

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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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, 2018.¹

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.

¹ 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 2017 began on January 1, 2017) while others are fiscal year filers² (*e.g.*, Tax Year 2017 began on July 1, 2017). Although the statutory due dates³ of tax returns for calendar year Taxpayers occurred before the analysis date (*i.e.*, May 14, 2018) 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 2017 returns had not yet been filed or fully processed by the Tax Department at the time of this analysis, Tax Year 2017 credit claims are omitted from this report. In addition, due to the complex nature of some tax returns, many Tax Year 2016 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

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

³ Tax Year 2017 due dates are March 15, 2018 for Pass-Through Entities treated as a partnership for federal and state income tax purpose and April 15, 2018 for C-Corporations and limited liability companies that elect to be treated as a corporation for federal and state income tax purposes.

Years 2014, 2015, and 2016 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 2016. 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, 2017 and current reports for the most recent five taxable periods.

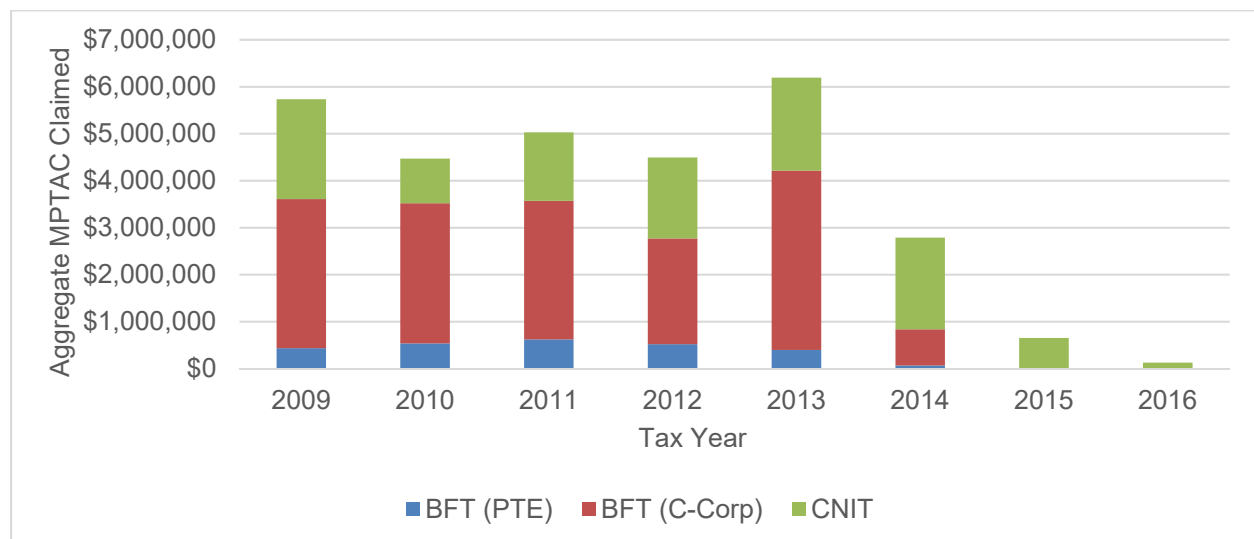
Table 1
MPTAC Claims by Tax and Business Type

Tax Year	BFT (PTE)		BFT (C-Corp)		CNIT		Total
2009	\$	\$432,473	\$	\$3,173,970	\$	\$2,127,597	\$5,734,040
2010	\$	\$536,322	\$	\$2,983,392	\$	\$950,770	\$4,470,484
2011	\$	\$619,763	\$	\$2,951,417	\$	\$1,458,096	\$5,029,276
2012	\$	\$518,646	\$	\$2,251,362	\$	\$1,722,414	\$4,492,422
2013	\$	\$395,301	\$	\$3,820,420	\$	\$1,977,078	\$6,192,799
2014	\$	\$64,822	\$	\$771,973	\$	\$1,951,189	\$2,787,984
2015	\$	(*)	\$	(*)	\$	\$650,555	\$650,555
2016	\$	(*)	\$	(*)	\$	\$129,128	\$129,128
Total	\$	\$2,567,327	\$	\$15,952,534	\$	\$10,966,827	\$29,486,688

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

Since the inception of the MPTAC program, an average of 84 taxpayers per year have claimed this credit from Tax Year 2009 through Tax Year 2014. The number of unique claimants ranged from a maximum of 90 (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 (23 claimants per year on average).

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 were also able to reduce tax liability by the application of other credits such that the remaining tax liability was less than the available credit.

Based on MPTAC schedules filed for Tax Years 2012 to 2015, an average of roughly 55 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 2014 through 2016 are currently subject to revision as amended returns are filed and processed.

Manufacturing Inventory Personal Property Tax for Tax Year 2017

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 \$16.3 million to \$21.5 million after application of the exemption provided by the Freeport Amendment (see Appendix B for the formal description of the exemption).⁴

**Table 2
Manufacturing Inventory Personal Property Tax for Tax Year 2017**

Item	Value	% Appraised Value
Raw Materials	\$ 689,839,621	55%
Goods in Process	\$ 409,801,402	33%
Finished Goods	\$ 146,423,265	12%
Total Appraised Value of Inventory	\$ 1,246,064,288	
Assessed Value of Inventory	\$ 747,638,573	
Estimated Class III Tax at average tax rate	\$ 16,298,521	
Estimated Class IV Tax at average tax rate	\$ 21,531,991	

Formal definitions of all Property Tax classes are presented in Appendix B. In Table 2, 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.

⁴ These data are provided for illustration of Tax Year 2017 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>.

As shown in Table 3, five industries account for 63 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 2017 (Largest Industries)

NAICS	Description	Appraised Value	% of Total
331	Primary Metal Manufacturing	\$ 235,423,448	19%
325	Chemical Manufacturing	\$ 215,839,784	17%
332	Fabricated Metal Product Manufacturing	\$ 140,123,122	11%
336	Transportation Equipment Manufacturing	\$ 96,569,791	8%
321	Wood Product Manufacturing	\$ 92,626,677	7%

Since the number of MPTAC 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. 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 2009 to 2015 was roughly \$4.2 million.

Appendix A
MPTAC Claims by Tax and Business Type

Table A-1
Claims from Current Report

	2011	2012	2013	2014	2015	Total
BFT (PTE)	\$ 619,763	\$ 518,646	\$ 395,301	\$ 64,822	\$ 0	\$ 1,598,532
BFT (C-Corp)	2,951,417	2,251,362	3,820,420	771,973	0	9,795,172
CNIT	1,458,096	1,722,414	1,977,078	1,951,189	650,555	7,759,332
Total	\$ 5,029,276	\$ 4,492,422	\$ 6,192,799	\$ 2,787,984	\$ 650,555	\$ 19,153,036

Table A-2
Claims from June 30, 2017 Report

	2011	2012	2013	2014	2015	Total
BFT (PTE)	\$ 515,218	\$ 581,872	\$ 406,417	\$ 112,197	0	\$ 1,615,704
BFT (C-Corp)	2,601,734	2,088,430	3,578,575	508,805	0	8,777,544
CNIT	976,728	1,279,031	1,418,672	906,882	104,852	4,686,165
Total	\$ 4,093,680	\$ 3,949,333	\$ 5,403,664	\$ 1,527,884	104,852	\$ 15,079,413

Table A-3
Changes in Claims from June 30, 2017 Report to Current

	2011	2012	2013	2014	2015	Total
BFT (PTE)	\$ 104,545	\$ (63,226)	\$ (11,116)	\$ (47,375)	\$ 0	\$ (17,172)
BFT (C-Corp)	349,683	162,932	241,845	263,168	0	1,017,628
CNIT	481,368	443,383	558,406	1,044,307	545,703	3,073,167
Total	\$ 935,596	\$ 543,089	\$ 789,135	\$ 1,260,100	\$ 545,703	\$ 4,073,623

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.⁵

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.

⁵ 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 2017

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
331	Primary Metal Manufacturing	\$ 82,205,099	\$ 142,194,140	\$ 11,024,209	\$ 235,423,448	\$ 141,254,069	\$ 3,079,339	\$ 4,068,117	18.89%
325	Chemical Manufacturing	130,548,058	64,657,002	20,634,724	215,839,784	129,503,870	2,823,184	3,729,711	17.32%
332	Fabricated Metal Product Manufacturing	45,162,090	53,133,541	41,827,491	140,123,122	84,073,873	1,832,810	2,421,328	11.25%
336	Transportation Equipment Manufacturing	40,275,140	54,137,407	2,157,244	96,569,791	57,941,875	1,263,133	1,668,726	7.75%
321	Wood Product Manufacturing	54,213,232	25,352,396	13,061,049	92,626,677	55,576,006	1,211,557	1,600,589	7.43%
339	Miscellaneous Manufacturing	73,860,078	8,049,639	507,315	82,417,032	49,450,219	1,078,015	1,424,166	6.61%
326	Plastics and Rubber Product Manufacturing	58,035,640	5,792,761	10,378,211	74,206,612	44,523,967	970,622	1,282,290	5.96%
327	Nonmetallic Mineral Product Manufacturing	47,254,687	15,898,057	10,863,258	74,016,002	44,409,601	968,129	1,278,997	5.94%
333	Machinery Manufacturing	43,328,456	12,921,270	14,110,803	70,360,529	42,216,317	920,316	1,215,830	5.65%
324	Petroleum and Coal Product Manufacturing	56,068,491	5,851,458	4,957,133	66,877,082	40,126,249	874,752	1,155,636	5.37%
335	Electrical equipment, Appliance and Component Manufacturing	28,690,363	6,189,078	6,490,699	41,370,140	24,822,084	541,121	714,876	3.32%
322	Paper Manufacturing	13,512,399	1,281,103	5,132,814	19,926,316	11,955,790	260,636	344,327	1.60%
311	Food Manufacturing	3,771,031	2,280,352	3,967,605	10,018,988	6,011,393	131,048	173,128	0.80%
312	Beverage and Tobacco Manufacturing	4,584,448	4,419,645	47,134	9,051,227	5,430,736	118,390	156,405	0.73%
337	Furniture and Related Product Manufacturing	3,280,148	4,802,947	312,480	8,395,575	5,037,345	109,814	145,076	0.67%
323	Printing and Related Support Activities	3,260,410	655,058	628,299	4,543,767	2,726,260	59,432	78,516	0.36%
334	Computer and Electronic Product Manufacturing	1,049,104	1,202,411	272,331	2,523,846	1,514,308	33,012	43,612	0.20%
315	Apparel Manufacturing	403,754	410,251	48,132	862,137	517,282	11,277	14,898	0.07%
314	Textile Product Mills	333,827	121,163	0	454,990	272,994	5,951	7,862	0.04%
313	Textile Mills	0	450,163	0	450,163	270,098	5,888	7,779	0.04%
	Total	\$689,836,455	\$409,799,842	\$146,420,931	\$1,246,057,228	\$ 747,634,336	\$16,298,426	\$21,531,869	100.00%