

# WV ECONOMIC DEVELOPMENT TAX INCENTIVES

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# BEFORE WE GET STARTED

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This presentation is meant to be a source of general information and not as a substitute for tax laws, rules, or regulations and may not be relied upon as legal or tax advice or to support specific instances not addressed.

The material presented may contain simplified explanations of potentially complex legal and tax concepts so as to apply generally across broad areas of tax practice, both legal and accounting, and is intended for general overview and application.

*Individual comments are meant to be illustrative in nature and are not intended as official Tax Department policy.*

## WRITTEN MATERIALS

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- Tabular synopsis of tax incentives
- EOTC one year and MITC overlay timeline

# THE ECONOMIC OPPORTUNITY TAX CREDIT

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- Economic Opportunity Tax Credit – W.Va. Code §11-13Q-1, *et seq.*
- **Purpose** – “The Legislature finds that the encouragement of economic opportunity in this state is in the public interest and promotes the general welfare of the people of this state. In order to encourage greater capital investment in businesses in this state and thereby increase economic opportunity in this state, there is hereby enacted the economic opportunity tax credit.”
- **Amount of credit** - Qualified investment x new jobs percentage

# THE ECONOMIC OPPORTUNITY TAX CREDIT

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The Economic Opportunity Tax Credit is available to qualified businesses that make a qualified investment in a new or expanded business facility in West Virginia after 1/1/2003, and, as a result of this investment, create at least 20 new jobs.



# THE ECONOMIC OPPORTUNITY TAX CREDIT

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**Qualified businesses** include only those engaged in the activities of:

- Manufacturing;
- Information processing;
- Warehousing;
- Non-retail goods distribution;
- Qualified research and development;
- The relocation of a corporate headquarters; or
- Destination-oriented recreation and tourism.

# THE ECONOMIC OPPORTUNITY TAX CREDIT

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A **qualified business** creating at least 20 new jobs within three tax years is allowed a credit equal to 20% of its qualified investment. This percentage may increase with the number of new jobs created. A business creating at least 280 new jobs is allowed a credit equal to 25% of its qualified investment, and a business creating at least 520 new jobs can claim 30% of its qualified investment.

# THE ECONOMIC OPPORTUNITY TAX CREDIT

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If New West Virginia Jobs Total At Least	Applicable New Jobs % Is
520	30%
280	25%
20	20%
15 Corporate Headquarters relocation only	10%
10 Small business credit (see below)	10%





# THE ECONOMIC OPPORTUNITY TAX CREDIT

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**BONUS:** If a project has qualified investment of \$20 million or more and is constructed using construction labor and mechanics numbering 75 or more employees or equivalent employees, who are paid an average wage of at least prevailing wage, the new jobs percentage for the 20 to 520 employee range is increased by 5 percentage points.

# THE ECONOMIC OPPORTUNITY TAX CREDIT

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The EOTC is pro-rated over a 10-year period at a rate of 10% per year, with a 3-year carryover

**EXAMPLE:** A credit of \$200,000 attributable to \$1 million of qualified investment made in 2013 is applied at a rate of \$20,000 per year for the 2013-2022 period, and can be carried over an additional three years.

# THE ECONOMIC OPPORTUNITY TAX CREDIT

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The amount of **qualified investment** is determined by multiplying the net cost of eligible property by its applicable useful life percentage based on the projected actual economic useful life of the asset.

# THE ECONOMIC OPPORTUNITY TAX CREDIT

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The following percentages apply:

## **Useful Life in WV**

Less than 4 years

4 years or more but less than 6 years

6 years or more but less than 8 years

8 years or more

## **Useful Life %**

0%

33  $\frac{1}{3}$ %

66  $\frac{2}{3}$ %

100%



# THE ECONOMIC OPPORTUNITY TAX CREDIT

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**EXAMPLE:** If a taxpayer purchases a machine for \$25,000, for use in a new industrial facility, and the machine has a useful life of 6 years, the qualified investment is \$16,666.66. The \$25,000 investment is multiplied by the applicable useful life percentage of 66.66% to arrive at \$16,666.66 in qualified investment.



# THE ECONOMIC OPPORTUNITY TAX CREDIT

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The credit can offset a portion of the tax attributable to qualified investment for the

- business and occupation tax (electric power generation taxes only),
- corporation net income tax, and
- personal income tax (tax on pass-through business profits only),

in the order stated.

# THE ECONOMIC OPPORTUNITY TAX CREDIT

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- If the annual median compensation of qualified new employees exceeds the statewide average nonfarm payroll wage, the taxpayer may use the available credit to offset up to 100% of each of the above taxes attributable to qualified investment.
- All other qualified taxpayers may use the available credit to offset up to 80% of each of the above taxes attributable to qualified investment.

# THE ECONOMIC OPPORTUNITY TAX CREDIT

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Statewide average nonfarm payroll wage  
as determined by the WV BEP

Calendar Year	Statewide Average Nonfarm Payroll
2010	\$35,985
2011	\$36,895
2012	\$37,701
2013	\$39,091
2014	\$39,721
2015	\$40,198
2016	\$41,093
2017	\$41,655
2018	\$41,595

# THE ECONOMIC OPPORTUNITY TAX CREDIT

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The amount of tax attributable to qualified investment is generally determined by use of a payroll factor.

**the compensation paid to the  
employees hired  
as a result of the new qualified investment**

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**compensation paid to all WV  
employees of the taxpayer**

# THE ECONOMIC OPPORTUNITY TAX CREDIT

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- There is **carry forward** for up to 12 years following the year of initial credit claim.
- The year of initial credit claim is either the tax year qualified investment was first placed into service, or at the taxpayer's election, the next succeeding tax year.



# THE ECONOMIC OPPORTUNITY TAX CREDIT

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- To apply, file **Form WV/EOTC-A** no later than due date of annual state income tax return for the tax year the investment was placed into service or use, including lawful extensions of time to file.
- **BEWARE:** Any Taxpayer failing to timely file the credit application form loses up to 50% of the value of any EOTC sought for the time periods during which the failure to file the application continues.

# THE ECONOMIC OPPORTUNITY TAX CREDIT

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- To claim the EOTC against PIT, file Schedule EOTC-PIT with the annual return
- To claim the EOTC against other taxes, file Schedule EOTC-I

# THE ECONOMIC OPPORTUNITY TAX CREDIT FOR CORPORATE HEADQUARTERS RELOCATION

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- The relocation must create at least 15 new jobs. If it creates 15, but less than 20 new jobs, credit is equal to 10% of **adjusted qualified investment**.
- The "**adjusted qualified investment**" means the qualified investment of the taxpayer in real and tangible personal property purchased for the corporate headquarters, plus the cost of the reasonable and necessary expenses incurred by the taxpayer to relocate the corporate headquarters from its out-of-state location to West Virginia.
- The only significant difference with general credit in application is a slightly different application against the corporation net income tax.
- See W.Va. Code §11-13Q-5

# THE ECONOMIC OPPORTUNITY TAX CREDIT FOR “SMALL BUSINESSES”

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- “Small business” means a business or a controlled group of foreign and domestic affiliated businesses with annual gross sales of not more than an amount set by statute and adjusted for inflation on January 1 of each year.
- This constraint must be met by the small business only during the year qualified investment is first placed into service or use.



# THE ECONOMIC OPPORTUNITY TAX CREDIT FOR “SMALL BUSINESSES”

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Year	Maximum Gross Receipts
2011	\$8,507,850
2012	\$8,714,300
2013	\$8,938,250
2014	\$9,089,800
2015	\$9,233,450
2016	\$9,275,150
2017	\$9,349,750
2018	\$9,535,400



# THE ECONOMIC OPPORTUNITY TAX CREDIT FOR “SMALL BUSINESSES”

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- This credit is similar to the general EOTC except the taxpayer must create at least 10 new jobs within 12 months.
- If the taxpayer creates these jobs, the credit equals 10% of its qualified investment.
- See W.Va. Code §11-13Q-10

# THE ECONOMIC OPPORTUNITY TAX CREDIT FOR HIGH TECHNOLOGY MANUFACTURERS

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- A "high technology manufacturing business" is a business classified as having a NAICS Code as follows:

<b>NAICS Code</b>	<b>Manufacturing Activity</b>
<i>Computer &amp; Peripheral Equipment</i>	
334111	Electronic Computers
334112	Computer Storage Devices
<i>Electronic Components</i>	
334411*	Electron Tubes
334414*	Electronic Capacitors
<i>Semiconductors</i>	
334413	Semiconductor & Related Devices
333295*	Semiconductor Machinery

# THE ECONOMIC OPPORTUNITY TAX CREDIT FOR HIGH TECHNOLOGY MANUFACTURERS

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- This credit is based on the qualified taxpayer's qualified investment that results in creation of at least 20 new jobs within 12 months after placing the qualified investment into service.
- The credit is 100% of B & O, CNIT or PIT that is attributable to the qualified investment.
- The credit is allowed each year for a 20-year credit period.

# THE ECONOMIC OPPORTUNITY TAX CREDIT FOR HIGH TECHNOLOGY MANUFACTURERS

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- The median compensation of the new jobs must be greater than an annually adjusted value.

Year	Median Compensation
2010	\$47,000
2011	\$47,650
2012	\$48,850
2013	\$50,100
2014	\$50,950
2015	\$51,750
2016	\$52,000
2017	\$52,400
2018	\$53,450

- See W.Va. Code 11-13Q-10a
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# THE ECONOMIC OPPORTUNITY TAX CREDIT FOR JOBS CREATION

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- If your client does not meet the job creation qualifications for the general credit or the small business credit, check out W.Va. Code §11-13Q-22.
- This credit is available for certain taxpayers which do not satisfy the new jobs percentage requirement.
- \$3,000 per year per job for five years



# THE ECONOMIC OPPORTUNITY TAX CREDIT FOR JOBS CREATION

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- The minimum annual salary of the new jobs for purposes of the Economic Opportunity Tax Credit for Jobs Creation is adjusted annually for inflation.

Tax Year	Minimum Salary
2012	\$33,250
2013	\$34,100
2014	\$34,650
2015	\$35,200
2016	\$35,400
2017	\$35,700
2018	\$36,400

# THE MANUFACTURING INVESTMENT TAX CREDIT

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- Manufacturing Investment Tax Credit – W. Va. Code §11-13S-1, *et seq.*
- **PURPOSE-** The Legislature finds that the encouragement of the location of new industry in this state, and the expansion, growth and revitalization of existing industrial facilities in this state is in the public interest and promotes the general welfare of the people of this state.

# THE MANUFACTURING INVESTMENT TAX CREDIT

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- Manufacturers that make qualified investments for industrial expansion or industrial revitalization in West Virginia may be eligible for the MITC.
- The term "manufacturing" means any business activity classified as having a sector identifier, consisting of the first two digits of the six-digit industrial code (NAICS) of 31, 32, or 33, or the six-digit code number 211112.

# THE MANUFACTURING INVESTMENT TAX CREDIT

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- **Eligible investments** include real property, improvements to real property and tangible personal property constructed or purchased for use as a part of a new or expanded or revitalized business facility of a qualified industrial taxpayer.
- **Eligible investments** may also include replaced or refurbished buildings, equipment, machinery and other tangible personal property used in the operation of a qualified facility. **Eligible investments** may also include real or tangible personal property acquired by written lease for a primary term of 10 years or longer, if used as a component part of a new, expanded or revitalized industrial facility.



# THE MANUFACTURING INVESTMENT TAX CREDIT

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- The credit is equal to 5% of the taxpayer's qualified investment pro-rated over a 10-year period at a rate of 10% per year.
- The calculation of qualified investment for this credit is the same as the calculation for the EOTC, using the 4-year, 6-year and 8-year useful life table.
- Certain requirements for qualification of leased property are different between the EOTC and the MITC.

Qualified Investment  $\times$  5% = Total Credit

Total Credit  $\div$  10 = Annual Credit

- Annual credit is the amount of credit that can be applied in each tax year for 10 years.



# THE MANUFACTURING INVESTMENT TAX CREDIT

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- To apply, file Form WV/MITC-A no later than due date of annual state income tax return for the tax year the investment was placed into service or use, including lawful extensions of time to file.
- **BEWARE:** Any Taxpayer failing to timely file the credit application form loses up to 50% of the value of any MITC sought for the period in question.
- Form WV/MITC-A must be filed for each year the qualified investment is placed in service or use.

# THE MANUFACTURING INVESTMENT TAX CREDIT

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- MITC may be used to offset up to 60% of the taxpayer's annual liability for severance tax (if taxpayer otherwise qualifies) and corporation net income tax for a period of 10 years.
- Any portion of a particular year's annual credit that remains after application against these taxes for the taxable year is forfeited.
- Taxpayers must file Schedule MITC-1 to claim this credit.

# THE MANUFACTURING INVESTMENT TAX CREDIT

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- The maximum offset of the MITC is 60% of state tax liability. The MITC, which is generally 5% of capital investments, greatly reduces the effective CNIT rate for WV manufacturing.

# THE MANUFACTURING INVESTMENT TAX CREDIT

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- **EXAMPLE:** If a manufacturer makes a \$10 million investment in new plant and equipment in a WV facility, the MITC generally equals 5% of that investment, or \$500,000 pro-rated over a 10-year period at a rate of \$50,000 per year. If this manufacturer's net apportioned and allocated income is \$1 million, the pre-credit WV CNIT liability would be \$65,000 or 6.5% of \$1 million in 2015. After applying the \$39,000 (60% maximum offset) MITC, WV CNIT liability drops to \$26,000 or an amount equal to just 2.6% of net income.



# THE MANUFACTURING PROPERTY TAX ADJUSTMENT CREDIT

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- Manufacturers may claim a non-refundable tax credit against CNIT equal to the amount of local property taxes paid on WV manufacturing inventory.
- The credit amount is the amount of ad valorem property tax paid on the value of manufacturing inventory of the eligible taxpayer during the tax reporting year.
- The credit does not carry forward or carry back.
- To claim this credit, an annual schedule showing the amount of property tax paid on eligible inventories for the taxable year and the amount of the allowable credit (Schedule MPTAC-1) must be submitted with the CNIT return.
- See W. Va. Code §11-13Y-1, *et seq.*



# CREDIT RECAPTURE

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- There are special recapture provisions for the Economic Opportunity Tax Credit, Manufacturing Investment Tax Credit, Industrial Expansion and Revitalization Credit, and the Coal Loading Facilities Credit.

## OTHER RELEVANT CREDITS

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- Industrial Expansion & Industrial Revitalization Credit for Electric Power Producers - Schedule I-EPP – W. Va. Code §11-13D-1, *et seq.*
- Coal Loading Facilities Credit - SCHEDULE C or Schedule CL for Coal Severance – W.Va. Code §11-13E-1, *et seq.*

# FOR MORE INFORMATION

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- <https://tax.wv.gov/Pages/default.aspx>
- TSD-110 West Virginia Tax Credits
- TSD-100 West Virginia Business Taxes
- The Tax Department Fifty-Second Biennial Report at <https://tax.wv.gov/Documents/Legal/TaxLawReport.52.pdf>