



West Virginia Tax Credits

The purpose of this publication is to provide a brief overview of West Virginia's current tax credits. This publication is a source of general information, not a substitute for tax statutes or regulations. A list of tax credit forms and schedules is on the last page of this publication.

ECONOMIC DEVELOPMENT CREDITS

ECONOMIC OPPORTUNITY TAX CREDIT (WV/EOTC-A) (SCHEDULE EOTC-1) (SCHEDULE EOTC-PIT)

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

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. For projects having qualified investment of \$20 million or more that are 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.

IF NEW WEST VIRGINIA JOBS TOTAL AT LEAST:	THE APPLICABLE NEW JOBS PERCENTAGE 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 is pro-rated over a 10-year period at a rate of 10% per year. For example, a Credit of \$200,000 attributable to \$1 million of qualified investment made in 2003 is applied at a rate of \$20,000 per year for the 2003-2012 period.

The calculation 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 following percentages apply:

IF USEFUL LIFE IN WV IS:	THE APPLICABLE USEFUL LIFE PERCENTAGE IS:
Less than 4 years	0%
4 years or more but less than 6 years	33 1/3%
6 years or more but less than 8 years	66 2/3%
8 years or more	100%

For example, if a Taxpayer purchases a machine for \$25,000, for use in a new industrial facility, which has a useful life of 6 years, the qualified investment is equal to \$16,666.66. The \$25,000 investment is multiplied by the applicable useful life percentage of 66 2/3% to arrive at \$16,666.66 in qualified investment.

The credit can offset a portion of the tax attributable to qualified investment for the Business and Occupation Tax [electric power generation taxes only], Business Franchise Tax, Corporation Net Income Tax, and Personal Income Tax [tax on flow through business profits only], in the order stated.

- If the annual median compensation paid by the Taxpayer to qualified new employees exceeds the statewide average non-farm payroll wage, as determined annually by the West Virginia Bureau of Employment Programs, then the Taxpayer may use the available credit to offset up to 100% of each of the above taxes attributable to qualified investment.

The following is a summary of the Statewide Average Nonfarm Payroll Wage values by year:

Calendar Year	Statewide Average Nonfarm Payroll Wage
2003	\$27,981
2004	\$28,615
2005	\$29,284
2006	\$30,344
2007	\$31,344
2008	\$32,723
2009	\$34,000

\*Annual updates may be found in the Administrative Notices section at <http://www.wvtax.gov>.

- 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 amount of tax attributable to qualified investment is generally determined by use of a payroll factor. The Taxpayer multiplies total tax liability by a fraction, the numerator of which is the compensation paid to the employees hired as a result of the new qualified investment, and the denominator of which is the compensation paid to all West Virginia employees of the Taxpayer. The result of this computation is tax attributable to qualified investment.

Excess credit remaining after application of the credit against current year taxes may be carried forward for up to twelve years following the year of initial credit claim attributable to the placement of qualified investment into service. The year of initial credit claim is either the tax year qualified investment was first placed into service, or, at the election of the Taxpayer, the next succeeding tax year.

All Taxpayers wishing to qualify for the Economic Opportunity Tax Credit must file an application for such credit (Form WV/EOTC-A). This application is due by no later than the due date of the Taxpayer's Annual State Income Tax Return (corporate or personal) for the tax year the investment was placed into service or use, including lawful extensions of time to file. Any Taxpayer failing to timely file the credit application form will automatically lose up to 50% of the value of any Economic Opportunity Tax Credit sought for the time periods during which the failure to file the application continues. Note that one application (Form WV/EOTC-A) must be filed for each year during which qualified investment is placed in service or use.

Taxpayers claiming the Economic Opportunity Tax Credit against the West Virginia personal income tax must complete and file Schedule EOTC-PIT when claiming this credit against personal income tax liabilities on an annual return. Taxpayers must complete and file Schedule EOTC-1 when claiming this credit on other annual tax returns.

#### **ECONOMIC OPPORTUNITY TAX CREDIT FOR CORPORATE HEADQUARTERS RELOCATION (WV/EOTC-A) (SCHEDULE EOTC-1) (SCHEDULE EOTC-PIT)**

A Taxpayer that moves its corporate headquarters to West Virginia from a location outside of West Virginia may be entitled to an Economic Opportunity Tax Credit, if the relocation creates at least fifteen (15) new West Virginia jobs. If the relocation creates at least 15, but less than 20 new jobs, then the amount of credit is equal to 10% of the Taxpayer's 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. Generally, the credit may be used to offset tax liabilities in the same manner as described above for the general Economic Opportunity Tax Credit. The only significant difference concerns a slightly different application against the Corporation Net Income Tax. At a minimum, the Economic Opportunity Tax Credit for a corporate headquarters relocation may be used to offset the sum of 100 percent of tax on allocated corporate net income and 80 percent of the tax attributable to qualified investment on apportioned corporate net income. Taxpayers must complete and file both Application Form WV/EOTC-A no later than due date of the Taxpayer's Annual State Income Tax Return (corporate or personal) for the tax year the investment was placed into service or use, including lawful extensions of time to file, and Schedule EOTC-1 when claiming this credit on an annual return.

#### **ECONOMIC OPPORTUNITY TAX CREDIT FOR "SMALL BUSINESS" (WV/EOTC-A) (SCHEDULE EOTC-1) (SCHEDULE EOTC-PIT)**

Also, certain small businesses may be entitled to an Economic Opportunity Tax Credit. The term "small business" means a business or a controlled group of foreign and domestic affiliated businesses with annual gross sales of not more than \$7,000,000, adjusted for inflation on January 1 of each year by a percentage reflecting the cost of living increase. This constraint must be met by the small business only during the year qualified investment is first placed into service or use.

The following is a summary of the applicable inflation adjusted small business credit constraint by tax year:

<b>Year</b>	<b>Maximum Gross Sales</b>
2003	\$7,000,000
2004	\$7,159,600
2005	\$7,324,500
2006	\$7,552,050
2007	\$7,846,850
2008	\$8,026,350
2009	\$8,368,450

\*Annual updates may be found in the Administrative Notices section at <http://www.wvtax.gov>.

An eligible small business Taxpayer is allowed a credit in the manner described above for the general Economic Opportunity Tax Credit, except that the small business must create at least 10 new West Virginia jobs within twelve months, rather than 20 new jobs within three years. If the qualified small business creates at least 10 qualified new jobs, the small business may receive a credit equal to 10% of its qualified investment. Taxpayers must file Application Form WV/EOTC-A no later than the due date of the Taxpayer's Annual State Income Tax Return (corporate or personal) for the tax year the investment was placed into service or use, including lawful extensions of time to file, and Schedule EOTC-1 when claiming this credit against annual tax liabilities on an annual return. Taxpayers claiming the Economic Opportunity Tax Credit For "Small Business" against the West Virginia personal income tax must complete and file Schedule EOTC-PIT when claiming this credit against personal income tax liabilities on an annual return.

#### **ECONOMIC OPPORTUNITY TAX CREDIT FOR HIGH TECHNOLOGY MANUFACTURERS CREDIT**

This credit, effective January 1, 2008, provides a credit for specified high technology manufacturers. A "high technology manufacturing business" is a business properly classified as having a NAICS Code of 334111, 334112, 334411, 334413, 334414 or 333295. §11-13Q-10a authorizes a credit against the qualified taxpayer's qualified investment which results in the creation of at least 20 new jobs within 12 months after placing the qualified investment in service. The credit is 100% of the tax attributable to the qualified investment and is allowed for each year for a 20 year credit period. The credit is to be taken beginning with the taxable year in which the qualified investment is placed in service, unless the taxpayer elects to delay to the next succeeding tax year.

The Tax Commissioner may require a taxpayer intending to claim this credit to file a notice of intent to claim this credit before the taxpayer begins reducing his or her monthly or quarterly installment payments of estimated tax.

The median compensation of the new jobs must be greater than an annually adjusted value. The following is a summary of the applicable inflation adjusted median compensation constraint for the new jobs by year:

<b>Year</b>	<b>Median Compensation</b>
2008	\$45,000
2009	\$46,900

\*Annual updates may found in the Administrative Notices section at <http://www.wvtax.gov>.

#### **ECONOMIC OPPORTUNITY TAX CREDIT FOR JOBS CREATION**

Effective January 1, 2009, the Jobs Creation Tax Credit will promote job development through business tax credits with the establishment of new jobs. Under the Economic Opportunity Tax Credit, any eligible business (i.e. manufacturing, warehousing, information processing, goods distribution, destination tourism, and research and development) creating less than 20 new jobs for a regular business and less than 10 new jobs for a qualified small business, shall receive a tax credit of \$3,000 per year, for a period of 5 years, for each new job created. To qualify, the new jobs must be full-time, pay a minimum salary of \$32,000, and offer health benefits. There is no carry forward or carry back for this credit. If the number of new jobs decreases, the tax credit amount will be forfeited for each net job loss. This credit is first applied to the business and occupation tax, then the business franchise tax, the corporation net income tax and finally the personal income tax.

Before claiming this credit, the application, form WV/EOTC-A, must be submitted to the Tax Department for approval.

#### **MANUFACTURING INVESTMENT TAX CREDIT (WV/MITC-A) (SCHEDULE MITC-1)**

Manufacturers that make qualified investments for industrial expansion or industrial revitalization in West Virginia may be eligible for the Manufacturing Investment Tax Credit. The term "manufacturing" means any 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. Eligible investments include real property and improvements thereto 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 located in West Virginia. Eligible investment may also include real or tangible personal property acquired by written lease for a primary term of ten years or longer, if used as a component part of a new, expanded or revitalized industrial facility. The credit

is equal to 5% of the taxpayer's qualified investment pro-rated over a ten-year period at a rate of 10% per year. The calculation of qualified investment for this credit is similar to that required for the Economic Opportunity Tax Credit.

$$\text{Qualified Investment} \times 5\% = \text{Total Credit}$$

$$\text{Total Credit} \div 10 = \text{Annual Credit}$$

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

All Taxpayers wishing to qualify for the Manufacturing Investment Tax Credit must file an application for such credit (Form WV/MITC-A) on or before the due date of the personal income tax return or corporation net income tax return filed for the tax year the investment was placed in service or use, including lawful extensions of time to file. Any Taxpayer failing to timely file the credit application form will automatically lose up to 50% of the value of any Manufacturing Investment Tax Credit sought for the time period in question. Note that an application (Form WV/MITC-A) must be filed for each year during which qualified investment is placed in service or use.

Manufacturing Investment Tax Credit may be used to offset up to 50% of the Taxpayer's annual liability for Business Franchise Tax, Severance Tax 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 complete and file Schedule MITC-1 when claiming this credit.

The maximum offset of the Manufacturing Investment Tax Credit will increase from 50% of state tax liability to 60% beginning in 2009. The Manufacturing Investment Tax Credit, of 5% for capital investments, greatly reduces the effective Business Franchise Tax rate as well as the Corporate Net Income Tax rate for West Virginia manufacturing. For example: if a manufacturer makes a \$10 million investment in new plant and equipment in a West Virginia facility, the Manufacturing Investment Tax Credit will generally equal 5% of such investment or \$500,000 prorated over a ten-year period at a rate of \$50,000 per year. If this manufacturer's net allocated income is \$1 million, the pre-credit West Virginia Corporate Net Income Tax liability would be \$85,000 or 8.5% of \$1 million in 2009. After application of the \$50,000 Manufacturing Investment Tax Credit, West Virginia Corporate Net Income Tax liability drops to \$35,000 or an amount equal to just 3.5% of net income.

#### **MANUFACTURING PROPERTY TAX ADJUSTMENT CREDIT**

Beginning in 2009, manufacturers may claim a non-refundable tax credit against Business Franchise Tax and Corporate Net Income Tax equal to the amount of local property taxes paid on West Virginia manufacturing inventory. This credit is expected to save manufacturers roughly \$11 million per year.

Effective January 1, 2009, the West Virginia Manufacturing Property Tax Adjustment Act declares that there shall be a tax credit available first against the Business Franchise Tax and then the Corporation Net Income Tax. 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.

There is no provision for a carry forward credit. In order to claim this credit, an annual schedule showing the amount of tax paid for the taxable year and the amount of the allowable credit must be submitted with the tax return. (The credit claim schedule will be posted on the State Tax Department website when available).

#### **INDUSTRIAL EXPANSION AND INDUSTRIAL REVITALIZATION CREDIT FOR ELECTRIC POWER PRODUCERS (SCHEDULE I-EPP)**

Electric power generation companies that make eligible investment(s) for industrial expansion or industrial revitalization within West Virginia may be eligible for the Industrial Expansion and Revitalization Credit. Eligible investments for industrial expansion include real property and improvements thereto and tangible personal property constructed or purchased for use as a part of a new or expanded electric power generation facility. Eligible investments for industrial revitalization include replaced or refurbished facilities, equipment, machinery and other tangible personal property used in the operation of an electric power generation facility located in West Virginia. Eligible investment may also include real or tangible personal property acquired by written lease for a primary term of ten years or longer, if used as a component part of a new, expanded or revitalized electric power generation facility. The credit is equal to 10% of the taxpayer's qualified investment. The calculation of qualified investment for this credit is similar to that required for the Economic Opportunity Tax Credit. Industrial Expansion and Revitalization Credit may be used to offset up to 50% of the Taxpayer's annual liability for Business and Occupation Tax, Severance Tax and Business Franchise 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 complete and file Schedule I-EPP when claiming this credit.

#### **STRATEGIC RESEARCH AND DEVELOPMENT TAX CREDIT (WV/SRDTC-A) (SCHEDULE SRDTC-1)**

Businesses engaged in qualified research and development activities within West Virginia may be eligible for the Strategic Research and Development Tax Credit. The credit equals the higher of 3% of all qualified expenses and qualified investment, or 10% of the excess of qualified expenses and qualified investment for the taxable year over the average for a base period. The base period is generally the

three-year period prior to the taxable year.

Research and Development includes, but is not limited to, design, refinement and testing of prototypes of new or improved products, and of manufacturing processes before commercial sales relating thereto have begun. Research and development does not include market research; sales research; efficiency surveys; consumer surveys; product market testing; product testing by product consumers; quality control testing; management studies; advertising; promotions; the acquisition of another's patent, model, production or process or investigation or evaluation of the value or investment potential related thereto; research in connection with literary or historical topics or similar activities; research in social sciences, economics, humanities or psychology and other non-technical activities; and the providing of sales services or other services.

The credit is available for eligible investments made in depreciable property for qualified research projects and in qualified research expenses. Investment in land does not qualify for the credit. The calculation of qualified investment is determined by multiplying the cost of eligible property by its applicable useful life percentage based on the projected actual useful life of the property. The following percentages apply:

<b>IF USEFUL LIFE IS:</b>	<b>THE APPLICABLE PERCENTAGE IS:</b>
Less than 4 years	33 1/3%
4 years or more but less than 6 years	66 2/3%
6 years or more	100%

In addition to investments in buildings and depreciable tangible personal property, qualified research expenses may also be included in the Strategic Research and Development Tax Credit base. "Qualified research and development expenses" include 100% of qualified in-house research expenses and 65% of contract research expenses for qualified research allocated to the State and incurred by an eligible Taxpayer. Qualified research expenses do not include any expenses that must be capitalized and depreciated for federal income tax purposes, or any expenses incurred for the purposes of ascertaining the existence, location, extent or quality of any deposit of a natural resource.

All Taxpayers wishing to qualify for the Strategic Research and Development Tax Credit must first file an application for credit certification (Form WV/SRDTC-A) with the Tax Commissioner. No tax credit may be claimed until the Tax Commissioner affirmatively certifies the project. The application must set forth a written research and development program plan generally describing the nature of the research and development to be undertaken and the projected timeframe for the project. The application for credit certification is due by no later than the due date, including lawful extensions of time to file, of the Taxpayer's Annual State Income Tax Return for the tax year in which the qualified research and development activity occurred. Any Taxpayer failing to timely file the credit application form will automatically lose 100% of the value of any Strategic Research and Development Tax Credit sought for the time periods during which the failure to file the application continues. Note that one application (Form WV/SRDTC-A) must be filed for each separate project undertaken. The Tax Commissioner may require the filing of separate yearly applications for certifications.

Strategic Research and Development Tax Credit may be used to offset up to 100% of the Taxpayer's annual liability for Business Franchise Tax, Corporation Net Income Tax, and Personal Income Tax [tax on flow through business profits only] in the order stated. Excess credit may be carried forward for a period not to exceed 10 tax years. Taxpayers claiming the Strategic Research and Development Tax Credit must complete and file Schedule SRDTC-1 when claiming this credit against tax liabilities on an annual return.

#### **COAL LOADING FACILITIES CREDIT (SCHEDULE C)**

This credit is available to taxpayers subject to Business Franchise Tax and Severance Tax, that purchase real or personal property, or a combination thereof, for the purpose of building or constructing a new or expanded coal loading facility or Taxpayers that revitalize an existing coal loading facility. A coal loading facility that will qualify for the credit is limited to any building or structure specifically designed and solely used to transfer coal from a coal processing or preparation facility, or from a coal storage facility, or both, or from any means of rail or barge transportation used to move coal, including such land as is directly associated with and solely used for the coal loading facility. This credit is available for investment in such property only when the property is to be used in the transfer of coal to any means of rail or barge transportation and is specifically **not available** for investment in property to be used in the transfer of coal (or other material) to any other form of transportation. The calculation and application of credit is similar to the calculations and applications for the Industrial Expansion and Revitalization Credit. For example, the credit is equal to 10% of calculated qualified investment and is applied over a 10-year period to offset up to 50% of annual tax liability for Business Franchise Tax, Business and Occupation Tax and Severance Tax. Taxpayers must complete and file Schedule C to claim this credit.

#### **HIGH-GROWTH BUSINESS INVESTMENT TAX CREDIT (SCHEDULE HGBITC-1)**

Beginning July 1, 2005, eligible Taxpayers that have made a qualified investment in a qualified research and development company that maintains its corporate headquarters in West Virginia may take a tax credit based on that investment. An eligible Taxpayer is a person subject to the West Virginia Business Franchise Tax or West Virginia income tax that has received certification from the Economic Development Authority allocating a portion of the annual available credit to the Taxpayer as a result of the eligible Taxpayer's qualified investment in the qualified research and development company. A qualified research and development company is an entity which has been certified by the Tax Commissioner as eligible for the West Virginia Strategic Research and Development Credit under West Virginia Code Chapter 11, Article 13R, and which has annual gross receipts of less than \$20 million and annual payroll of less than \$2.5 million. The High-Growth Business Investment Tax Credit is equal to 50 percent of the total value of the qualified investment made in

the taxable year. No credit is allowed for investment made after June 30, 2008, and the High-Growth Business Investment Tax Credit Act will terminate.

The High-Growth Business Investment Tax Credit is first applied in the taxable year the investment was made, to offset the Taxpayer's Business Franchise Tax liability. Any unused credit is next applied against the Taxpayer's Corporation Net Income Tax liability. If the eligible Taxpayer is an LLC, electing small business corporation, or a partnership, the unused remaining credit is then applied against the Corporation Net Income Tax liability of the eligible Taxpayer's owners. Following the application of the credit against Business Franchise Tax and Corporation Net Income Tax liability, any remaining credit is next applied against the eligible Taxpayer's Personal Income Tax liability. If the eligible Taxpayer is an LLC, electing small business corporation or a partnership, the unused credit is applied against the Personal Income Tax liability of the eligible Taxpayer's owners. The total amount of credit that may be used in any taxable year by an eligible Taxpayer in combination with its owners may not exceed \$50,000. Any unused remaining credit may be carried forward for four taxable years until the remaining amount is used. Any unused remaining credit at the end of the fourth taxable year is forfeited. Taxpayers must complete and file Schedule HGBC-1 when claiming this credit on their tax returns.

The Economic Development Authority may allocate no more than \$1 million in tax credits in any fiscal year, and allocation is to be made in the order the applications are received. The EDA has responsibility for determining eligibility for the credit. The application for the credit must be made and filed with that agency, not the Tax Commissioner.

## **ADDITIONAL INFORMATION**

### **CREDIT RECAPTURE PROVISIONS**

There are special recapture provisions for the Industrial Expansion and Revitalization Credit (11-13D), Coal Loading Facilities Credit (11-13E), Economic Opportunity Tax Credit (11-13Q), the Strategic Research and Development Tax Credit (11-13R) and the Manufacturing Investment Tax Credit (11-13S). Credit recapture may occur when the actual useful life of qualified investment property or the period of actual use of qualified investment property within West Virginia falls short of the projected useful life applicable percentage category used in the original credit calculations. Credit attributable to property that ceases to be used in West Virginia prior to the end of its categorized useful life must be recalculated for all tax years according to the actual useful life or period of use in West Virginia.

#### **EXAMPLE**

Company A invests \$10 million in equipment with a designated useful life of 8 years in 2003.

Investment in assets is determined to be "qualified" based on useful life of the particular asset according to a percentage multiplier table as follows:

#### **IF USEFUL LIFE IS:**

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

#### **THE APPLICABLE PERCENTAGE IS:**

0%  
33 1/3%  
66 2/3%  
100%

Company A's Manufacturing Investment Tax Credit is equal to 5 percent of its qualified investment. Because all of Company A's investment is in capital assets that have useful lives of 8 years, 100% of its \$10 million investment is qualified investment. Thus, the credit for Company A is calculated to equal \$500,000 or \$50,000 per year for 10 years.

$$(\$10M \times 100\%) \times 5\% = \$500,000 \text{ Total Credit}$$

$$\$500,000 \text{ Total Credit} \div 10 \text{ Years} = \$50,000 \text{ Per Year Annual Credit}$$

However, Company A moves this equipment to New York in 2008. Therefore, the equipment's useful life or actual period of use in West Virginia is reduced to only 5 years. The corresponding credit is reduced according to the above table from \$500,000 to \$166,667, or \$16,667 per year for 10 years.

$$(\$10M \times 33 \frac{1}{3}) \times 5\% = \$166,666.67 \text{ Total Credit}$$

$$\$166,667 \text{ (Rounded)} \div 10 \text{ years} = \$16,667 \text{ Per Year Annual Credit}$$

A reconciliation statement for 2003 through 2008 reflecting an over-utilization of credit must accordingly be filed with payment of any additional tax, interest and penalties owed.

Additional recapture provisions exist for the Economic Opportunity Tax Credit whenever the Taxpayer fails to maintain the required number of new jobs upon which the credit is based. Except for the “Small Business” version of the Economic Opportunity Tax Credit, recapture generally occurs immediately after the Taxpayer’s jobs re-determination year (the second tax year following the tax year when qualified investment was first placed into use or service). Job levels are determined on an annual basis for 10 years for the “Small Business” version of the Economic Opportunity Tax Credit. If the actual number of new jobs falls below the projected new job threshold, then the Taxpayer must file amended returns with the payment of any additional tax, interest and penalties owed due to an over-utilization of credit. A Recapture Tax may apply whenever the number of new jobs falls below a minimum threshold (set forth in the table below) subsequent to the initial re-determination period.

<b>IF NEW WEST VIRGINIA JOBS TOTAL AT LEAST:</b>	<b>THE APPLICABLE PERCENTAGE IS:</b>
520	30%
280	25%
20	20%
15 Corporate headquarters relocation only	10%
10 Small business credit	10%

**WEST VIRGINIA ENVIRONMENTAL AGRICULTURAL EQUIPMENT CREDIT (SCHEDULE WV/AG-1)**

Taxpayers purchasing and installing qualified agricultural equipment for use in agricultural operations can claim the Environmental Agricultural Equipment credit. For purposes of the credit, agricultural operations means only the commercial production of food, fiber, or woodland products (not timbering activity) by means of cultivation, tillage of the soil or by the conduct of animal, livestock, dairy, apiary, equine, or poultry husbandry, aqua-cultural activity, horticultural activity, or any other plant or animal production activity and all farm practices related, usual or incidental to the operations. Production is classified as “commercial production” if the producer has annual sales of at least \$1,000 of agricultural products by the producer. Agricultural equipment and structures that qualify for this credit include the following:

- Advanced technology pesticide and fertilizer application equipment
- Conservation tillage equipment
- Dead poultry composting facility
- Mortality incinerator
- Nutrient management system
- Stream-bank and shoreline protection system
- Stream channel stabilization system
- Stream crossing or access plan
- Waste management system
- Waste storage facility
- Waste treatment lagoon

Proof of entitlement to the credit is required and consists of proof of purchase and installation of qualified equipment, and written certification by the Commissioner of Agriculture that each item purchased is in fact qualified agricultural equipment. The amount of credit is 25 percent of the price of all certified expenditures, and may not exceed \$2,500 or the total amount of the Taxpayer’s liability under either the Corporation Net Income or Personal Income Tax. The excess may be carried over and applied as a credit in each of the next five years unless used sooner. Carried forward credit must be claimed before applying any new credit. Agricultural equipment credit may be used by only one business entity, may not be assigned and is limited to the tax liability attributable to agricultural operations within West Virginia.

**EMPLOYMENT CREDITS**

**WEST VIRGINIA MILITARY INCENTIVE CREDIT (FORMERLY VETERANS EMPLOYMENT CREDIT) (SCHEDULE J)**

The purpose of the West Virginia Military Incentive Program Act of 1991 is to encourage the employment of members of the National Guard and reserve forces, disadvantaged Vietnam era and Korean conflict veterans and disabled veterans generally. For economically disadvantaged veterans hired, the credit available to the employer is 30% of the first \$5,000 in wages or compensation actually paid the employee. For disabled veterans, the credit is the percentage of disability multiplied by the first \$5,000 in wages. For members of the National Guard and reserve forces, the credit is 25% of the first \$5,000 in wages. The veteran must have been certified as eligible by the West Virginia Department of Employment Security and have been employed for a continuous period of one year. Taxpayers must complete and file Schedule J to claim this credit.

### **NATURAL GAS JOBS RETENTION ACT CREDIT (SCHEDULE WV/NGRET-1)**

The Natural Gas Jobs Retention Act provides a credit of \$1,000 per qualified full-time employee for businesses subject to the natural gas storage provisions of the Business and Occupation Tax. A full-time employee is defined as one who works on a work site or is on paid vacation leave or other paid leave at least (1,500) fifteen hundred hours per year. The number of jobs required for a business to receive the credit must be at least 60 percent of the number of jobs existing with the business as of January 1, 1996. A qualified jobs-ratio is calculated by using a total of pre-existing jobs and new jobs divided by those jobs existing on January 1, 1996. The amount of credit may not exceed the Business and Occupation Tax attributable to the natural gas storage activity, and may not be taken against any other component of Business and Occupation Tax liability. The credit may not be carried forward or back to another tax year.

### **OTHER CREDITS**

#### **TELEPHONE UTILITIES RATE REDUCTION CREDIT (SCHEDULE K)**

Taxpayers that provide telephone service at special reduced rates to certain low-income residential customers are eligible to claim this credit. The West Virginia Public Service Commission will certify the amount of the revenue deficiency resulting from the provision of the service. The amount of the credit is the cost of providing the service to qualified customers, less any reimbursement received through any other means. The Public Service Commission must certify the level of revenue deficiency, and a copy of the certification order must be attached to the return on which the credit is claimed. The credit is first claimed against the West Virginia Telecommunications Tax, then against the West Virginia Corporation Net Income Tax liability. Any portion of remaining credit may be carried over to the next year's Telecommunications Tax liability, and is applied before any other credits for that year. There is no provision for carryover for Corporation Net Income Tax. In no event may the total may the total credit claimed exceed 100% of the certified revenue deficiency.

#### **ELECTRIC AND GAS UTILITIES RATE REDUCTION CREDIT (SCHEDULE L)**

Public utilities that provide electric and gas utility service at special reduced rates to low income residential customers for the billing months of December through April are eligible to claim the credit. The West Virginia Public Service Commission will determine the revenue deficiency resulting from the reduced rates, and certify the amount of allowable credit. The credit is first claimed against the West Virginia Business and Occupation Tax liability, then against West Virginia Corporation Net Income Tax liability. Any portion of credit remaining may be carried over to the next year's Business and Occupation Tax liability and is applied before any other credit for that year. There is no provision for carryover for the Corporation Net Income Tax.

#### **NONFAMILY ADOPTION CREDIT (SCHEDULE WV/NFA-1)**

This is a one-time credit that may be applied to Personal Income Tax upon the adoption of a child or children by the taxpayer(s). The child or children cannot be related to the taxpayer(s) by blood or marriage. The credit for each adoption is two thousand dollars (\$2,000), and may be taken in the year of the adoption of each non-family child. The child must be under the age of eighteen years at the time of adoption. This credit may, at the option of the Taxpayer, be taken over a period of three years.

#### **NEIGHBORHOOD INVESTMENT PROGRAM CREDIT (SCHEDULE WV/NIPA-2)**

The West Virginia Neighborhood Investment Program Act provides credit to individuals and private sector businesses that make eligible contributions to community based nonprofit organizations that establish projects to assist neighborhoods and local communities. These projects provide services such as health care, counseling, emergency assistance, crime prevention, education, housing, job training, and physical and environmental improvements. Project eligibility is determined pursuant to the filing of an application with the West Virginia Development Office and the Neighborhood Investment Advisory Board by one of two approaches.

1. Qualification based on contributions destined for a certified economically disadvantaged area, or
2. Qualification by need (regardless of location.)

Eligible contributions include cash, tangible personal or real property (at fair market value) and contributions of in kind professional services (at 75 percent of fair market value.) The maximum credit that can be taken by any taxpayer is \$100,000 per taxable year, for eligible contributions to one or more certified project plans. Total maximum credit that can be allowed by the West Virginia Development Office during any fiscal year is \$2.5 million. The minimum contribution of a taxpayer that would qualify for the credit during a year is \$500, and the maximum contribution is \$200,000. To be eligible the Taxpayer must be subject to the West Virginia Business Franchise Tax, Corporation Net Income Tax or Personal Income Tax. The amount of credit is 50% of the eligible contribution, and credit may be taken over a five-year period.

#### **HISTORIC REHABILITATED BUILDINGS INVESTMENT CREDIT (SCHEDULE RBIC)**

The Historic Rehabilitated Buildings Investment Credit equals ten percent (10%) of the qualified expenditures for the rehabilitation of residential and nonresidential buildings designated by the National Park Service, United States Department of the Interior, as "certified historic structures," and further defined as a "qualified rehabilitated structure."

The statute requires that the building or area be located within West Virginia to be eligible for the credit, and rehabilitation expenditures must be reviewed and approved by the West Virginia Department of Culture and History in order to qualify for credit.

The credit may offset up to 100% of the Taxpayer's liability for Personal Income Tax or Corporation Net Income Tax. For tax years beginning on or after March 9, 2002, Taxpayers may transfer, sell or assign any unused tax credits after first obtaining a certificate of approval from the Division of Culture and History to transfer, sell or assign the stated amount of unused tax credit. There are also carryover provisions for excess credit as follows:

- Corporation Net Income Tax - For years beginning after December 31, 1997, one-year back and twenty years forward.
- Personal Income Tax - For years beginning after December 31, 1997, one-year back and twenty years forward.

Taxpayers must complete and file schedule RBIC when claiming this credit on annual tax returns.

Application procedures for the rehabilitated buildings investment credits are the same as those required in the federal regulations for the Preservation Tax Incentive. The certification process is in three parts. Part I certifies that the building is a historic structure. Part II describes the work to be done, and Part III is the actual certification of the Secretary of the Interior's Standards for Rehabilitation. The reviews are completed at the State Historic Preservation Office then forwarded, with recommendations, to the National Park Service for final determination. Successful certification by the National Park Service of a certified rehabilitation automatically qualifies the applicant for this tax credit.

### **CREDIT FOR QUALIFIED REHABILITATED RESIDENTIAL BUILDING INVESTMENT (SCHEDULE RBIC-A)**

The Credit for Qualified Rehabilitated Residential Building Investment equals twenty percent (20%) of the qualified expenditures for the rehabilitation of residential homesteads designated by the West Virginia Department of Culture and History as "certified historic structures," and further defined as a "qualified rehabilitated structure." The statute requires that the building or area be located within West Virginia to be eligible for the credit, and rehabilitation expenditures must be reviewed and approved by the West Virginia Department of Culture and History in order to qualify for credit.

The credit may offset up to 100% of the Taxpayer's liability for Personal Income Tax. For tax years beginning on or after March 9, 2002, Taxpayers may transfer, sell or assign any unused tax credits after first obtaining a certificate of approval from the Division of Culture and History to transfer, sell or assign the stated amount of unused tax credit.

Carryover provisions for excess credit are as follows:

- Personal Income Tax - For years beginning after December 31, 1999, five years forward.

Taxpayers must complete and file schedule RBIC-A when claiming this credit on annual tax returns.

### **APPRENTICESHIP TRAINING TAX CREDIT (SCHEDULE WV/ATTC-1)**

Beginning on or after January 1, 2008, a credit for taxpayers for wages paid to apprentices in the construction trades who are properly registered became available. The training program is required to be administered in a specified manner.

Subsection 11-13W-1(b) of the West Virginia Code states that the credit is to be \$1.00 per hour multiplied by the total number of hours worked during the tax year, but the credit may not exceed the lesser of \$1,000.00 or 50% of the actual wages paid for the apprenticeship.

The apprenticeship training program is to consist of at least 2,000 hours but not more than 10,000 hours of on the job training.

Any unused credit is forfeited and no carry back to prior tax years is allowed.

### **FILM INDUSTRY INVESTMENT TAX CREDIT (SCHEDULE WV/FITC-1)**

The purpose of this credit is intended to encourage economic growth through the production of motion pictures and other commercial film and audiovisual projects in this State.

Effective January 1, 2008, the West Virginia Code created the nonrefundable tax credit as a percentage the direct production expenditures made in West Virginia and the post production expenditures made in West Virginia: that are directly attributable to the production of a commercial film or audiovisual product; that are for services performed in West Virginia; and that are subject to taxation in West Virginia.

Section 11-13W-5 establishes the amount of and limitations on the credit. The base allowance is 22% but an additional 5% is available for tax years beginning prior to January 1, 2010; however, the additional 5% credit is not available if the production company receives a tax credit pursuant to the federal new markets tax credit program. An additional 2% is available if 10 or more West Virginia residents are full-time employees working in the State or as apprentices working in the State. Also, another 2% is available if at least

25% of the full-time workforce is comprised of West Virginia residents. The credit is to be applied as provided in Section 11-13W-7. No more than \$10,000,000 of credits may be allocated in any given tax year. The credit may not be claimed for expenditures for which the production company claimed an exemption from Sales Tax or Use Tax.

There are specific requirements in order to claim the credit. The phrase "Filmed in West Virginia" must appear in the closing credits. Application is to be in the form and manner prescribed. All required information is to be submitted to the West Virginia Film Office.

The credit is to be applied first to the Business Franchise Tax, then the Corporation Net Income Tax and then the Personal Income Tax.

The law specifically restricts the credit from being applied against employer withholding taxes. Any unused credit is to be applied against the applicable taxes in the order specified for the succeeding tax years until the earlier of the full amount of excess credit is used or the expiration of the second tax year after the tax year in which the expenditures occurred; any remaining credit is forfeited. Also, no carry back to prior tax years is allowed.

In order to claim this credit, schedule WV/FITC-1 must be enclosed with the tax return on which the credit is being claimed.

#### **FINANCIAL ORGANIZATION GOODWILL CREDIT (SCHEDULE WV/FOGW-1) AND FINANCIAL ORGANIZATION TRANSITION CREDIT**

In order to claim a Financial Organization Goodwill Credit, the taxpayer must be a financial organization with its commercial domicile in West Virginia that acquires a financial organization that does not have its commercial domicile in West Virginia. The goodwill associated with the acquisition is first added to the net equity of the financial organization with the West Virginia domiciled organization on or after January 1, 2008. This credit may only be claimed on the Business Franchise Tax return. Schedule WV/FOGW-1 must be enclosed with the return when filed.

A Business Franchise Tax Credit is available for any financial organization related to additional goodwill added to the balance sheet on or after January 1, 2008 that is attributable to the purchase of a non-domiciled bank. The tax credit to be claimed is determined by 50% of the qualified additional goodwill multiplied by the business franchise tax rate. Thus, in 2008, the tax credit equals 0.55% multiplied by 50% of the additional goodwill value.

Financial organizations may qualify for a transition tax credit equal to the net increase in Corporation Net Income Tax liability multiplied by 80% in 2009, 60% in 2010, 40% in 2011, 20% in 2012, and 10% in 2013. This transition tax credit may not reduce the annual Corporate Net Income Tax liability below \$1 million.

#### **CREDIT SCHEDULE ORDER FORM**

On the following page is a listing of all available tax credit schedules. This page may be used as an order form. Please checkmark the schedules that are of interest to you and return to Taxpayer Services. Due to efforts to keep printing and postage costs down, orders are limited to one of each tax credit schedule. The schedules may be photocopied as needed. Schedules and forms can also be downloaded from the Tax Department web site. The address for the West Virginia State Tax Department, alternative ordering information and the Department's Internet address is provided below.

West Virginia State Tax Department  
Taxpayer Services Division  
P.O. Box 3784  
Charleston, West Virginia 25337-3784  
Telephone: (304) 558-3333  
Toll free: 1-800-WVA-TAXS (1-800-982-8297)  
or visit our web site:  
<http://www.state.wv.us/taxdiv>  
TDD service for the hearing impaired: 1-800-2TAXTDD (1-800-282-9833)

## **TAX CREDIT FORM & SCHEDULE ORDER FORM**

### **ECONOMIC DEVELOPMENT CREDITS**

- Economic Opportunity Tax Credits (Application Form WV/EOTC-A and Schedules EOTC-1 and EOTC-PIT)

- General Economic Opportunity Tax Credit
- Corporate Headquarters Relocation Tax Credit
- Small Business Credit
- Jobs Creation Tax Credit

- Manufacturing Investment Tax Credit (Application Form WV/MITC-A and Schedule MITC-1)
- Industrial Expansion and Revitalization Credit for Electric Power (Schedule I-EPP)
- Industrial Expansion and Revitalization Credit for manufacturers' qualified investment placed in service or use prior to January 1, 2003 (Schedule I)
- Strategic Research and Development Tax Credit (Application Form WV/SRDTC-A and Schedule SRDTC-1)
- Coal Loading Facilities Credit (Schedule C)
- High-Growth Business Investment Tax Credit (Schedule HGBITC-1)
- High Technology Manufacturers Credit

### **ENVIRONMENTAL CREDIT**

- West Virginia Environmental Agricultural Equipment Credit (Schedule WV/AG-1)

### **EMPLOYMENT CREDITS**

- West Virginia Military Incentive Credit (Schedule J)
- Natural Gas Jobs Retention Act Credit (Schedule WV/NGRET-1)

### **OTHER CREDITS**

- Telephone Utilities Rate Reduction (Schedule K)
- Electric and Gas Utilities Rate Reduction (Schedule L)
- Non-family Adoption Credit (Schedule WV/NFA-1)
- Neighborhood Investment Program Credit (Schedule WV/NIPA-2)
- Historic Rehabilitated Buildings Investment Credit (Schedule RBIC)
- Residential Historic Rehabilitated Building Qualified Investment Credit (Schedule RBIC-A)
- Apprenticeship Training Tax Credit (Schedule WV/ATTC-1)
- Film Industry Investment Tax Credit (Schedule WV/FITC-1)
- Financial Organization Goodwill Credit (Schedule WV/FOGW-1)