

# **MANUFACTURING PROPERTY TAX ADJUSTMENT CREDIT**

REPORT TO THE JOINT COMMITTEE ON GOVERNMENT AND FINANCE

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Submitted by:

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## MANUFACTURING PROPERTY TAX ADJUSTMENT CREDIT

This report is submitted to the Joint Committee on Government and Finance pursuant to the provisions of West Virginia Code §11-13Y-8(a), which 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.”

In conformity with the above requirement, the following report provides details on the Manufacturing Property Tax Adjustment Credit (MPTAC) from Corporation Net Income Tax (CNIT) and Business Franchise Tax (BFT) returns in State Tax Department databases as of May 14, 2019.<sup>1</sup>

### **Description of the Manufacturing Property Tax Adjustment Credit**

As with all other businesses, manufacturers are subject to both State and local taxes. State and 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-1 *et seq.*, 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 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 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.

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<sup>1</sup> The Business Franchise Tax was eliminated for taxable years beginning on and after January 1, 2015. For this reason, MPTAC claims beyond calendar year 2014 are restricted to claims against the Corporation Net Income Tax.

"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**

Taxpayers use a variety of taxable periods for purposes of filing income tax returns. For consistency, the Tax Years reported in this document reflect the year in which a Taxpayer's taxable year begins. For example, some Taxpayers are calendar year filers (*i.e.*, Tax Year 2018 began on January 1, 2018) while others are fiscal year filers<sup>2</sup> (*e.g.*, Tax Year 2018 began on July 1, 2018). Although the statutory due dates<sup>3</sup> of tax returns for calendar year Taxpayers occurred before the analysis date (*i.e.*, May 15, 2019) of this report, many Taxpayers use an automatic six-month extension of time before filing final returns with credit claims. Most returns of fiscal year taxpayers would not be due until after the analysis date. Given that the majority of both calendar year and fiscal year 2018 returns had not yet been filed or fully processed by the Tax Department at the time of this analysis, Tax Year 2018 credit claims are omitted from this report. In addition, due to the complex nature of some tax returns, many Tax Year 2017 returns have yet to be fully processed.

In order to not misrepresent MPTAC claims, statistical results for all taxable periods – particularly more recent Tax Years – do not include unprocessed returns and thus do not represent complete records of MPTAC claims. Additionally, tax returns can generally be amended through the third year following the original due date of the return. It is important to note that credit claims for Tax

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<sup>2</sup> Statutory due dates for fiscal year Taxpayers are on or before the 15<sup>th</sup> day of the third month following the close of the taxable year for Pass-Through Entities and Partnerships or the 15<sup>th</sup> day of the fourth month following the close of the taxable year for C-Corporations.

<sup>3</sup> Tax Year 2018 due dates are March 15, 2019 for Pass-Through Entities treated as a partnership for federal and state income tax purpose and April 15, 2019 for C-Corporations and limited liability companies that elect to be treated as a corporation for federal and state income tax purposes.

Years 2015, 2016, and 2017 as provided in the tables and figures of this report may be subject to revision by the Taxpayer or upon audit by the Tax Department.

### **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 2017. 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 this credit between the June 30, 2018 and current reports for the most recent five taxable periods.

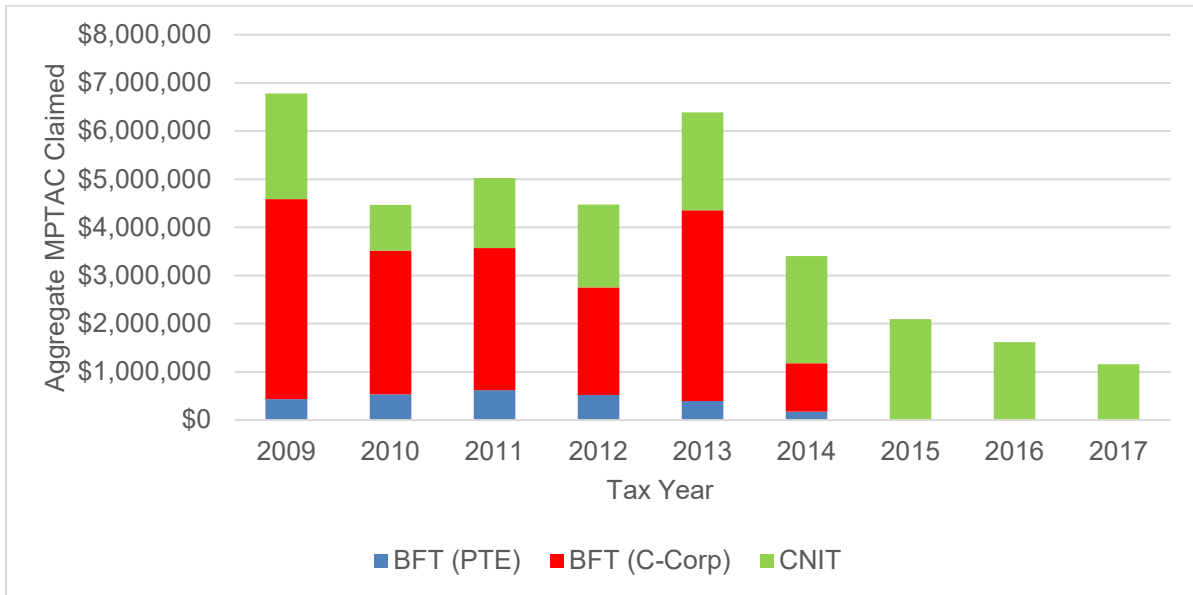
**Table 1**  
**MPTAC Claims by Tax and Business Type**

<b>Tax Year</b>	<b>BFT (PTE)</b>		<b>BFT (C-Corp)</b>		<b>CNIT</b>		<b>Total</b>
2009	\$	432,473	\$	4,154,897	\$	2,196,430	\$ 6,783,800
2010	\$	536,322	\$	2,983,392	\$	950,770	\$ 4,470,484
2011	\$	619,412	\$	2,951,417	\$	1,458,096	\$ 5,028,925
2012	\$	518,646	\$	2,232,012	\$	1,722,414	\$ 4,473,072
2013	\$	394,511	\$	3,963,267	\$	2,029,910	\$ 6,387,688
2014	\$	172,794	\$	1,006,891	\$	2,226,503	\$ 3,406,188
2015	\$	(*)	\$	(*)	\$	2,093,067	\$ 2,093,067
2016	\$	(*)	\$	(*)	\$	1,619,975	\$ 1,619,975
2017	\$	(*)	\$	(*)	\$	1,158,597	\$ 1,158,597
<b>Total</b>	<b>\$</b>	<b>2,674,158</b>	<b>\$</b>	<b>17,291,876</b>	<b>\$</b>	<b>15,455,762</b>	<b>\$ 35,421,796</b>

(\*) No MPTAC claims against BFT Liabilities effective with BFT termination on January 1, 2015.

Since the inception of the MPTAC program, an average of 76 taxpayers per year have claimed this credit from Tax Year 2009 through Tax Year 2016. The number of unique claimants ranged from a maximum of 93 (Tax Years 2011, 2012, and 2013) to a minimum of 74 in Tax Year 2009 during this period. Of all MPTAC claimants, most are corporate taxpayers (61 claimants per year on average) while the balance are PTE taxpayers (25 claimants per year on average). The average number of MPTAC claimants declined by 61 percent between 2014 and 2015 largely due to the termination of the Business Franchise Tax on January 1, 2015. The average number of MPTAC claims in 2015 was 36 and decreased to 24 in 2016. Between 2015 and 2016 the number of MPTAC claimants declined by 33 percent. Some of this decline is attributable to Corporation Net Income Tax returns still not fully processed by the Tax Department at the time of this analysis from Tax Years 2015 through 2018.

**Figure A**  
**MPTAC Claims by Tax 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. Often the local property tax paid on manufacturing inventories is larger in scale than any state business tax liability. Some Taxpayers are also able to reduce tax liability by the application of other credits such that the remaining tax liability is less than the available credit.

Based on MPTAC schedules filed for Tax Years 2012 to 2016, an average of roughly 54 percent of available credit funds were claimed by Taxpayers. For comparison, the average amount of claimed to available credit was approximately 68 percent for Tax Years 2009 to 2011. As mentioned previously, Tax Years 2015 through 2017 are currently subject to revision as amended returns are filed and processed.

**Manufacturing Inventory Personal Property Tax for Tax Year 2018**

The basis for the credit is the West Virginia Property Tax paid by manufacturers on the value of manufacturing inventory. Manufacturing inventory 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 \$33 million to \$34 million after application of the exemption provided by the Freeport Amendment (see Appendix B for the formal description of the exemption).<sup>4</sup>

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<sup>4</sup> These data are provided for illustration of Tax Year 2018 tax rates related to inventory property taxes in West Virginia. Rates of levy vary from year to year; rates of levy for other taxable periods are available online at <https://www.wvsao.gov/localgovernment/reports>.

**Table 2  
Manufacturing Inventory Personal Property Tax for Tax Year 2018**

<b>Item</b>	<b>Value</b>	<b>% Appraised Value</b>
Raw Materials	\$ 729,171,555	32.6%
Finished Goods	\$ 413,369,343	18.5%
Goods in Process	\$ 412,257,867	18.4%
Supplemental-Machine in Process of Installation	\$ 251,667,571	11.2%
Parts Held for Owner's Use	\$ 139,931,833	6.3%
Supplemental-Supplies Held for Owner's Liability	\$ 113,117,760	5.1%
Inventory	\$ 102,651,985	4.6%
Supplemental-Incomplete Construction	\$ 48,601,355	2.2%
Supplies Held for Owner's Use	\$ 18,287,012	0.8%
Supplemental—Tool in Process of Installation	\$ 5,686,143	0.3%
Supplemental—Consigned Goods	\$ 3,809,897	
Total Appraised Value of Inventory	\$ 2,238,552,332	
Assessed Value of Inventory	\$ 1,343,131,399	
Estimated Tax at average tax rate	\$ 33,846,911	

Formal definitions of all Property Tax classes are presented in Appendix B. Class III tax rates would apply to manufacturing inventory located outside municipal borders, while Class IV tax rates would apply to manufacturing inventory located inside municipal borders. In Table 2, the estimated property taxes on manufacturing inventory were calculated by taking the average of the Class III and Class IV rates and applying this average rate to the assessed value of the manufacturing inventory, as it is often difficult to determine whether certain manufacturing inventory items fall outside or inside municipal boundaries.

As shown in Table 3, five industries account for 68.5 percent of the total taxable inventory value. Detail on all manufacturing classifications is presented in Appendix C.

**Table 3  
Manufacturing Inventory Appraised Value for Tax Year 2018 (Largest Industries)**

<b>NAICS</b>	<b>Description</b>	<b>Appraised Value</b>	<b>% of Total</b>
325	Chemical Manufacturing	\$ 732,460,267	32.7%
331	Primary Metal Manufacturing	\$ 321,195,981	14.4%
336	Transportation Equipment Manufacturing	\$ 172,939,010	7.7%
332	Fabricated Metal Product Manufacturing	\$ 167,869,124	7.5%
339	Nonmetallic Mineral Manufacturing	\$ 138,748,795	6.2%

Since the number of MPTAC claimants is small, summaries of the credit by manufacturing classification have been withheld to avoid the possible disclosure of tax information for individual taxpayers. The amount of tax credit is constrained by the Taxpayer's Corporation Net Income Tax liability. For Taxpayers who take advantage of this credit, approximately half of available credit is used on average. The average amount of credit claimed per year from 2011 to 2014 was roughly \$4.8 million. The elimination of the Business Franchise Tax in January 2015 reduced the average credit claimed between 2015 and 2017 to \$1.6 million per year, as the tax credit currently only offsets the Corporation Net Income Tax. When all returns are finalized for the 2015 to 2017 period, the average annual credit claimed since 2015 is expected to range between \$2.0 million and \$2.5 million per year.

**Appendix A**  
**MPTAC Claims by Tax and Business Type**

**Table A-1**  
**Claims from Current Report**

	2011	2012	2013	2014	2015	2016	2017	Total
BFT (PTE)	\$ 619,412	\$ 518,646	\$ 394,511	\$ 172,794	\$ 0	\$ 0	\$ 0	\$ 1,705,363
BFT (C-Corp)	2,951,417	2,232,012	3,963,267	1,006,891	0	0	0	10,153,587
CNIT	1,458,096	1,722,414	2,029,910	2,226,503	2,093,067	1,619,975	1,158,597	12,308,562
<b>Total</b>	<b>\$ 5,028,925</b>	<b>\$ 4,473,072</b>	<b>\$ 6,387,688</b>	<b>\$ 3,406,188</b>	<b>\$ 2,093,067</b>	<b>\$ 1,619,975</b>	<b>\$ 1,158,597</b>	<b>\$ 24,167,512</b>

**Table A-2**  
**Claims from July 2, 2018 Report**

	2011	2012	2013	2014	2015	2016	2017	Total
BFT (PTE)	\$ 619,763	\$ 518,646	\$ 395,301	\$ 64,822	\$ 0	\$ 0	\$ 0	\$ 1,598,532
BFT (C-Corp)	2,951,417	2,251,362	3,820,420	771,973	0	0	0	9,795,172
CNIT	1,458,096	1,722,414	1,977,078	1,951,189	650,555	0	0	7,759,332
<b>Total</b>	<b>\$ 5,029,276</b>	<b>\$ 4,492,422</b>	<b>\$ 6,192,799</b>	<b>\$ 2,787,984</b>	<b>\$ 650,555</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 19,153,035</b>

**Table A-3**  
**Changes in Claims from July 2, 2018 Report to Current Report**

	2011	2012	2013	2014	2015	2016	2017	Total
BFT (PTE)	\$ (351)	\$ 0	\$ (790)	\$ 107,972	\$ 0	\$ 0	\$ 0	\$ 106,831
BFT (C-Corp)	0	(19,350)	142,847	234,918	0	0	0	358,415
CNIT	0	0	52,832	275,314	1,442,512	1,619,975	1,158,597	4,549,230
<b>Total</b>	<b>\$ (351)</b>	<b>\$ (19,350)</b>	<b>\$ 194,889</b>	<b>\$ 618,204</b>	<b>\$ 1,442,512</b>	<b>\$ 1,619,975</b>	<b>\$ 1,158,597</b>	<b>\$ 5,014,476</b>

## 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.<sup>5</sup>

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.

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<sup>5</sup> Class I property has been exempt from the Property Tax since Tax Year 2008.



**Appendix C**  
**Manufacturing Inventory Property Tax by North American Industry Classification System (NAICS) Codes for Tax Year 2018**

<b>NAICS</b>	<b>Description</b>	<b>Appraised Value of Inventory</b>	<b>Assessed Value of Inventory</b>	<b>Estimated Property Taxes On Manufacturing Inventory</b>	<b>Share of Total Appraised Value</b>
325	Chemical Manufacturing	\$732,433,778	\$439,460,267	\$11,074,399	32.72%
331	Primary Metal Manufacturing	\$321,195,981	\$192,717,588	\$4,856,483	14.35%
336	Transportation Equipment Manufacturing	\$172,939,010	\$103,763,406	\$2,614,838	7.73%
332	Fabricated Metal Product Manufacturing	\$167,889,124	\$100,733,475	\$2,538,484	7.50%
327	Nonmetallic Mineral Product Manufacturing	\$138,748,795	\$83,249,277	\$2,097,882	6.20%
339	Miscellaneous Manufacturing	\$137,244,937	\$82,346,962	\$2,075,143	6.13%
321	Wood Product Manufacturing	\$127,543,193	\$76,525,916	\$1,928,453	5.70%
324	Petroleum and Coal Product Manufacturing	\$117,855,123	\$70,713,074	\$1,781,969	5.26%
326	Plastics and Rubber Product Manufacturing	\$89,641,997	\$53,785,198	\$1,355,387	4.00%
333	Machinery Manufacturing	\$79,420,886	\$47,652,531	\$1,200,844	3.55%
335	Electrical equipment, Appliance and Component Manufacturing	\$64,932,285	\$38,959,371	\$981,776	2.90%
322	Paper Manufacturing	\$34,963,453	\$20,978,072	\$528,647	1.56%
311	Food Manufacturing	\$15,361,456	\$9,216,874	\$232,265	0.69%
312	Beverage and Tobacco Manufacturing	\$12,254,723	\$7,352,834	\$185,291	0.55%
337	Furniture and Related Product Manufacturing	\$11,924,749	\$7,154,849	\$180,302	0.53%
334	Computer and Electronic Product Manufacturing	\$6,215,050	\$3,729,030	\$93,972	0.28%
323	Printing and Related Support Activities	\$5,550,080	\$3,330,048	\$83,917	0.25%
315	Apparel Manufacturing	\$1,239,116	\$743,470	\$18,735	0.06%
314	Textile Product Mills	\$705,621	\$423,373	\$10,669	0.03%
313	Textile Mills	\$485,370	\$291,222	\$7,339	0.02%
316	Leather and Allied Product Manufacturing	\$7,604	\$4,562	\$115	0.00%
	<b>Total</b>	<b>\$2,238,552,332</b>	<b>\$1,343,131,399</b>	<b>\$33,846,911</b>	<b>100.00%</b>