

MANUFACTURING PROPERTY TAX ADJUSTMENT CREDIT

REPORT TO THE JOINT COMMITTEE ON GOVERNMENT AND FINANCE

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Submitted by:

West Virginia State Tax Department
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MANUFACTURING PROPERTY TAX ADJUSTMENT CREDIT

This report submitted to the Joint Committee on Government and Finance pursuant to the provisions of West Virginia Code §11-13Y-8(a) requires in pertinent part, "The Tax Commissioner shall provide to the Joint Committee on Government and Finance by the first day of July, two thousand eleven, and on the first day of July of each year thereafter, a report detailing the amount of credit claimed pursuant to this article. The report is to include the amount of credit claimed against the business franchise tax and the amount of credit claimed against the corporate net income tax."

The following report in conformity with the above requirement provides details on the Manufacturing Property Tax Adjustment Credit (MPTAC) from Corporation Net Income Tax (CNIT) and Business Franchise Tax (BFT) ¹ returns in State Tax Department databases as of May 20, 2016.

Description of the Manufacturing Property Tax Adjustment Credit

As with all other businesses, manufacturers are subject to both State and local taxes. Local taxes may include tangible personal property taxes on manufacturing inventory other than finished goods inventory destined for export outside the State. A number of tax reform studies have recommended repeal of manufacturing inventory property taxes. However, the tax on inventory is provided for in the West Virginia Constitution and generally benefits local governments. Thus, any change in the tax on inventory would require a Constitutional Amendment to be ratified by the State's electorate. The Manufacturing Property Tax Adjustment Credit enacted by Chapter 215, Acts of the Legislature, 2008 provides some tax relief to manufacturers without directly reducing revenue for local governments.

As codified in West Virginia Code §11-13Y, eligible taxpayers are allowed a tax credit in an amount equal to the West Virginia Property Tax paid by the taxpayer on the value of manufacturing inventory of the eligible taxpayer during the Corporation Net Income Tax and/or Business Franchise Tax year. The credit was effective for tax years beginning on or after January 1, 2009. Pertinent definitions related to the Manufacturing Property Tax Adjustment Credit included in the Statute are as follows:

"Eligible taxpayer" means any manufacturing business that is subject to the tax imposed under article twenty-three [§§11-23-1 et seq.] or twenty-four [§§11-24-1 et seq.] of this chapter, or both: *Provided*, That taxpayers owning property assessed by the Board of Public Works are not eligible taxpayers for purposes of this article. "Eligible taxpayer" also means and includes those members of an affiliated group of taxpayers engaged in a unitary business, in which one or more members of the affiliated group is a person subject to the tax imposed under

¹ The Business Franchise Tax was scheduled for elimination prior to implementation of the MPTAC. The schedule for the phase-out of the Tax was as follows for taxable years beginning on or after the specified date.

January 1, 2007	0.55 percent
January 1, 2009	0.48 percent
January 1, 2010	0.41 percent
January 1, 2011	0.34 percent
January 1, 2012	0.27 percent
January 1, 2013	0.20 percent
January 1, 2014	0.10 percent
January 1, 2015	0.00 percent

article twenty-three or article twenty-four of this chapter, or both. Affiliates not engaged in the unitary business do not qualify as eligible taxpayers.

"Manufacturing business" means any business primarily engaged in business activity classified as having a sector identifier, consisting of the first two digits of the six-digit North American Industry Classification System code number, of thirty-one, thirty-two or thirty-three that also paid ad valorem property tax on manufacturing inventory to one or more West Virginia counties during the taxable year.

"Manufacturing inventory" means and is limited to raw materials, goods in process and finished goods of a business primarily engaged in business activity classified as having a sector identifier, consisting of the first two digits of the six-digit North American Industry Classification System code number, of thirty-one, thirty-two or thirty-three.

"Pass-Through Entities" include Sub-Chapter S-corporations, partnerships and other business types treated in a similar manner.

"Tax year" or "taxable year" means the tax year of the taxpayer for federal income tax purposes.

"Taxpayer" means any person subject to the tax imposed under article twenty-three [§§11-23-1 et seq.] or twenty-four [§§11-24-1 et seq.] of this chapter, or both.

Data Notes

Although the due dates² of tax returns for Tax Year ending December 31, 2015 occurred before the analysis date of May 20, 2016, many Taxpayers use an automatic six-month extension before filing final returns with credit claims. Given that the majority of 2015 returns had not yet been filed or fully processed by the State Tax Department at the time of this analysis, Tax Year 2015 credit claims are omitted from this report. Further, tax returns can generally be amended through the third year following the original due date. It is important to note that credit claims for Tax Years 2012, 2013 and 2014 as provided in the tables and figures of this report may be subject to revision.

² Tax Year 2015 due dates are March 15, 2016 for C-corporations and April 15, 2016 for Pass-Through Entities.

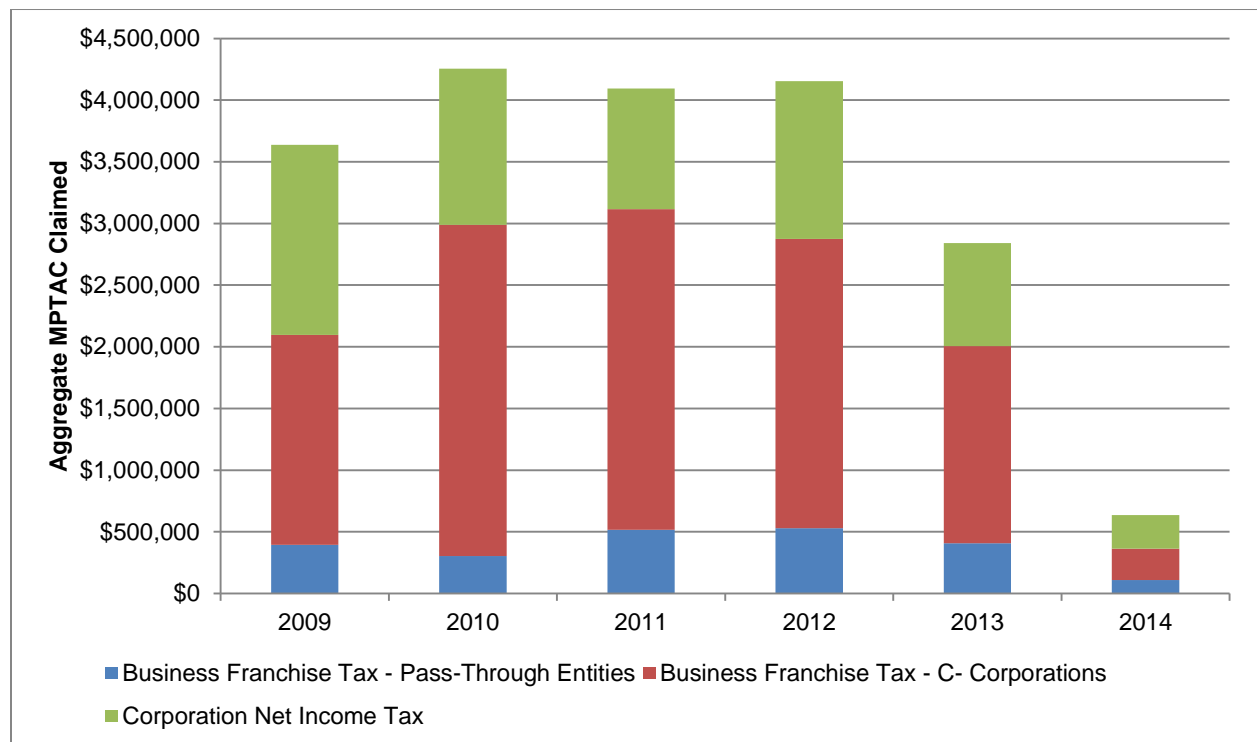
Manufacturing Property Tax Adjustment Credit Claimed

Table 1 and Figure A provide data collected from MPTAC claims by tax and business type as reported on Corporation Net Income Tax and Business Franchise Tax returns for Tax Years 2009 through 2014. Business Franchise Tax returns are separated into those for Pass-Through Entities (PTEs) and C-Corporations (C-Corp). Appendix A provides changes in the claims of the MPTAC between the prior and current reports.

Table 1
MPTAC Claims by Tax and Business Type

	2009	2010	2011	2012	2013	2014	Total
BFT PTE	\$395,274	\$303,132	\$515,218	\$529,562	\$406,417	\$108,805	\$2,258,408
BFT C-Corp	\$1,701,934	\$2,686,996	\$2,601,734	\$2,344,468	\$1,599,314	\$253,844	\$11,188,290
CNIT	\$1,540,426	\$1,263,830	\$976,728	\$1,279,031	\$836,117	\$273,909	\$6,170,041
Total	\$3,637,634	\$4,253,958	\$4,093,680	\$4,153,061	\$2,841,848	\$636,558	\$19,616,739

Figure A
MPTAC Claims by Tax Type and Business Type



The actual amount of credit claimed is less than the available, or potential, credit. One factor in the difference is the credit claim amounts. The available credit is a Manufacturing Property Tax Adjustment Act requirement to be claimed after all other available credits. Some Taxpayers were able to reduce tax liability by the application of other credits such that the remaining tax liability was less than the available MPTAC. Other factors include a lack of sufficient State tax liability due to net operating losses, the temporary use of bonus depreciation to reduce taxable income or low net equity.

Based on MPTAC schedules filed for Tax Years 2012 to 2014, an average of 56.1 percent of available MPTAC funds were claimed by Taxpayers. For comparison, the average amount of claimed to available credit was approximately 68.2 percent for Tax Years 2009 to 2011. As mentioned previously, Tax Years 2012 to 2014 are currently subject to revision as amended returns are filed and processed.

Manufacturing Inventory Personal Property Tax

The basis for the MPTAC is the West Virginia Property Tax paid by manufacturers on the value of manufacturing inventory. The formal definition of manufacturing inventory was presented earlier in this report, but is essentially raw materials, goods in process and finished goods of a manufacturer. Based upon information from the West Virginia State Tax Department Property Tax Division, the total potential manufacturing inventory Personal Property Tax would range between \$22.1 million to \$28.9 million after application of the exemption provided by the Freeport Amendment (see Appendix B for the formal description of the exemption).

**Table 2
Manufacturing Inventory Personal Property Tax**

Item	Value	Percentage of Appraised Value
Raw Materials	\$921,586,923	54.7%
Goods in Process	\$548,553,913	32.6%
Finished Goods	\$214,113,271	12.7%
Total Appraised Value of Inventory	\$1,681,254,107	
Assessed Value of Inventory	\$1,010,552,464	
Estimated Class III Tax at average tax rate	\$22,131,099	
Estimated Class IV Tax at average tax rate	\$28,901,800	

Formal definitions of all Property Tax classes are presented in Appendix B. In the above table, Class III tax rates would be used for manufacturing inventory located outside municipalities and Class IV tax rates would be used for manufacturing inventory located inside municipalities.

As shown in Table 3, with detail on all manufacturing classification presented in Appendix C, five industries account for 72.6 percent of the total taxable inventory value.

**Table 3
Manufacturing Inventory Appraised Value – Largest Industries**

NAICS	Description	Appraised Value	Percent of Total
325	Chemical Manufacturing	\$506,202,672	30.1%
331	Primary Metal Manufacturing	\$311,591,398	18.5%
332	Fabricated Metal Product Manufacturing	\$190,326,603	11.3%
321	Wood Product Manufacturing	\$108,362,489	6.4%
333	Transportation Equipment Manufacturing	\$105,670,931	6.3%

Since the number of Manufacturing Property Tax Adjustment Tax Credit claimants is fairly small, summaries of the credit by manufacturing classification have been withheld to avoid the possible disclosure of tax information for individual taxpayers.

In general, the utilization of manufacturing inventory Property Tax as a Manufacturing Property Tax Adjustment Credit is constrained by the Taxpayer's Business Franchise Tax and Corporation Net Income Tax liabilities. For Taxpayers who take advantage of the MPTAC, approximately half of available credit is used on average. The average amount of credit claimed per year from 2009 to 2013 was roughly \$3.9 million.

Appendix A
MPTAC Claims by Tax and Business Type

Table A-1
Claims from Current Report

	2009	2010	2011	2012	2013	2014	Total
BFT PTE	\$395,274	\$303,132	\$515,218	\$529,562	\$406,417	\$108,805	\$2,258,408
BFT C-Corp	\$2,267,681	\$2,789,835	\$2,306,214	\$2,344,468	\$1,599,314	\$253,844	\$11,561,356
CNIT	\$1,540,426	\$1,263,830	\$985,822	\$1,279,031	\$836,117	\$273,909	\$6,179,135
Total	\$4,203,381	\$4,356,797	\$3,807,254	\$4,153,061	\$2,841,848	\$636,558	\$19,998,899

Table A-2
Claims from July 1, 2015 Report

	2009	2010	2011	2012	2013	2014	Total
BFT PTE	\$395,274	\$303,132	\$515,218	\$580,003	\$406,417	\$19,139	\$2,219,183
BFT C-Corp	\$2,267,681	\$2,789,835	\$2,306,214	\$1,458,303	\$631,580	\$5,399	\$9,459,012
CNIT	\$1,540,426	\$1,263,830	\$985,822	\$1,323,199	\$538,166	\$91,617	\$5,743,060
Total	\$4,203,381	\$4,356,797	\$3,807,254	\$3,361,505	\$1,576,613	\$116,155	\$17,421,255

Table A-3
Change in Claims from July 1, 2015 Report to Current

	2009	2010	2011	2012	2013	2014	Total
BFT PTE	\$0	\$0	\$0	(\$50,441)	\$0	\$89,666	\$39,225
BFT C-Corp	\$0	\$0	\$0	\$886,165	\$967,734	\$248,445	\$2,102,344
CNIT	\$0	\$0	\$0	(\$44,168)	\$297,951	\$182,292	\$436,075
Total	\$0	\$0	\$0	\$791,556	\$1,265,685	\$520,403	\$2,577,644

Appendix B
Property Tax Classes and the Freeport Amendment

Property Tax Classes:

Class I — All tangible personal property employed exclusively in agriculture, including horticulture and grazing; all products of agriculture, including livestock, while owned by the producer; all notes, bonds, bills and accounts receivable, stocks and any other intangible personal property.

Class II — All property owned, used and occupied by the owner exclusively for residential purposes; all farms, including land used for horticulture and grazing, occupied and cultivated by their owners or bonafide tenants.

Class III — All real and personal property situated outside municipalities, exclusive of Classes I and II.

Class IV — All real and personal property situated inside municipalities, exclusive of Classes I and II.

Freeport Amendment:

West Virginia Constitution §10-1c. Exemption from ad valorem taxation of certain personal property of inventory and warehouse goods, with phase in to full exemption over five-year period.

Notwithstanding any other provisions of this Constitution, tangible personal property which is moving in interstate commerce through or over the territory of the State of West Virginia, or which was consigned from a point of origin outside the State to a warehouse, public or private, within the State for storage in transit to a final destination outside the State, whether specified when transportation begins or afterward, but in any case specified timely for exempt status determination purposes, shall not be deemed to have acquired a tax situs in West Virginia for purposes of ad valorem taxation and shall be exempt from such taxation, except as otherwise provided in this section. Such property shall not be deprived of such exemption because while in the warehouse the personal property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged for delivery out of state, unless such activity results in a new or different product, article, substance or commodity, or one of different utility. Personal property of inventories of natural resources shall not be exempt from ad valorem taxation unless required by paramount federal law.

The exemption allowed by the preceding paragraph shall be phased in over a period of five consecutive assessment years, at the rate of one fifth of the assessed value of the property per assessment year, beginning the first day of July, one thousand nine hundred eighty-seven.

Appendix C

Manufacturing Inventory Property Tax by North American Industry Classification System (NAICS) Codes

NAICS	Description	Raw Materials	Goods in Process	Finished Goods	Appraised Value of Inventory	Assessed Value	Estimated Class III Tax	Estimated Class IV Tax	Share of Total Appraised Value
325	Chemical Manufacturing	\$322,127,062	\$159,865,119	\$24,210,491	\$506,202,672	\$303,721,603	\$6,651,503	\$8,686,438	30.1%
331	Primary Metal Manufacturing	\$136,608,798	\$154,681,286	\$20,301,314	\$311,591,398	\$186,954,839	\$4,094,311	\$5,346,908	18.5%
332	Fabricated Metal Product Manufacturing	\$65,834,591	\$72,250,740	\$52,241,272	\$190,326,603	\$114,195,962	\$2,500,892	\$3,266,005	11.3%
321	Wood Product Manufacturing	\$73,885,930	\$18,725,209	\$15,751,350	\$108,362,489	\$65,017,493	\$1,423,883	\$1,859,500	6.4%
336	Transportation Equipment Manufacturing	\$40,245,014	\$18,284,895	\$47,141,022	\$105,670,931	\$63,402,559	\$1,388,516	\$1,813,313	6.3%
326	Plastics and Rubber Product Manufacturing	\$57,343,594	\$39,709,860	\$4,017,170	\$101,070,624	\$60,642,374	\$1,328,068	\$1,734,372	6.0%
333	Machinery Manufacturing	\$48,493,169	\$21,181,298	\$11,451,508	\$81,125,975	\$48,675,585	\$1,065,995	\$1,392,122	4.8%
327	Nonmetallic Mineral Product Manufacturing	\$35,317,723	\$25,512,371	\$13,793,199	\$74,623,293	\$44,773,976	\$980,550	\$1,280,536	4.4%
324	Petroleum and Coal Product Manufacturing	\$47,820,671	\$5,343,870	\$4,386,595	\$57,551,136	\$34,530,682	\$756,222	\$987,577	3.4%
335	Electrical equipment, Appliance and Component Manufacturing	\$30,909,878	\$8,651,717	\$3,939,695	\$43,501,290	\$26,100,774	\$571,607	\$746,482	2.6%
339	Miscellaneous Manufacturing	\$23,948,457	\$6,479,606	\$5,035,158	\$35,463,221	\$21,277,933	\$465,987	\$608,549	2.1%
322	Paper Manufacturing	\$12,484,855	\$1,336,150	\$4,356,636	\$18,177,641	\$10,906,585	\$238,854	\$311,928	1.1%
311	Food Manufacturing	\$3,878,652	\$5,416,897	\$4,191,780	\$13,487,329	\$8,092,397	\$177,224	\$231,443	0.8%
337	Furniture and Related Product Manufacturing	\$8,085,977	\$3,544,245	\$972,630	\$12,602,852	\$7,561,711	\$165,601	\$216,265	0.7%
312	Beverage and Tobacco Manufacturing	\$4,473,919	\$3,482,815	\$125,265	\$8,081,999	\$4,849,199	\$106,197	\$138,687	0.5%
334	Computer and Electronic Product Manufacturing	\$4,001,287	\$1,853,319	\$1,083,655	\$6,938,261	\$4,162,957	\$91,169	\$119,061	0.4%
323	Printing and Related Support Activities	\$4,058,202	\$449,549	\$933,256	\$5,441,007	\$3,264,604	\$71,495	\$93,368	0.3%
315	Apparel Manufacturing	\$1,583,106	\$1,120,013	\$179,146	\$2,882,265	\$1,729,359	\$37,873	\$49,460	0.2%
314	Textile Product Mills	\$482,866	\$183,362	\$2,023	\$668,251	\$400,951	\$8,781	\$11,467	0.0%
313	Textile Mills	\$0	\$480,512	\$0	\$480,512	\$288,307	\$6,314	\$8,246	0.0%
316	Leather and Allied Product Manufacturing	\$3,172	\$1,080	\$106	\$4,358	\$2,615	\$57	\$75	0.0%
	Total	\$921,586,923	\$548,553,913	\$214,113,271	\$1,684,254,107	\$1,010,552,464	\$22,131,099	\$28,901,800	100.0%