WEST VIRGINIA TAX CREDIT REVIEW AND ACCOUNTABILITY REPORT

Downstream Natural Gas Manufacturing Investment Tax Credit

February 1, 2025

Submitted by

West Virginia State Tax Division
Matthew R. Irby
State Tax Commissioner

Downstream Natural Gas Manufacturing Investment Tax Credit

West Virginia Code §11-13GG-15 requires a triennial tax credit review and accountability report evaluating the cost effectiveness of the Downstream Natural Gas Manufacturing Investment Tax Credit (DNG Manufacturing Credit). The report is required beginning February 1, 2025, and every third year thereafter. The Tax Commissioner shall submit the report to the Governor, the President of the Senate, and the Speaker of the House of Delegates. The Department of Commerce is required to submit a separate report focusing on the economic development aspects of the credit program.

Overview of the Tax Credit Program

The tax credit is available to taxpayers who make a qualified investment in a new or expanded downstream natural gas manufacturing facility located in West Virginia which creates at least the required number of new jobs and who is subject to any of the taxes imposed by §11-21-1 et seq. or §11-24-1 et seq. of the West Virginia Code. The tax credit may be applied to offset Corporation Net Income Tax or Personal Income Tax. The credit may not be used to offset any employer withholding taxes. The minimum number of new jobs which must be created is five.

Per W.Va. Code §11-13GG, “Downstream Natural Gas Manufacturing Facility means any factory, mill, plant, warehouse, building, or complex of buildings located within this state, including the land on which it is located, and all machinery, equipment, and other real and personal property located at or within the facility, used in connection with the operation of the facility, in a business that is taxable in this state, and all site preparation and start-up costs of the taxpayer for the downstream natural gas manufacturing facility which it capitalizes for federal income tax purposes.” Additionally, the Code states, “Downstream Natural Gas Manufacturing refers to oil and gas manufacturing operations after the production and processing phases and includes, but is not limited to, facilities that use oil, natural gas, natural gas liquids, or the products produced by ethane crackers as raw materials to manufacture industrial and commercial products.”

Eligible taxpayers are allowed a credit against the portion of taxes imposed by this state that are attributable to and the consequence of the taxpayer’s qualified investment in a new or expanded downstream natural gas manufacturing facility in this state, which results in the creation of new jobs. The amount of credit allowable is determined by multiplying the amount of the taxpayer’s qualified investment by the taxpayer’s new jobs percentage. The amount of credit allowable must be taken over a 10-year period, at the rate of one tenth per taxable year. Unused credit may be carried forward to each ensuing tax year until used or until the expiration of the tenth taxable year subsequent to the end of the initial 10-year credit application period. If any unused credit remains after the twentieth year, the amount thereof is forfeited. No carryback to a prior taxable year is allowed for the amount of any unused portion of any annual credit allowance.

The qualified investment in property purchased or leased for a new, or expansion of an existing, downstream natural gas manufacturing facility is the applicable percentage of the cost of each property purchased or leased for the purpose of the new, or expansion of an existing, downstream natural gas manufacturing facility which is placed in service or use in this state by the taxpayer during the taxable year. Some types of property will not qualify for credit under this program. These exclusions are outlined under W.Va. Code §11-33GG-3(b)(27)(B). The applicable percentage is determined under the following table:

If the useful life is:	the applicable percentage is:
Less than 4 years	0%
4 or more years, but less than 6 years	33-1/3%
6 or more years, but less than 8 years	66-2/3%
8 years or more	100%

The new jobs percentage is based on the number of new jobs created in this state directly attributable to the qualified investment of the taxpayer. The applicable percentage is determined under the following table:

If number of new jobs is at least:	the applicable jobs percentage is:
5	10%
50	15%
150	20%

When the qualified investment is $20 million or more and if the number of full-time construction laborers and mechanics working at the job site of the new or expanded business facility is 50 or more, a taxpayer is allowed a new jobs percentage that is five percentage points higher than the allowed new jobs percentage.

Tax Credit Review and Accountability Report Requirements

Beginning on February 1, 2025, and every third year thereafter, the Tax Commissioner shall submit to the Governor, the President of the Senate, and the Speaker of the House of Delegates a tax credit review and accountability report evaluating the cost effectiveness of this credit during the most recent three-year period for which information is available. The criteria to be evaluated shall include, but not be limited to, for each year of the three-year period:

(1) The number of taxpayers claiming the credit;
(2) The net number of new jobs created by all taxpayers claiming the credit;
(3) The cost of the credit;
(4) The cost of the credit per new job created; and
(5) Comparison of employment trends for an industry and for taxpayers within the industry that claim the credit.

The Department of Commerce, in consultation with the Tax Commissioner, the Department of Transportation, and the Department of Environmental Protection shall submit a separate report focusing on the Economic Development aspects of the credit program.

Downstream Natural Gas Manufacturing Tax Credit Claims

As of January 15, 2025, the Tax Department has not received any applications or claims for this credit program. This is a relatively new credit program, so there is potential for future interest in the program as the natural gas industry in West Virginia matures.

According to data from the U.S. Bureau of Labor Statistics, the West Virginia manufacturing sector briefly recovered their pre-pandemic employment level in May 2022. However, since that time, manufacturing employment in West Virginia has varied considerably. Two industries which commonly use natural gas products in manufacturing are Chemical Manufacturers and Plastics and Rubber Products Manufacturers. Workforce WV Industry projections for the 2020 to 2030 period suggest that the Chemical Manufacturing and the Plastics and Rubber Manufacturing Industries will add 303 and 382 jobs respectively.

The Downstream Natural Gas Manufacturing Tax Credit is very similar to the West Virginia Economic Opportunity Tax Credit. Both credit programs are based on qualified investments which create new jobs in West Virginia. One of the qualified business activities eligible for the Economic Opportunity Tax Credit program is manufacturing. Therefore, manufactures eligible for the Downstream Natural Gas Manufacturing Tax Credit would have already been eligible for Economic Opportunity Tax Credit program.

Comparatively, the initial qualifying new jobs threshold for the Downstream Natural Gas Manufacturing Tax Credit of five is lower than the requirement of ten for the Economic Opportunity Credit. However, the next tier of employment for the Economic Opportunity Credit of twenty new jobs generates a 20% investment credit whereas the Downstream Natural Gas Manufacturing Tax Credit new jobs percentage does not reach 20% until 150 new jobs are generated. Downstream Natural Gas Manufacturers who generate five to nine new jobs would only be eligible for the Downstream Natural Gas Manufacturing Tax Credit. However, if these same manufacturers generated twenty or more new jobs, they could potentially receive more credit by utilizing the Economic Opportunity Tax Credit program.

The amount of tax credit benefit for a qualifying manufacturer not only depends on the amount of qualified investment and new jobs created, but also on the Taxpayer’s pre-credit income tax liability. Multi-state Taxpayers apportion their adjusted federal taxable income to West Virginia based on their share of total sales made within the State. Given that West Virginia is a relatively small market, a manufacturer may have little or no sales in the State. The resulting State income tax liability is usually significantly less than the amount of available investment tax credits.