 1, line 5, Column 2) (Compensation paid to new employees hired as a result of the New Investment)	Divided by	____________________ (Part II Section 1, line 2, Column 2) (Compensation paid to all West Virginia employees of the taxpayer)	=	____________________ (Rounded to six decimals)

If the use of this payroll factor computation results in a significant distortion of tax liability attributable to the investment, the Tax Commissioner may prescribe use of an alternative method for determining such tax liability.

Section 3.
Affiliated Companies of Controlled Group

NAME OF COMPANY	FEIN NUMBER
1.	
2.	
3.	
4.	
5.	

Taxable year beginning ____________________, Ending ____________________

NAME	IDENTIFICATION NUMBER

Section 4.
Annual Payroll Questionnaire Calculations

1. Total payroll of all firms operating on a **full** year basis during preceding year. ____________________
2. Total payroll adjusted.
   a. Total payroll of all firms operating on a **partial** year basis during preceding year. ____________________
   b. Amount of payroll in 2(a) divided by number of weeks in operation (include fractions of weeks) ____________________
   c. Adjusted payroll (Amount in 2(b) multiplied by 52 weeks) ____________________
3. Sum of full year and partial year payroll. ____________________

Section 5.
Annual Gross Receipts

1. Annual gross receipts of all firms operating on a **full-year** basis during the preceding three (3) years (see Instructions).
   a. Year 1 (19 ____) ____________________
   b. Year 2 (19 ____) ____________________
   c. Year 3 (19 ____) ____________________
   d. Highest gross receipts from a, b, or c. ____________________
2. Annual gross receipts of all firms in operation for **less than** three (3) complete fiscal years.
   a. Total gross receipts, less deductions, for the entire period in operation. ____________________
   b. Number of weeks (including fractions) in operation. ____________________
   c. Total gross receipts 2(a) divided by number of weeks 2(b). ____________________
   d. Derived "Annual Gross Receipts" - Total calculated in 2(c) multiplied by fifty two (52). ____________________

Section 6.
Median Annual Compensation

*Median Annual Gross Compensation ______________________________

*Arrange the annual compensation amount of each employee in an hierarchy ranking such amounts from lowest to highest, then select the middle number.

Taxable year beginning ____________________, Ending ______________________

NAME	IDENTIFICATION NUMBER

SMALL BUSINESS CREDIT

With the annual income tax return, for each year of the ten year credit period, the taxpayer shall certify:

(1) The new jobs percentage for this taxable year.
(2) The amount of the credit allowance for this taxable year.
(3) If a partnership or small business corporation (S-Corporation), the amount of credit allowed to the partners or shareholders for this tax year.
(4) That the qualified investment property continues to be used, or, if disposed of, the date of disposition and that the disposition was not prior to the expiration of its useful life.
(5) That the new jobs created by the qualified investment continue to exist and are filled by persons who meet the definition of new employee and whose annual compensation equals or exceeds the minimum average compensation required for this credit.

These credits are allowable for a period of ten (10) years. Unused rebate credit may be carried forward for three (3) additional tax years beyond the ten (10) year period.

The ten (10) year period begins with the taxable year in which the qualified investment property is placed in service or use, or at the taxpayer's election, the next succeeding taxable year. For the small business investment and jobs expansion credit, this election must be made on the income tax return filed for the taxable year in which the property was placed in service or use.

Has taxpayer elected to begin the ten (10) year period with the next succeeding taxable year? ____ Yes ____ No

PART III
Section 1. COMPUTATION OF SMALL BUSINESS INVESTMENT AND JOBS EXPANSION TAX CREDIT (Quantifiable)

1. Total qualified investment (From Part I, Section 4, line d).	________
2. New jobs percentage (See Information below).	________
3. Total allowable credit (line 1 x line 2).	________
4. Taxable year percentage.	.10
5. Annual credit allowance (line 3 x line 4).	________

Section 2.
CALCULATION OF SMALL BUSINESS INVESTMENT AND JOBS EXPANSION TAX CREDIT (Non-quantifiable)

1. Total qualified investment (From Part I, Section 5, line (d), column (3)).	________
2. New jobs percentage (See Information below).	________
3. Total allowable credit (line 1 x line 2).	________
4. Taxable year percentage.	.10
5. Annual credit allowance (line 3 x line 4).	________
6. Annual credit allowance for such qualified investments prior year(s).	________
7. Credit allowance this taxable year (line 5 plus line 6).	________

Annual new jobs percentage: If at least ten (10) new jobs are created and filled during the taxable year in which the qualified investment is placed in service or use, the applicable percentage is thirty percent (30%). Add to this percentage, 1/2 of 1% for each additional new job over ten (10), but less than or equal to fifty (50) jobs.

The new job percentage is redetermined for each of the remaining nine (9) years of the ten (10) year credit period. The annual percentage is based on the average number of new employees, in new jobs created as a direct result of the qualified investment, during each of the taxable years.

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PART IV Name ______________________ Identification Number ______________________ Taxable year beginning ______________________, Ending ______________________

TAX CREDIT COMPUTATION SCHEDULE

Type of Tax	(1) Liability	(2) Payroll Factor	(3) Tax Attributable To Investment	x	= (4) Tax Subject To Credit	(5) Amount of Credit Applied	(6) Tax Subject To Rebate (Col. 3 - Col.4)	(7) Amount of Rebate Applied	(8) Col. 5 + Col.7	(9) Deferred Credit (Col. 8 x 20%)	(10) Col. 8 - Col. 9	(11) Tax Eligible for Free-up Credit (Col. 3 - Col. 10)	(12) Free-up Credit Applied	(13) Total Credits (Col. 10 + Col. 12)
(a) Business & Occupation Tax				.80										
(b) Severance Tax				.80										
(c) Tele-communication Tax				.80										
(d) Business Franchise Tax				.80										
(e) Corporation Net Income Tax				.80										
(f) Personal Income Tax on Net Income From Business Activity				.80										
(g) Total														

* Credit against Severance Tax may only be claimed if the qualified investment was placed into service or use prior to January 1, 1990 or if the taxpayer qualified under one of the transition rules of W. Va. Code § 11-13C-14 and filed a WV/BCS-SEV on or before July 2, 1990.

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Taxable year beginning ____________________, Ending ______________________

NAME	IDENTIFICATION NUMBER

PART V - REBATE

Section 1. Determination of Maximum Rebate Allowable

	Total West Virginia Liability Column 1	Liability Eligible For Rebate Column 2	X Column 3	Maximum Rebate Amount Column 4
(a) Ad valorem property tax paid on property attributable to the qualified investment			.80	
(b) Unemployment Compensation Tax paid			.80	
(c) Workers' Compensation Premium paid			.20	
(d) TOTAL Maximum Rebate Allowable Current Year				

Section 2. Rebate to be applied in current tax year

(a) Annual credit allowance available Part VII, Section 1, line (a)(1) or line (b) (4). .... ____________________

(b) Amount of credit applied Part IV line (g) Column (5). .... ____________________

(c) Amount of credit remaining line (a) less line (b). .... ____________________

(d) Maximum rebate allowable current year Part V, Section 1, line (d). .... ____________________

(e) Rebate available current year Lesser of line (c) or line (d). .... ____________________

(f) Rebate from prior years Part VII, Section 1, line c (16). .... ____________________

(g) Total available rebate line (e) plus line (f). .... ____________________

(h) Amount of applied rebate Part IV, line (g), Column 7. .... ____________________

(i) Rebate carried forward line (g) less line (h). .... ____________________

NOTE: Unused rebate credit may be carried forward for three additional tax years beyond the ten year period.

Taxable year beginning ____________________, Ending ______________________

NAME	IDENTIFICATION NUMBER

PART VI - FREE-UP CREDIT COMPUTATION SCHEDULE

NOTE: Available **only** to Taxpayers subject to the Minimum Severance Tax on Coal

	Column 1 Prior to June 1, 1993		Column 2 On or After June 1, 1993	Column 3 TOTAL
1. Total tons sold		+		
2. Tax:	line 1 x $.50 =		line 1 x $.75 =	
3. WV/SEV401-C Schedule A, line 1				
4. WV/SEV401-C Schedule A, line 2a plus line 2f (11-13C credits plus Annual Exemption)				
5. Net Severance Tax (line 3 minus line 4)				
6. State portion (line 5 above x .93)				
7. NET MINIMUM TAX (line 2, Column 3 minus line 6, if less than zero, enter zero)				
8. Line 2, Column 2 Tax Computation of Tons Sold @ $.75 divided by 3				
9. AVAILABLE FREE-UP CREDIT (The lesser of lines 7 or 8) Enter this amount on applicable line(s), Column 12, of Tax Credit Computation Schedule				

NOTE: "Free-up Credit" may be used against Business Franchise Tax, Corporation Net Income Tax and Personal Income Tax liabilities. Any unused free-up credit must be forfeited by the taxpayer and **may not** be carried to any other tax year.

Taxable year beginning ____________________, Ending ____________________

NAME	IDENTIFICATION NUMBER

PART VII - RECAP OF ANNUAL CREDIT APPLICATION
Section 1.

a. Annual Allowance ___________

(1) First year credit was taken 19 _____

b. Multiple year Projects (See Instructions)

(1) 19 _____ Allowance _______________

(2) 19 _____ Allowance _______________

(3) 19 _____ Allowance _______________

(4) Total _______________

c. Rebate Carried Forward from Prior Years

(1) From 1987 _______	(5) From 1991 _______	(9) From 1995 _______	(13) From 1999 _______
(2) From 1988 _______	(6) From 1992 _______	(10) From 1996 _______	(14) From 2000 _______
(3) From 1989 _______	(7) From 1993 _______	(11) From 1997 _______	(15) From 2001 _______
(4) From 1990 _______	(8) From 1994 _______	(12) From 1998 _______	(16) Total _______

d. Deferred Credit

(1) From 1993 _______	(5) From 1997 _______	(9) From 2001 _______
(2) From 1994 _______	(6) From 1998 _______	(10) Total _______
(3) From 1995 _______	(7) From 1999 _______	
(4) From 1996 _______	(8) From 2000 _______	

Section 2

1. Annual Credit Allowance Available (Current Taxable Year) .... ____________
2. Annual Credit Allowance Applied .... ____________
3. Rebate Credit Available (Current Taxable Year) .... ____________
4. Rebate Credit Carried Forward from Prior Years .... ____________
5. Rebate Credit Applied .... < ____________ >
6. Rebate Credit Available for Carryforward .... ____________
7. Deferred Credit .... ____________
8. Deferred Credit Applied (Not available until years 11, 12, and 13) .... < ____________ >
   NOTE: Attach schedule of taxable year(s) and amount(s).
9. Free-Up Credit .... ____________
10. Free-Up Credit Applied .... < ____________ >

Taxable year beginning ____________________, Ending ____________________

NAME	IDENTIFICATION NUMBER

PART VIII - ADDITIONAL REQUIRED INFORMATION

1. Was there a premature disposition of any qualified investment property, owned or leased by the taxpayer, during the taxable year? ______ Yes _____ No

   If the answer is yes, attach a schedule identifying the property; date it was acquired; date of its disposition; its cost; the amount of qualified investment allowed with respect to such property and the reason for the disposition of the property before the end of the 4th, 6th, 8th or 10th year, as appropriate.

2. Was the new or expanded business facility, for which credit was allowed, sold or otherwise conveyed to another person or legal entity during the taxable year? _____Yes _____ No

   (a) If yes, identify the new business, name, mailing address, and identification number, if either is different from that listed on the front of the tax return with which this schedule is filed.

   (b) Was this a mere change in form of doing business? ____ Yes ____ No

   (c) Was the transfer or sale to a successor? ____ Yes ____ No

Date of transfer or sale: ________________________________

Name of new owner: ________________________________

Mailing address of new owner: ________________________________

____

____

Identification number: ________________________________

   (d) Is credit being claimed with respect to a certified project? ____ Yes ____ No

3. Has an application for certification of the project been filed with and approved by the West Virginia Tax Commissioner? ___ Yes ____ No

   (a) If no, credit is not allowable for a certified project.

   (b) If yes, identify the name of each participant in the project; location of the project's primary qualified investment and your share of the project's credit.

Participants' Names	Primary Location of Project	Share of Project's Credit

   (c) If yes, was there a premature disposition or cessation of use of the project's qualified investment property during the taxable year? ____ Yes ____ No

   If yes, identify the property and the names of the project participant who owned or leased it.

   Project's qualified investment property: ________________________________

   ____

Taxable year beginning ______________________, Ending ______________________

NAME	IDENTIFICATION NUMBER

ADDITIONAL REQUIRED INFORMATION (CONTINUED)

Owner/Lessee: ____

(d) What is the new jobs percentage being claimed for the project? ______________________________
(See Part III).

(e) Was the threshold level of new jobs, necessary to sustain the project's new job percentage, maintained during the taxable year? Yes _____ No _____

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