

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2724**

BY DELEGATES ATKINSON AND J. KELLY

[Introduced January 29, 2019; Referred

to the Committee on Small Business, Entrepreneurship

and Economic Development then Finance. ]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §11-13DD-1, relating to providing a temporary tax credit for small group  
3 employers to cover a tax credit of up to 50 percent of the costs of branding, marketing and  
4 advertising of agricultural or manufactured products produced or manufactured in West  
5 Virginia; establishing limits; and providing that the credit be available for five years.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 13DD. SMALL BUSINESS TAX CREDIT.**

**§11-13DD-1. Tax Credit for Small Businesses.**

1 (a) Credit allowed. -- Each eligible small group employer with fewer than 25 employees is  
2 allowed a tax credit of up to 50 percent of the costs of branding, marketing and advertising of  
3 agricultural or manufactured products produced or manufactured in West Virginia. An eligible  
4 employer must maintain its corporate headquarters in West Virginia and the tax credit is available  
5 for the taxable year in which the investment was made.

6 (b) No more than \$100,000 of the tax credits allowed under subsection (a) of this section  
7 may be allowed.

8 (c) Business franchise tax. -- The tax credit is applied to reduce the taxes imposed upon  
9 the eligible taxpayer by §11-23-1 et seq. of this code for the taxable year as determined after  
10 application of the credits against tax provided in §11-23-17 of this code, but after application of  
11 any other allowable credits against tax.

12 (d) Corporation net income taxes. -- After application of subsection (c) of this section, any  
13 unused tax credit is next applied to reduce the taxes imposed upon the eligible taxpayer by §11-  
14 24-1 et seq. of this code for the taxable year as determined before application of allowable credits  
15 against tax.

16 (e) If the eligible taxpayer is a limited liability company, an electing small business  
17 corporation, as defined in §1361 of the United States Internal Revenue Code of 1986, or a  
18 partnership, any unused tax credit remaining after application of subsections (c) and (d) of this

19 section is allowed as a tax credit against the taxes imposed by §11-24-1 et seq. of this code on  
20 owners of the eligible taxpayer.

21 (1) Electing small business corporations, as defined in subsection (e) of this section,  
22 limited liability companies, and partnerships shall allocate the tax credit allowed by this article  
23 among their members in the same manner as profits and losses are allocated for the taxable year.

24 (2) No tax credit is allowed under this article against any withholding tax imposed by, or  
25 payable under, §11-21-1 et seq. of this code.

26 (f) If the eligible taxpayer is a limited liability company, an electing small business  
27 corporation, as identified in subsection (e) of this section, or a partnership, any unused tax credit  
28 remaining after application of subsections (c), (d) and (e) of this section is allowed as a tax credit  
29 against the taxes imposed by §11-21-1 et seq. of this code on owners of the eligible taxpayer.

30 (1) Electing small business corporations, as defined in subsection (e) of this section,  
31 limited liability companies, and partnerships shall allocate the tax credit allowed by this article  
32 among their members in the same manner as profits and losses are allocated for the taxable year.

33 (2) No tax credit is allowed under this article against any withholding tax imposed by, or  
34 payable under, §11-21-1 et seq. of this code.

35 (g) The total amount of tax credit that may be used in any taxable year by any eligible  
36 taxpayer in combination with the owners of the eligible taxpayer under subsections (e) and (f) of  
37 this section may not exceed \$10,000.

38 (h) Unused credit carry forward. -- If the tax credit allowed under this article in any taxable  
39 year exceeds the sum of the taxes enumerated in subsections (c), (d), (e) and (f) of this section  
40 for that taxable year, the eligible taxpayer and owners of eligible taxpayers described in  
41 subsections (e) and (f) of this section may apply the excess as a tax credit against those taxes,  
42 in the order and manner stated in this section, for succeeding taxable years until the earlier of the  
43 following:

44 (1) The full amount of the excess tax credit is used; or

- 45           (2) The expiration of the fourth taxable year after the taxable year in which the investment  
46 was made. The tax credit remaining thereafter is forfeited.
- 47           (i) The tax credit is allowed or may be applied under this article is limited to five years,  
48 beginning with tax year after December 31, 2019.

NOTE: The purpose of this bill is to provide a temporary tax credit for small group employers to cover a tax credit of up to 50 percent of the costs of branding, marketing and advertising of agricultural or manufactured products produced or manufactured in West Virginia. The bill establishes limits. The bill provides that the credit be available for five years.

These sections have been completely rewritten; therefore, they have been completely underscored.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.