

West Virginia Tax Credit Review and Accountability Report - 2009

Economic Opportunity Tax Credit
Strategic Research and Development Tax Credit
Manufacturing Investment Tax Credit
High-Growth Business Investment Tax Credit

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Executive Summary

In 2002, the West Virginia Legislature enacted comprehensive investment tax credit reform legislation per the recommendations of a tax incentive evaluation report jointly prepared by the West Virginia Department of Revenue and the West Virginia Development Office. Thirteen existing investment tax credits were repealed and replaced with three new investment tax credits. The repealed investment tax credits included the Business Investment and Jobs Expansion Credit (Super Credit), the Research and Development Projects Credit, the Coal-Based Synthetic Fuels Credit, the Aerospace Industrial Facilities Credit, the Colin Anderson Employment Credit, the Value-Added Wood Manufacturing Operations Credit, the Value-Added Agricultural Products Credit, the Value-Added Steel Manufacturing Operations Credit, the Value-Added Aluminum or Polymer Manufacturing Operations Credit, the Residential Housing Development Projects Credit, the Convenience Food Store Security Tax Credit, the Increased Generation of Electricity From Coal Tax Credit and the Coal Coking Facilities Credit. The new investment tax credits included the Economic Opportunity Tax Credit (EOTC), the Strategic Research and Development Tax Credit (SRDTC), and the Manufacturing Investment Tax Credit (MITC). The new law required a periodic tax credit review and accountability report evaluating the cost effectiveness of the three new investment tax credit programs, to be performed every three years beginning in 2006. The first evaluation report issued in 2006 contained minimal feedback due to the lack of significant experience with the new investment tax credit programs. With more extensive historical information now available, this 2009 report provides a more extensive and detailed evaluation of the EOTC, SRDTC, and MITC programs.

Statutory changes enacted in years subsequent to 2002 added a temporary venture capital tax credit, the High-Growth Business Investment Tax Credit, for investors who invested in qualified small research and development companies between July, 2005, and June, 2008. In addition, a temporary refundable tax credit option was made available to qualified small research and development firms related to SRDTC investment made between July, 2004 and December, 2007. Economic Opportunity Tax Credits were made available under slightly modified rules to qualified high-technology manufacturers and qualified businesses creating fewer than 20 new jobs. Finally, comprehensive business tax reforms were enacted between 2006 and 2008 -- phasing out the Business Franchise Tax by 2015, requiring mandatory combined reporting for unitary corporations beginning in 2009, providing a nonrefundable tax credit equal to local West Virginia property taxes paid on manufacturing inventory beginning in 2009 and gradually reducing the Corporation Net Income Tax rate from 9.0 percent to 6.5 percent by 2014.

The original fiscal note to the 2002 Legislation projected total investment tax credit costs for the three new programs to rise to \$6.9 million by Fiscal Year 2005-2006. The original projected cost of the new tax credits versus actual cost claimed on 2006 tax year returns follows:

<u>Tax Credit Program</u>	<u>Projected Cost</u>	<u>Actual Cost</u>
Economic Opportunity	\$ 1,200,000	\$ 2,649,724
Manufacturing Investment	2,900,000	2,439,473
Strategic Research & Development	2,800,000	1,670,986
High-Growth Business Investment	N/A	176,666
Grand Total	\$ 6,900,000	\$ 6,936,849

In addition to program costs, the other major report findings include the following:

- Total tax credit expenditures for the initial years of these programs are relatively small because of carryover benefits from terminated tax credit programs, a learning curve for the new programs, lack of full compliance regarding the credit application requirement, and the existence of a bonus depreciation deduction for new investment.
- In the case of the job creation Economic Opportunity Tax Credit program, the cost of the credit per job was fairly modest, often comparable to employee withholding tax associated with such new jobs.
- Employees of firms receiving tax credit benefits generally benefitted from employer-provided health insurance and pension plans.
- The Business Investment and Jobs Expansion Tax Credit and the Economic Opportunity Tax Credit have certain structural similarities which allow the State Tax Department to make projections of Economic Opportunity Tax Credit costs with reasonable confidence. Statistical data retrieved from the sun-setting Business Investment and Jobs Expansion Tax Credit Program indicate an expected annual credit expenditure cost of no more than \$7-\$10 million for a mature Economic Opportunity Tax Credit. Through the 2003-2006 period, Economic Opportunity Tax Credit claims grew from roughly \$76,000 to more than \$2.6 million.
- Annual expenditure costs for a mature Strategic Research and Development Tax Credit will likely exceed the \$3 million level of the old Research and Development Tax Credit Program.
- The Industrial Expansion and Revitalization Tax Credit and the Manufacturing Investment Tax Credit have certain structural similarities which allow the State Tax Department to make projections of Manufacturing Investment Tax Credit costs with reasonable confidence. Statistical data retrieved from the old 10% Industrial Expansion and Revitalization Tax Credit Program indicate an expected annual credit expenditure cost of no more than \$10-\$15 million for a mature Manufacturing Investment Tax Credit.
- The amount of tax credit claimed on tax returns will generally be less than the amount of available tax credit due to the tax liability limits of the Taxpayer. Future tax credit claims will be further limited by the gradual phase-out of the Business Franchise Tax and planned reductions in the Corporation Net Income Tax rate.

- Companies participating in one or more of these tax credit programs generally outperformed their peers in the area of net job creation over the report period.
- The credit programs may help some individual business Taxpayers, but the overall impact of the credit programs on economic growth is arguable.
- The cost of the new business tax credit incentive programs is relatively small in comparison to both the overall state budget and other state and local tax expenditures.
- Business tax credits complicate the Tax Code, and result in additional compliance costs for Taxpayers and additional administrative costs for the State Tax Department.
- The West Virginia State tax burden for the manufacturing sector is generally competitive with surrounding states because of the 60% tax break¹ offered by the Manufacturing Investment Tax Credit. Local taxes are not part of this equation.
- Local taxes are a larger potential impediment to economic growth than are West Virginia State business taxes. The local property taxes on machinery and equipment represent a significant component of the total tax costs for West Virginia manufacturing businesses. Investment tax credits for the manufacturing sector offset a small portion of these total State and local tax costs.
- The State Tax Department's ability to analyze tax credit programs will be enhanced when various manual business tax return processes are automated, with the result that more detailed information will be captured through the new Integrated Tax System. Services provided to business Taxpayers will be enhanced in the process. Manual processing of more than 50,000 annual corporate tax returns hinders the timely capture of statistical information.
- Some Taxpayers, particularly those with Manufacturing Investment Tax Credit, are still not complying with the tax credit application requirements. There was no application requirement for the old Industrial Expansion and Revitalization Tax Credit Program. The 50% penalty provision for lack of timely compliance will stimulate future compliance with the annual credit application requirement.
- Current law allows Taxpayers to file their annual tax credit application forms with their annual tax return, including those returns filed with an extended due date. Tax returns often exceed 100 pages. If tax credit application forms are filed with such large returns, the application forms can sometimes get lost in the paperwork. As a result, penalties for failure to timely file an application may be imposed one or more years later, to the detriment of the Taxpayer. This problem also hinders the State Tax Department's efforts to timely measure accountability.

¹ For tax years beginning before January 1, 2009, the Manufacturing Investment Tax Credit could be used to offset up to 50% of eligible taxes.

Introduction

Following a comprehensive review of West Virginia's tax credit incentives, Legislation was enacted in 2002 to terminate a number of credit programs. A Taxpayer who gained entitlement to multiple-year credit allocations prior to January 1, 2003 retained that entitlement, and may apply the credit in due course pursuant to the requirements of the particular credit until the original multiple-year entitlement has been exhausted or otherwise terminated. The tax credit programs terminated include the following:

- Industrial Expansion and Revitalization Credit²
- Business Investment and Jobs Expansion Credit (Super Credit)
- Research and Development Projects Credit
- Coal-Based Synthetic Fuels Credit
- Aerospace Industrial Facilities Credit
- Colin Anderson Employment Credit
- Value-Added Wood Manufacturing Operations Credit
- Value-Added Agricultural Products Credit
- Value-Added Steel Manufacturing Operations Credit
- Value-Added Aluminum or Polymer Manufacturing Operations Credit
- Residential Housing Development Projects Credit
- Convenience Food Store Security Tax Credit
- Increased Generation of Electricity From Coal Tax Credit
- Coal Coking Facilities Credit

Additionally, the 2002 Legislature created three new tax credit programs applicable to investment placed in service or use on or after January 1, 2003. The three new credits were the Economic Opportunity Tax Credit, the Strategic Research and Development Tax Credit and the Manufacturing Investment Tax Credit. In 2004, an additional new credit, the High-Growth Business Investment Tax Credit, was enacted.

The enacting legislation for each of the aforementioned new credits includes provisions for the State Tax Commissioner to 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 the indicated credit. The first report was due February 1, 2006, with subsequent reports due on February 1 every third year thereafter. The first report covered credits related to tax years ending in 2003. This report covers credits related to tax years 2003 through 2006. Although all tax year 2007 tax returns should have been filed by the fall of 2008, not all returns were available for electronic or manual review as of mid-January, 2009. Also, most tax year 2008 returns are not due until after the due date of this report.

A description of all investment tax credits subject to evaluation in this report can be found in Appendix A. Copies of tax credit application forms for the Economic Opportunity Tax Credit, Strategic Research and Development Tax Credit, and Manufacturing Investment Tax Credit may be found in Appendices B, C, and D, respectively. Data for this report is generally extracted from both tax credit application forms and tax returns. Finalized changes resulting from

² The Industrial Expansion and Revitalization Credit was retained for electric power producers.

tax audits and other review efforts by the State Tax Department are incorporated in the results of this report.

Economic Opportunity Tax Credit

The intent of the Economic Opportunity Tax Credit (EOTC) as stated in West Virginia Code §11-13Q-2 was as follows: “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.” In order to claim the Economic Opportunity Tax Credit, eligible Taxpayers must create a minimum number of new jobs. With the termination of the Business Investment and Jobs Expansion Tax Credit (Super Credit), the Economic Opportunity Tax Credit is West Virginia’s primary job creation tax incentive. The major enhancement of the Economic Opportunity Tax Credit, compared to the Super Credit, was a reduction in the number of new jobs required to qualify for the credit from 50 to 20. Also, the complexity of the Business Investment and Jobs Expansion Tax Credit required a fourteen-page form to claim the credit. The Economic Opportunity Tax Credit is much simpler, and the form for claiming the credit is only two pages.

As enacted in 2002 and applicable for tax years beginning on or after January 1, 2003, the Economic Opportunity Tax Credit had three sub-components. The first component required qualifying Taxpayers to create at least 20 new jobs. The second component, directed towards small businesses, required the creation of at least 10 new jobs, while the third component, the corporate headquarters relocation provision, required businesses to establish their headquarters in West Virginia and create at least 15 new jobs. Subsequently, two additional Economic Opportunity Tax credit components, the specified high-technology manufacturer and additional jobs options were added in 2007 and 2008, respectively. However, these latest components are effective for tax years beginning after the years covered by this report.

The criteria for the review and accountability report for the Economic Opportunity Tax Credit, as stated in West Virginia Code §11-13Q-20, is as follows:

- The number of taxpayers claiming the credit.
- The net number of new jobs created by all taxpayers claiming the credit.
- The cost of the credit.
- The cost of the credit per new job created.
- Comparison of employment trends for an industry and for taxpayers within the industry that claim the credit.

Table 1 – Economic Opportunity Tax Credit Claims and Cost

Tax Year	Taxpayers Claiming the Credit	Cost
2003	7	\$75,921
2004	11	\$358,911
2005	15	\$922,591
2006	17	\$2,649,724

The Economic Opportunity Tax Credit can be used to offset Business Franchise Tax liability, Corporation Net Income Tax liability, and Personal Income Tax liability. Since electing

small business corporations, limited liability companies, partnerships and other unincorporated organizations can allocate credit among the members, the count of taxpayers claiming the credit is greater than the number of businesses that made the investment and created the jobs. The Economic Opportunity Tax Credit may be claimed by the taxpayer over a ten-year period. Thus, taxpayers that made qualifying investment in tax year 2003 would be entitled to claim an annual allocation of the credit for tax years 2003 through 2012. The number of taxpayers claiming the credit as presented above is not additive since some taxpayers are included in the counts for multiple years. Based upon tax return and credit application data, the number of unique businesses claiming the credit is sixteen.

Provisions in the Economic Opportunity Tax Credit Law require the credit claimant to certify the actual number of new jobs created in West Virginia that are directly attributable to the qualified investment with the annual tax return filed for the third taxable year in which the qualified investment was placed in service or use. For many of the credit claimants, the tax return for the third taxable year, as mentioned above, was not available for this report. Thus, the new job information was extracted from the Application for Economic Opportunity Tax Credit (form WV/EOTC-A) filed by the credit claimants. A copy of the Application form is included in Appendix B. Based upon information from the credit applications, the number of new jobs created by Taxpayers claiming the credit was calculated as the difference between jobs reported prior to the required credit investment and the number of jobs projected in the third year following the investment. The sixteen unique businesses making the investment that earned entitlement to the Economic Opportunity Tax Credit projected that the investment would result in creation of 3,234 new jobs in West Virginia. While the average number of jobs per business entity is over 200, the median is only 75 new jobs.

Over the four year tax period covered by this report, claims for the Economic Opportunity Tax Credit totaled \$4,007,147. Based upon the projection of 3,234 new jobs, the cost of the credit through tax year 2006 was \$1,239 per new job.

As part of the data collected via the Application for West Virginia Economic Opportunity Tax Credit (form WV/EOTC-A), applicants were asked to provide information on health plans and retirement plans provided to employees. The table below summarizes information reported on the applications of the credit claimants. Health Plan information was available from all 16 unique businesses claiming the credit, while Retirement Plan information was available for all but one of the businesses. The values in the table below under the Retirement Plan column exclude the missing value from the calculations.

Table 2 – Benefits Provided by EOTC Businesses

	Health Plan	Retirement Plan
Percentage of EOTC businesses providing 100 percent coverage	33.3	40.0
Weighted percentage of new jobs covered	95.4	95.1
Weighted average cost of benefit per employee	\$8,144	\$7,466

The final criterion for the Economic Opportunity Tax Credit review and accountability is a comparison of employment trends for the industry versus taxpayers within the industry that claim the credit. However, the total number of Economic Opportunity Tax Credit claimants compared to the total population of taxpayers or employers is relatively small. Thus, the following statistics may not provide any meaningful information. The manufacturers among the Economic Opportunity Tax Credit claimants projected that the number of West Virginia jobs after three years following the investment for the credit would increase by 58.4 percent over the pre-investment level. Similarly, the non-manufacturers projected a 70.6 percent increase. Statewide over the 2002 to 2006 period, manufacturing employment declined by 11.1 percent while non-manufacturing employment increased by 4.8 percent.

The State Tax Department closely monitors all Economic Opportunity Tax Credit claimants to ensure that the statutory job creation requirements are met over the life of the tax credit benefit. Taxpayers who fail to meet the job creation requirements set forth in the Statute, lose entitlement to the Economic Opportunity Tax Credit for any year of non-compliance.

Strategic Research and Development Tax Credit

As stated in Code §11-13R-2, the Strategic Research and Development Tax Credit (SRDTC) was enacted “to encourage research and development in this state and thereby increase employment and economic development.” The Strategic Research and Development Tax Credit essentially replaced the Research and Development Projects Credit. The previous credit was primarily for manufacturers and producers of natural resources. For purposes of the Strategic Research and Development Tax Credit, research and development “means systematic scientific, engineering or technological study and investigation in a field of knowledge in the physical, computer or software sciences, often involving the formulation of hypotheses and experimentation, for the purpose of revealing new facts, theories or principles, or increasing scientific knowledge, which may reveal the basis for new or enhanced products, equipment or manufacturing processes.”

The criteria for the review and accountability report for the Strategic Research and Development Tax Credit, as stated in West Virginia Code §11-13R-11, is as follows:

- The number of taxpayers claiming the credit.
- The net number, type and duration of new jobs created by all taxpayers claiming the credit and wages and benefits paid.
- The cost of the credit.
- The cost of the credit per new job created.
- Comparison of employment trends for an industry and for taxpayers within the industry that claim the credit.

Table 3 – Strategic Research and Development Tax Credit Claims and Cost

Tax Year	Taxpayers Claiming the Credit	Cost
2003	10	\$75,105
2004	12	\$1,316,742
2005	17	\$1,740,169
2006	15	\$1,670,986

In addition to the normal provisions stating how the Strategic Research and Development Tax Credit can be applied to reduce tax liability, an amendment enacted in 2004 provided that certain small qualified research and development companies could claim a refundable credit if the credit allowed exceeded the sum of the taxes against which the credit could be applied. To be eligible for the refundable credit, the Taxpayer, including the controlled group, had to have gross revenue of \$20 million or less and a payroll of \$2.5 million or less. Strategic Research and Development Tax Credit designated as refundable credit is included in the claim and cost numbers in the table above. Since the number of refundable claims is below the number for which the State Tax Department publishes statistical data, no separate reporting of the refundable credit is available.

Similar to the Economic Opportunity Tax Credit, the Strategic Research and Development Tax Credit can be used to offset Business Franchise Tax liability, Corporation Net

Income Tax liability, and Personal Income Tax liability. Since electing small business corporations, limited liability companies, partnerships and other unincorporated organizations can allocate credit among the members, the count of taxpayers claiming the credit is greater than the number of businesses that conducted research and development activities. Additionally, qualifying research and development expenditures or investment qualifying for the Strategic Research and Development Tax Credit often entitles the taxpayer to claim a portion of the tax benefit over a multiple-year period. The number of taxpayers claiming the credit as presented above is not additive since some taxpayers are included in the counts for multiple years. Based upon tax return and credit application data, the number of unique businesses claiming the credit is nineteen. Additionally, a number of small businesses applied for the Strategic Research and Development Tax Credit for purposes of attracting investment. Taxpayers making investment in certain qualified research and development businesses could potentially qualify for an allocation of the High-Growth Business Investment Credit (a credit covered in a later section of this report). The qualified research and development businesses often had little or no tax liability of their own against which to apply earned Strategic Research and Development Tax Credit.

Although job creation is not a requirement for the Strategic Research and Development Tax Credit, information on new jobs is part of the report criteria. As shown on the Application for West Virginia Strategic Research and Development Tax Credit (form WV/SRDTC-A) in Appendix C, potential credit applicants were asked to provide information on employment in West Virginia. Based upon information from the credit applications, the number of new jobs created by Taxpayers claiming the Strategic Research and Development Tax Credit was 966. However, that number is inflated somewhat by jobs created by taxpayers who qualify for the Economic Opportunity Tax Credit in addition to the Strategic Research and Development Tax Credit. A number of the credit claimants reported no new jobs were created or a decline in jobs. The median number of new jobs per year is three. For tax years 2003 through 2006, the total Strategic Research and Development Tax Credit cost was \$4,803,002, or roughly \$4,972 per new job created.

As reported by the credit applicants, in-house wages paid for West Virginia research and development was roughly 9.2 percent of total West Virginia payroll. The reported data indicates the median wage of research and development employees was \$60,000 and the median benefit cost per research and development employee was \$7,500. As part of the data collected via the Application for West Virginia Strategic Research and Development Tax Credit, applicants were asked to provide information on health plans and retirement plans provided to employees. As reported above, 19 different businesses have apparently claimed the Strategic Research and Development Tax Credit, while the State Tax Department has approved Applications for 20 businesses. The difference in the counts can be attributed, in part, to businesses that received an allocation of the credit due to their ownership of a qualifying research and development company and to businesses with minimal tax liability who applied for the Strategic Research and Development Tax Credit for purposes of being designated as a company qualified to receive investment through the High-Growth Business Investment Tax Credit program. The table below summarizes information reported on the applications. Health Plan information was available from 17 of the 20 applicants, while Retirement Plan information was available for 16 applicants. The values in the table below exclude from the calculations Applications with missing information on benefits.

Table 4 – Benefits Provided by SRDTC Businesses

	Health Plan	Retirement Plan
Percentage of SRDTC businesses providing 100 percent coverage	52.9	31.3
Weighted average cost of benefit per employee	\$7,062	\$7,990

Similar to the earlier section on the Economic Opportunity Tax Credit, the final criteria for the Strategic Research and Development Tax Credit review and accountability is for a comparison of employment trends for the industry and for taxpayers within the industry that claim the credit. However, the total number of Strategic Research and Development Tax Credit claimants compared to the total population of taxpayers or employers is relatively small. Thus, the following statistics may not provide any meaningful information. The manufacturers among the Strategic Research and Development Tax Credit claimants reported annual growth in West Virginia jobs of 9.0 percent. Similarly, the non-manufacturers reported annual growth of 70.6 percent. Statewide over the 2002 to 2006 period, manufacturing employment declined at an average annual rate of 2.9 percent, while non-manufacturing employment increased at an average annual rate of 1.2 percent.

Manufacturing Investment Tax Credit

The Manufacturing Investment Tax Credit (MITC) was the third new credit enacted in 2002 applicable to investment placed in use or service on or after January 1, 2003. As stated in West Virginia Code §11-13S-2, the intent and purpose of the Manufacturing Investment Tax Credit was stated as follows -- “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 new credit essentially replaced the Industrial Expansion and Revitalization Credit (IERC) for manufacturers. The Industrial Expansion and Revitalization Credit was retained only for electric power producers. Although the percentage used in determining the amount of credit available from qualifying investment was reduced for the Manufacturing Investment Tax Credit, the credit can now be used to offset Corporation Net Income Tax liability. Additionally, the definition of “manufacturers” was narrowed in comparison to the definition used for the Industrial Expansion and Revitalization Credit.

The criteria for the review and accountability report for the Manufacturing Investment Tax Credit, as stated in West Virginia Code §11-13S-10, is as follows:

- The numbers of taxpayers claiming the credit.
- The net number, type and duration of new jobs created by all taxpayers claiming the credit and the wages and benefits paid.
- The cost of the credit.
- The cost of the credit per new job created.
- Comparison of employment trends for an industry and for taxpayers within the industry that claim the credit.

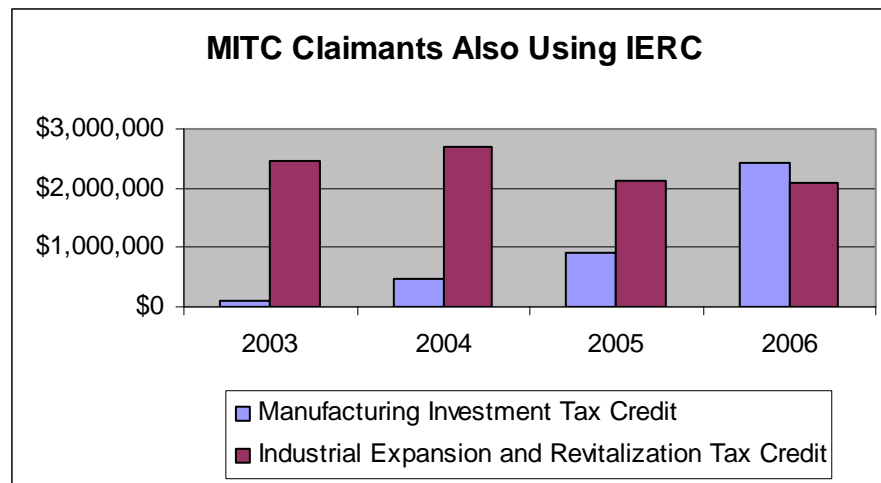
Table 5 – Manufacturing Investment Tax Credit Claims and Cost

Tax Year	Taxpayers Claiming the Credit	Cost
2003	42	\$115,201
2004	68	\$473,263
2005	72	\$921,817
2006	90	\$2,439,473

As stated above, the Manufacturing Investment Tax Credit essentially replaced the Industrial Expansion and Revitalization credit. One common feature of the two credits was that the total credit attributable to a qualifying investment was to be allocated evenly over a ten-year period. For example, an investment for the Industrial Expansion and Revitalization Credit made in the year 2000 would provide an annual credit amount for tax years 2000 through 2009. Since many manufacturers make annual upgrades to machinery and equipment, the available credit is often attributable to ten different yearly investments. From reviewing the credit claims of taxpayers applying for the Manufacturing Investment Tax Credit, it was frequently noted that the taxpayer used accumulated Industrial Expansion and Revitalization credit to offset the maximum tax liability possible without having to use earned Manufacturing Investment Tax Credit. However, due to the permitted application of the Manufacturing Investment Tax Credit against

the Corporation Net Income Tax, some taxpayers were able to use Industrial Expansion and Revitalization Credit to reduce their Business Franchise Tax liability and Manufacturing Investment Tax Credit to reduce their Corporation Net Income Tax liability. The following chart shows the relative usage of Manufacturing Investment Tax Credit versus Industrial Expansion and Revitalization Credit for the Manufacturing Investment Tax Credit claimants for tax years 2003 through 2006.

Figure 1 Relative MITC and IERC Claims for MITC Claimants



As indicated in the chart above, Manufacturing Investment Tax Credit claimants began to use more of that credit than the Industrial Expansion and Revitalization Tax Credit in tax year 2006. Due to the ten-year credit allocation, Industrial Expansion and Revitalization Credit will likely continue to be used through 2011. Some taxpayers who gained entitlement to a ten-year Industrial Expansion and Revitalization Credit stream with investment made prior to the termination date have not applied for or used Manufacturing Investment Tax Credit. Further review of the returns of these affected taxpayers may be necessary to determine whether they are reporting current investment under the pre-2003 provisions or whether they have consciously not yet applied for the Manufacturing Investment Tax Credit.

Although job creation is not a requirement for the Manufacturing Investment Tax Credit, information on new jobs is part of the report criteria. Similar to the previous credits included in this report, potential Manufacturing Investment Tax Credit claimants were required to file an application before claiming the credit. A copy of the Application for West Virginia Manufacturing Investment Tax Credit (form WV/MITC-A) is included in Appendix D. Based upon information from the credit applications, the number of new jobs created by Taxpayers claiming the Manufacturing Investment Tax Credit over the period under review was 2,000. However, that number is inflated somewhat by jobs created by taxpayers who qualify for the Economic Opportunity Tax Credit in addition to the Manufacturing Investment Tax Credit. A number of the credit claimants reported no new jobs were created or a decline in jobs. The median number of new jobs per year is two. Through tax year 2006, Manufacturing Investment Tax Credit claims totaled \$3,949,754, or roughly \$1,974 per new job created.

The application data indicates that in the year prior to the investment for purposes of the Manufacturing Investment Tax Credit, the average wage was \$44,371, while for the year of the investment the average wage was \$45,544. As part of the data collected via the Application for West Virginia Manufacturing Investment Tax Credit (form WV/MITC-A), applicants were asked to provide information on health plans and retirement plans provided to employees. The table below summarizes information reported on the applications. While the Applications are completed in their entirety by most businesses, a few were filed with one or more data elements missing. The values in the table below exclude applications with missing data for the benefits from the calculations.

Table 6 – Benefits Provided by MITC Businesses

	Health Plan	Retirement Plan
Percentage of MITC businesses providing 100 percent coverage	44.9	42.3
Weighted average cost of benefit per employee	\$6,836	\$4,607

The table below presents some employment trend comparisons for selected North American Industry Classification System codes.

Table 7 – MITC Claimant Employment Trends

North American Industry Classification Code and Description	Annual Percentage Employment Increase MITC Applicants	Statewide Average Annual Growth 2002 – 2006
321 Wood product manufacturing	3.8%	-0.1%
325 Chemical manufacturing	4.4%	-4.6%
327 Nonmetallic mineral product manufacturing	8.7%	-6.3%
331 Primary metal manufacturing & 332 Fabricated metal product manufacturing	4.3%	-5.2%
Other Manufacturing	4.2%	-1.2%

High-Growth Business Investment Tax Credit

The last of the four credits that are subject of this report is the High-Growth Business Investment Tax Credit (HGBITC). As enacted in 2004, the Legislative intent stated at West Virginia Code §11-13U-2 was as follows: “The Legislature finds the encouragement of investment in potentially high-growth research and development businesses in this state is in the public interest and promotes economic growth and development for the people of this state. In order to encourage investment in start-up, growth-oriented, research and development businesses in this state and thereby increase employment and economic development, there is hereby provided a high-growth business investment tax credit.”

The criteria for the review and accountability report for the High-Growth Business Investment Tax Credit, as stated in West Virginia Code §11-13U-8, is as follows:

- The numbers of eligible taxpayers claiming the credit.
- The net number, type, and duration of new jobs created by all qualified research and development companies in which taxpayers claiming the credit made investment in and the wages and benefits paid by such companies.
- The cost of the credit.
- The cost of the credit per new job created.
- Comparison of employment trends for an industry and for taxpayers within the industry that claim the credit.

As stated previously, the four credits included in this report required that taxpayers file an application and be approved before claiming the credit. For the Economic Opportunity Tax Credit, Strategic Research and Development Tax Credit, and the Manufacturing Investment Tax Credit, the State Tax Department received and reviewed the application, while for the High-Growth Business Investment Tax Credit the application process was administered by the West Virginia Development Office.

As provided by the West Virginia Development Office, the number of approved High-Growth Business Investment Tax Credit certificates of entitlements and the total amount of credit authorized are shown in the following table.

Table 8 – Approved High-Growth Business Investment Tax Credit Entitlements

Fiscal Year	Approved Certificates of Credit Entitlement	Total HGBITC Authorized
2006	14	\$500,000.99
2007	15	\$187,500.00
2008	40	\$510,754.38

The application of the High-Growth Business Investment Tax Credit to offset tax liability is shown in the following table.

Table 9 - High-Growth Business Investment Tax Credit Claims and Cost

Tax Year	Credit Claimants	Credit Cost
2005	24	\$491,574
2006	16	\$176,666

Since the earliest certificates of entitlement were issued in FY2006 (i.e., the July 1, 2005 to June 30, 2006) period, some taxpayers were able to immediately apply the credit to their tax year 2005 return due in March or April of 2006 (or September or October of 2006 if the taxpayer received an extension to file).

The criteria for the review and accountability report for the High-Growth Business Investment Tax Credit seeks information on “the net number, type, and duration of new jobs created by all qualified research and development companies in which taxpayers claiming the credit made investment in and the wages and benefits paid by such companies.” However, it appears that the number of qualified research and development companies in which High-Growth Business Investment Tax Credit investors made investment is below the level at which the State Tax Department releases statistical data extracted from returns. Also, the criteria seeks information on the cost of the credit per new job created and a comparison of employment trends. Release of this information is also precluded due to the limited number of qualified research and development companies in which High-Growth Business Investment Tax Credit investors made investment.

Conclusion

As mentioned previously, the Economic Opportunity Tax Credit essentially replaced the Business Investment and Jobs Expansion Tax Credit. The low number of applications for the Economic Opportunity Tax Credit is likely attributable to a number of factors. Taxpayer recognition of the complexity of the credit it replaced may have dampened participation. In the last three years before the Business Investment and Jobs Expansion Tax Credit was terminated for new entitlements, the number of credit applications acknowledged / approved by the State Department had steadily declined. Additional applications for the Economic Opportunity Tax credit are expected as the economy improves.

In some cases, Taxpayers filing an application and making the necessary investment or expenditure to gain entitlement to one of the new credits did not use any of the credit due to outstanding credit allowances for other credits, including the terminated credits. Some Taxpayers with Business Franchise Tax liability and / or Corporation Net Income Tax liability and available Strategic Research and Development Tax Credit were able to use credit entitlement from terminated credits, including the Research and Development Projects Credit, to reach their maximum allowable tax offset. Similarly, some Taxpayers with Business Franchise Tax liability or Severance Tax liability and available Manufacturing Investment Tax Credit used accumulated Industrial Expansion and Revitalization Tax Credit to offset the maximum of 50 percent of liability and did not have to use the Manufacturing Investment Tax Credit.

Each of the four credits discussed in this report required the taxpayer to file an application before the credit could be claimed. For the Economic Opportunity Tax Credit, the Strategic Research and Development Tax Credit, and the Manufacturing Investment Tax Credit, the applications were due no later than the last day for filing the taxpayer's income tax return including any authorized extension of time for filing the return. In practice, the applications were often filed with a return claiming the credit. The review of tax returns for this report has found a small number of credit claims without the required application or by taxpayers not meeting the other eligibility requirements stated in the Statute. To the extent possible, the State Tax Department will recoup tax losses resulting from ineligible credit claims. The State Tax Department's development of an Integrated Tax System and other Statutory and administrative changes will diminish future invalid credit claims.

Appendix A – Publication TSD-110 – West Virginia Tax Credits



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.
- 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:

<u>Year</u>	<u>Maximum Gross Sales</u>
2003	\$7,000,000
2004	\$7,159,600
2005	\$7,324,500
2006	\$7,552,050

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.

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.

INDUSTRIAL EXPANSION AND INDUSTRIAL REVITALIZATION CREDIT FOR ELECTRIC POWER PRODUCERS (SCHEDULE I)

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 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:

<u>IF USEFUL LIFE IS:</u>	<u>THE APPLICABLE PERCENTAGE IS:</u>
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 HGBC-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 13, 2008.

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:	THE APPLICABLE 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%

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.

IF NEW WEST VIRGINIA JOBS TOTAL AT LEAST:	THE APPLICABLE PERCENTAGE IS:
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 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.

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.

<p style="text-align: center;">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)</p>
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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

- Manufacturing Investment Tax Credit (Application Form WV/MITC-A and Schedule MITC-1)
- Industrial Expansion and Revitalization Credit for Electric Power (Schedule I)
- 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 HGBC-1)

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)

Appendix B – Application for West Virginia Economic Opportunity Tax Credit
(form WV/EOTC-A)

Application for West Virginia Economic Opportunity Tax Credit For Investments Placed In Service On ~~Or~~ After January 1, 2003



Name	Identification Number
Business Name	Tax Year _____, _____ to _____, _____
Street Address	
City, Town, or Post Office	State Zip Code

Application is hereby made to the Tax Commissioner of West Virginia for allowance of Economic Opportunity Tax Credit with respect to qualified investment property placed in service or use during Applicant's tax year ending _____, and the new jobs created by the Applicant that are directly attributable to the qualified investment property and that are filled by persons who are domiciled in this State.

1a. Application Status (Check Only One):

- One Year Investment, One Taxpayer a.)
 Multiple Year Investment, One Taxpayer - Must receive Certification From Tax Commissioner b.)

1b. Type of Credit: Regular Credit Headquarters Relocation Small Business

2a. Investment:	Total Investment	Qualified Investment
(1) Year _____	Amount \$ _____	\$ _____
(2) Year _____	Amount \$ _____	\$ _____
(3) Year _____	Amount \$ _____	\$ _____

2b. Locations(s) of Investment in West Virginia _____

2c. General Description of Qualified Investment:

Narrative:

3. Employment:	Payroll	Jobs
a.) Total WV Payroll and Number of Jobs Prior to Investment	_____	_____
b.) Total WV Payroll and Number of Jobs This Tax Year:	_____	_____
c.) Projected WV Payroll and Number of Jobs After 3 Years:	_____	_____
d.) Jobs Percentage and Projected Number of Jobs After 3 Years:	_____ %	_____

4. Benefits:	
a.) Percentage of employees covered under health plan	_____ %
b.) Average annual health plan benefit cost per employee:	_____
c.) Percentage of employees covered under retirement plan:	_____ %
d.) Average annual retirement benefit cost per employee:	_____

5. Business Activity in West Virginia:

a.) North American Industry Classification System Code (NAICS) _____

b.) Narrative Description of Business Activity in West Virginia

6. Does the taxpayer elect to begin the (10) year credit period with the next succeeding taxable year? Yes ___ No ___

Under penalties of perjury, I declare that I have examined this application (including accompanying schedules and statements) and to the best of my knowledge and belief it is true, and complete.			
(Signature of Taxpayer)	(Name of Taxpayer: Type or Print)	(Title)	(Date)
(Person to Contact Concerning this Return)		(Telephone Number)	
(Signature of Preparer other than Taxpayer)	(Address)	(Date)	

DO NOT Attach the Application to your annual return. Return the completed application to the West Virginia State Tax Department, P.O. Box 902, Charleston, WV 25323-0902. If you have any questions or need further information regarding this application, telephone (304) 558-3333 or toll free to 1-800-WVA-TAXS (1-800-982-8297).

**APPLICATION FOR WEST VIRGINIA ECONOMIC OPPORTUNITY TAX CREDIT
FOR INVESTMENTS PLACED IN SERVICE ON OR
After January 1, 2003**



Instructions and Forms

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 in West Virginia and, as a result of this investment, created at least twenty (20) new jobs [or (15) new jobs for a corporate headquarters relocation, or (10) new jobs for a qualified small business]. 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 law provides that the required net increase in the taxpayer's employment in the State be determined and certified for a controlled group instead of an individual subsidiary. Jobs saved by the making of investment in an ongoing business operation do not count toward the new employee requirement unless the Tax Commissioner determines that the taxpayer is insolvent or bankrupt or that the taxpayer's business facility was destroyed by fire, flood or act of God.

The term "full-time employment" is defined to mean employment for at least one hundred forty (140) hours per month.

The term "small business" is defined to mean a business or controlled group of foreign and domestic affiliated businesses with annual gross receipts of not more than \$7.0 million. The gross receipt ceiling is subject to annual inflation adjustment.

Finally, the law specifies that no credit may be allowed or applied for any qualified investment property placed in service until the person asserting a claim for the credit makes written application to the Tax Commissioner and receives written acknowledgement of such application from the Tax Commissioner. Failure to timely apply for credit will result in forfeiture of 50% of the annual credit allowance otherwise available under this requirement. Form EOTC-A is designed to be a general application form for taxpayers wishing to claim credit based upon investments placed into use or service on or after January 1, 2003. The timely filing of this application is a condition precedent to claiming tax credits. This application must be filed annually no later than the due date of the taxpayer's West Virginia income tax return including any legally granted extension of time for filing such returns.

Instructions To Form EOTC-A

- 1a. Application Status: Place a check mark in the block next to the applicable status of your investment. (Check only one block.)
 - (a.) In some cases qualified investment property is placed in service or use by the taxpayer over a single tax year.
 - (b.) However, a multiple year project certification enables the taxpayer to place investment into service over a period of up to three consecutive tax years.

- 1b. Type of credit: Place a check mark in the block indicating the type of credit application sought.

- 2a. Investment: Enter the year investment is placed into service or use in the first column, the total dollar amount of investment placed into service or use in the second column and the dollar amount of qualified investment placed into service or use in the third column. Qualified Investment is determined according to the following useful life (straight line depreciation):

Useful Life

At Least	But Less Than	Percent Qualified
0 —	4 years	0
4 —	6 years	33-1/3
6 —	8 years	66-2/3
8 or more years		100

- 2b. Enter the location(s) of the qualified investment property (i.e. Main Street, Weston, or 12 miles north of Pipestem at the Intersection of State Route 3 and State Route 20).
- 2c. Provide a general description of the qualified investment property in the space provided (i.e. \$100,000 to be invested in buildings, \$500,000 to be invested in land, etc.)

3. Employment:

- a) Enter your total West Virginia payroll and number of jobs attributed to that payroll for the twelve month period ending on the day prior to the day of the first placement of qualified investment subject to Economic Opportunity Tax Credit into service or use.
- b) Enter your total West Virginia payroll and number of jobs attributed to that payroll for the tax year to which this application relates.
- c) Enter your total projected West Virginia payroll and number of jobs attributed to that payroll for the third tax year after the qualified investment is first placed into service or use. For example, if you first plan to place investment into service or use in 2003 then, you would use your projected 2005 payroll to complete this question. (Note that the information in 3(b) and 3(c) should be identical if this year is your third tax year).
- d) Enter the applicable jobs percentage you wish to claim (i.e. 20% if you expect to create at least 20 new jobs) and your projected number of new jobs created up through the third tax year corresponding to the increase in payroll from 3(a)

New Jobs Percentage Table

Number of New Jobs	New Jobs Percentage
10 to 19 (small business only)	10%
15 to 19 (Corporate HQ relocation only)	10%
20 to 279	20%
280 to 519	25%
520 or more	30%

to 3(c). Note that if your business is a member of a controlled group, then the controlled group's West Virginia employment must show a net increase equal to or greater than the necessary minimum new jobs threshold claimed by the member for credit to be available.

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.

4. Benefits:

- a) Enter the percentage of your employees covered under your sponsored health insurance plan.
- b) Enter the average annual cost of your employer-provided health insurance benefits (i.e., benefit costs divided by number of covered employees).
- c) Enter the percentage of your employees covered under your retirement plan.
- d) Enter the average annual retirement benefit contribution cost per covered employee.

5. Business Activity in West Virginia

- a) Enter your North American Industry Classification System Code that most closely describes your business activity in West Virginia.
- b) Describe the business expansion activity in West Virginia that is associated with your new investment (e.g., construction of a reconstituted wood product manufacturing plant.)

6. Taxpayers have an option of beginning their utilization of tax credits with the year investment is first placed into service or with the succeeding taxable year. Check yes or no depending upon which option you choose. Once an election is made either way it becomes irrevocable.

Within a reasonable time after receipt of the Application the Tax Commissioner or his designee will acknowledge, in writing, receipt, of this application and authorize the Applicant to begin claiming Economic Opportunity Tax Credit benefits. Such acknowledgement and authorization will not bar or otherwise prevent the Tax Commissioner from auditing or examining Applicant's books and records for compliance with the Economic Opportunity Tax Credit law and regulations.

This application must be signed by an officer of the company to be valid.

**Appendix C – Application for West Virginia Strategic Research and Development
Tax Credit (form WV/SRDTC-A)**



**APPLICATION FOR WEST VIRGINIA STRATEGIC RESEARCH AND DEVELOPMENT TAX CREDIT
FOR QUALIFIED EXPENDITURES AND QUALIFIED INVESTMENTS PLACED IN SERVICE ON OR
AFTER JANUARY 1, 2003**

Name	Identification Number
Business Name	Tax Year _____ , _____ to _____ , _____
Street Address	
City, Town or Post Office	State Zip Code

Application is hereby made to the West Virginia State Tax Commissioner for allowance of Strategic Research and Development Tax Credit with respect to qualified expenditures incurred during Applicant's tax year ending. _____

1. Base Amount of Research and Development in West Virginia:

- a.) Qualified research and development expenditures in preceding year: a.) \$ _____
- b.) Qualified research and development expenditures two years ago: b.) \$ _____
- c.) Qualified research and development expenditures three years ago: c.) \$ _____

2. Business Activity in West Virginia:

- a) North American Industry Classification System Code (NAICS) _____
- b) Narrative Description of Qualified Research and Development Activity in West Virginia

3a. Investment:

	Total Investment	Qualified Investment
Amount \$	\$ _____	\$ _____

3b. Location(s) of Investment in West Virginia _____

3c. General Description of Qualified Investment:
Narrative:

4. A. New products, processes, techniques, formulas, inventions or computer software:

What new products, processes, techniques, formulas, inventions or computer software are intended to result from the research, that will be held by the Taxpayer for sale, lease, or license by the Taxpayer, or used by the Taxpayer in a trade or business of the Taxpayer?

B. Processes, machinery and techniques for commercial production:

What new plant processes, machinery or techniques for commercial production of new products, processes, techniques, formulas, inventions or computer software are intended to result from the research, that will be held by the Taxpayer for sale, lease, or license by the Taxpayer, or used by the Taxpayer in a trade or business of the Taxpayer?

C. Improvements to exiting products, plant processes, techniques, formulas or machines:

If the research relates to improvement of an existing product, plant process, technique, formula or machine, specifically describe the new or improved function, performance, reliability or quality that is intended to result from the research.

D. Problem intended to be resolved by research:

What is the problem that is intended to be solved by the research?

Describe why resolution of the problem is important.

Describe what will be different if the research is successful in resolving or addressing the problem.

E. Nature, methodology, line of inquiry:

Does the proposed research activity qualify for the Federal Research and Development Credit?

Yes _____ No _____

Describe in general terms the methodology or line of inquiry to be initially followed by which the purposes of the research are to be accomplished or the problem is to be solved.

In general terms, what scientific or technical areas of inquiry will be dealt with in the research project? For example: biology, biochemistry, chemistry, computer science, electronics, mechanics, medicine, immunology, mining technology, drilling technology, pharmacology, aviation & aerospace technology, manufacturing, transportation technology, automotive technology, tools and tooling, power generation, utility delivery systems, communications technology, ect.?

Is the research to be undertaken for the purpose of discovering information that relates to the practical application of scientific or engineering knowledge in a specialized area? Yes _____ No _____

Will the research activities substantially constitute elements of a process of experimentation? Yes _____ No _____

F. Project costs, accounting and logistics:

Projected timeline for the research program or project: _____/_____/_____ to _____/_____/_____

Time period over which the Taxpayer seeks to have the project certified for purposes of the West Virginia strategic research and development tax credit. _____/_____/_____ to _____/_____/_____

Estimated Annual project budget over the project timeline.

Number and types of jobs created as a direct result of the research and development program.

Type of Job Created	Number
_____	_____
_____	_____
_____	_____

Estimated average wages and benefits to be paid to employees in jobs created as a direct result of the research and development program.

Average Wages	Benefits
\$ _____	\$ _____

Will the Taxpayer have the legal right and entitlement to use and possess the research results? Yes _____ No _____

Does the Taxpayer bear the expense of the research without regard to whether the research is successful or unsuccessful? Yes _____ No _____

Will the Taxpayer be entitled to the federal income tax deduction for research expenses under section 174 of the Internal Revenue Code for research expenses incurred in the project? Yes _____ No _____

Does the Taxpayer intend to apply for a patent or copyright on the products, processes, techniques, formulas, inventions, computer software, plant processes, machinery, or techniques that may result from the research? Yes _____ No _____

5. Qualified Research and Development Expenditures

- a.) Qualified in-house wages paid for West Virginia Research and Development a.) \$ _____
- b.) Qualified in-house supply expenditures for West Virginia Research and Development b.) \$ _____
- c.) Qualified in-house expenditures paid to others for right to use personal property for qualified West Virginia Research and Development c.) \$ _____
- d.) Contract research and development expenses incurred in West Virginia for qualified Research and Development d.) \$ _____

6. **Employment:**
- | | | |
|---|---------|-------|
| a.) Total WV Payroll and Number of Jobs Prior to Research and Development expenditures: | Payroll | Jobs |
| | _____ | _____ |
| b.) Total WV Payroll and Number of Jobs This Tax Year: | _____ | _____ |
7. **Benefits:**
- | | |
|--|----------|
| a.) Percentage of employees covered under health plans: | _____ % |
| b.) Average annual health plan benefit cost per employee: | \$ _____ |
| c.) Percentage of employees covered under retirement plan: | _____ % |
| d.) Average annual retirement benefit cost per employee: | \$ _____ |

To encourage investment in start-up, growth-oriented, research and development businesses in West Virginia, eligible investors in qualified research and development companies in West Virginia may receive an allocation of the High-Growth Business Investment Tax Credit. In order to be considered for designation as a qualified research and development company, for purposes of the High-Growth Business Investment Tax Credit, and potentially attract investment, please complete the following:

8. Mailing address and physical location of corporate headquarters of the entity filing this SRDTC-A.

Mailing Address	Physical Location

9. Estimated annual gross receipts of the entity filing this SRDTC-A \$ _____

10. Estimated annual payroll of the entity filing this SRDTC-A \$ _____

Under penalties of perjury, I declare that I have examined this application (including accompanying schedules and statements) and to the best of my knowledge and belief it is true, and complete.

(Signature of Taxpayer)	(Name of Taxpayer: Type or Print)	Title	(Date)
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(Person to Contact Concerning this Return)	(Telephone Number)
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(Signature of Preparer other than Taxpayer)	(Address)	(Date)
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Please return the completed application to the
 West Virginia State Tax Department
 P. O. Box 902
 Charleston, WV 25323-0902

SCHEDULE WV/SRDTC-A
Application for West Virginia Strategic Research And Development Tax Credit
For Expenses or Investments Placed in Service on or
After January 1, 2003

Instructions and Forms

The Strategic Research And Development Tax Credit (R&D) is available to a Taxpayer engaging in qualified research and development activities (on or after January 1, 2003) within West Virginia.

Research and development means systematic scientific, engineering or technological study and investigation in a field of knowledge in the physical, computer or software sciences, often involving the formulation of hypotheses and experimentation, for the purpose of revealing new facts, theories or principles, or increasing scientific knowledge, which may reveal the basis for new or enhanced products, equipment or manufacturing processes.

Research and development includes, but is not limited to, design, refinement and testing of prototypes of new or improved products, or design, refinement and testing of manufacturing processes before commercial sales relating thereto have begun. The term, commercial sales, includes, but is not limited to, sales of prototypes or sales for market testing.

Research and development does **not** include: market research; sales research; efficiency surveys; consumer surveys; product market testing; product testing by product consumers or through consumer surveys for evaluation of consumer product performance or consumer product usability; the ordinary testing or inspection of materials or products for quality control; 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, historical or similar activities; research in social sciences, economics, humanities or psychology and other non-technical activities; and the providing of sales services or any other service, whether technical service or non-technical service.

Qualified research and development credit property means depreciable property purchased for the conduct of qualified research and development. Qualified research and development expenses means the sum of in-house and contract research and development expenses for qualified research and development allocated to West Virginia, which are paid or incurred by the eligible Taxpayer during the taxable year. These expenses do not include any expense that must be capitalized and depreciated for federal income tax purposes, or any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent or quality of any deposit of coal, limestone or other natural resource, including oil and natural gas. In addition, these expenses do not include any wage or salary expense for wages or salary reported on form W-2 for federal income tax purposes on which the West Virginia personal income tax is imposed, and against which tax the Strategic Research And Development Tax Credit is applied.

The allowable tax credit is the greater of three percent [3.0%] of the annual combined qualified research and development expenditure within West Virginia, or ten percent [10.0%] of the excess of the annual combined qualified research and development expenditure within West Virginia over the base amount. The base amount equals the average annual combined research and development expenditure within West Virginia during the three years preceding the current year.

For a taxpayer that has filed a WV Business Franchise tax return for 1 or 2 prior taxable years (but fewer than 3 taxable years), determined on the basis of all filings by the Taxpayer's controlled group, the base amount is the average annual combined qualified research and development expenditure for the number of immediately preceding taxable years, other than short taxable years, during which the taxpayer filed a WV Business Franchise tax return.

For a Taxpayer that has not filed a WV Business Franchise tax return for at least 1 taxable year, determined on the basis of all filings by the taxpayer's controlled group, the base amount is zero.

By Law, no credit may be allowed or applied for any qualified investment property placed in service until the person asserting a claim for the credit makes written application to the Tax Commissioner. Failure to timely apply for credit will result in forfeiture of 100% of the annual credit allowance otherwise available under this requirement. Form SRDTC-A is designed to be a general application form for taxpayers wishing to claim credit based upon research expenses and research investments placed into use or service on or after January 1, 2003. The timely filing of this application is a condition precedent to claiming tax credits. This application must be filed for each year, in which qualified research and development expenses or investments are to be made, no later than the due date of the Taxpayer's West Virginia income tax return for the year the expense is incurred or the investment is made, including any legally granted extension of time for filing such returns.

Instructions To Form SRDTC-A

1. Base Amount of Research and Development in West Virginia:

Enter the amount of annual qualified research and development expenditure, if any, in West Virginia for the three taxable years immediately preceding the taxable year for this application form as follows. [Note that for years prior to 2003, the amounts entered below should represent the qualified expenditure made under the assumption that the Strategic Research and Development Tax Credit had been in place at that time.]

- (a.) Enter the amount of annual qualified research and development expenditure in West Virginia during the immediately preceding tax year.

- (b.) Enter the amount of annual qualified research and development expenditure in West Virginia during the tax year two years preceding the current year (i.e. two years ago).
- (c.) Enter the amount of annual qualified research and development expenditure in West Virginia during the tax year three years preceding the current year (i.e. three years ago).

2. Business Activity in West Virginia:

- (a.) Enter the North American Industry Classification System Code that most closely describes your business activity in West Virginia.
- (b.) Describe in detail the nature of your research and development activity in West Virginia.

3a. Investment: Enter the total dollar amount of investment placed into service or use in the first column and the dollar amount of qualified investment placed into service or use in the second column. Qualified Investment is determined according to the following useful life table (straight line depreciation):

Useful Life			Percent Qualified
At Least		But Less Than	
0	—	4 years	33-1/3
4	—	6 years	66-2/3
6 or more years			100

3b. Enter the location(s) of the qualified investment property (i.e. Main Street, Weston, or 12 miles north of Pipestem at the Intersection of State Route 3 and State Route 20).

3c. Provide a general description of the qualified investment property in the space provided (i.e. \$100,000 to be invested in buildings, \$500,000 to be invested in machinery and equipment, etc.)

4. Provide Written Information On The Research And Development Plan.

5. Qualified Research and Development Expenses:

- a) Enter the total amount of your qualified in-house wages paid for research and development within West Virginia.
- b) Enter the total amount of your qualified in-house expenditures for supplies for use in research and development in West Virginia.
- c) Enter the total amount of your qualified in-house expenditures paid to another person for the right to use personal property in the conduct of research and development in West Virginia.
- d) Enter the total amount of contract research and development expenses incurred in West Virginia for qualified research and development in West Virginia.

6. Employment:

- a) Enter your total West Virginia payroll and number of jobs attributed to that payroll for the prior year (i.e., twelve-month period) before the incurrence of this year's qualified expenditures subject to Strategic Research and Development Tax Credit.
- b) Enter your total West Virginia payroll and number of jobs for the current year.

7. Benefits:

- a) Enter the percentage of your employees covered under your sponsored health insurance plan.
- b) Enter the average annual cost of your employer-provided health insurance benefits (i.e., benefit costs divided by number of covered employees).
- c) Enter the percentage of your employees covered under your retirement plan.
- d) Enter the average annual retirement benefit contribution cost per covered employee.

The timely filing of this application and project approval are required for the Applicant to begin claiming Strategic Research and Development Tax Credit benefits. Filing of the application will not bar or otherwise prevent the Tax Commissioner from auditing or examining the Applicant's books and records for compliance with the Strategic Research and Development Tax Credit law and regulations or other West Virginia tax provisions.

This application must be signed by an officer of the company to be valid.

If you have questions concerning this publication, please contact:
 West Virginia State Tax Department
 Taxpayer Services Division
 Post Office Box 3784
 Charleston, West Virginia 25337-3784
 Telephone: (304) 558-3333 or
 Toll free: 1-800-WVA-TAXS (1-800-982-8297)
 TDD Service for the hearing impaired: 1-800-2TAXTDD (1-800-282-9833)
 To order forms or publications call: (304) 344-2068 or toll free 1-800-982-8297

Appendix D – Application for West Virginia Manufacturing Investment Tax Credit
(form WV/MITC-A)



Application for West Virginia Manufacturing Investment Tax Credit For Investments Placed In Service On Or After January 1, 2003

Name	Identification Number
Business Name	Tax Year _____, to _____, _____
Street Address	
City, Town, or Post Office	State Zip Code

Application is hereby made to the Tax Commissioner of West Virginia for allowance of Manufacturing Investment Tax Credit with respect to qualified manufacturing investment property placed in service or use during Applicant's tax year ending _____

1. Investment Purpose (Check Only One):

- Industrial Expansion a.)
- Industrial Revitalization b.)
- Both Industrial Expansion and Revitalization c.)

2. Business Activity in West Virginia:

- a.) North American Industry Classification System Code (NAICS) _____
- b.) Narrative Description of Business Activity in West Virginia

3a. Investment:	Total Investment	Qualified Investment
Year _____	Amount \$ _____	\$ _____

3b. Location(s) of Investment in West Virginia _____

3c. General Description of Qualified Investment:

Narrative:

- | 4. Employment: | Payroll | Jobs |
|--|----------------|-------------|
| a.) Total WV Payroll and Number of Jobs Prior to Investment: | _____ | _____ |
| b.) Total WV Payroll and Number of Jobs This Tax Year: | _____ | _____ |

5. **Benefits:**
- | | | |
|--|-------|---|
| a.) Percentage of employees covered under health plans: | _____ | % |
| b.) Average annual health plan benefit cost per employee: | _____ | |
| c.) Percentage of employees covered under retirement plan: | _____ | % |
| d.) Average annual retirement benefit cost per employee: | _____ | |

Under penalties of perjury, I declare that I have examined this application (including accompanying schedules and statements) and to the best of my knowledge and belief it is true, and complete.

(Signature of Taxpayer)	(Name of Taxpayer: Type or Print)	(Title)	(Date)
(Person to Contact Concerning this Return)		(Telephone Number)	
(Signature of Preparer other than Taxpayer)	(Address)	(Date)	

Please return the completed application to the West Virginia State Tax Department
P.O. Box 902
Charleston, WV 25323-0902

If you have any questions or need further information regarding this application, telephone (304) 558-3333 or toll free to 1-800-WVA-TAXS (1-800-982-8297).

APPLICATION FOR WEST VIRGINIA MANUFACTURING INVESTMENT TAX CREDIT
FOR INVESTMENTS PLACED IN SERVICE ON OR
After January 1, 2003

Instructions and Forms

The Manufacturing Investment Tax Credit (MITC) is available to a manufacturer making a qualified investment (on or after January 1, 2003) for purposes of industrial expansion or revitalization of an industrial facility within West Virginia. Qualified businesses include only those engaged in the activity of manufacturing within West Virginia. Manufacturing is defined as 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.

The Manufacturing Investment Tax Credit is not available to businesses engaged in the activity of electric power generation. Qualified investment by businesses engaged in the activity of electric power generation qualify for another investment tax credit, the Industrial Expansion and Revitalization Credit.

Industrial expansion is defined as capital investment in a new or expanded industrial facility in this State. Industrial revitalization or revitalization is defined as capital investment in an industrial facility located in this State to replace or modernize buildings, equipment, machinery and other tangible personal property used in connection with the operation of the facility in an industrial business of the Taxpayer, including the acquisition of any real property necessary to the industrial revitalization. Industrial business or industrial Taxpayer is defined as any Taxpayer who is primarily engaged in a manufacturing business.

By Law, no credit may be allowed or applied for any qualified investment property placed in service until the person asserting a claim for the credit makes written application to the Tax Commissioner. Failure to timely apply for credit will result in forfeiture of 50% of the annual credit allowance otherwise available under this requirement. Form MITC-A is designed to be a general application form for taxpayers wishing to claim credit based upon investments placed into use or service on or after January 1, 2003. The timely filing of this application is a condition precedent to claiming tax credits. This application must be filed annually no later than the due date of the taxpayer's West Virginia income tax return including any legally granted extension of time for filing such returns.

Instructions To Form MITC-A

1. **Investment Purpose:** Place a check mark in the block next to the applicable purpose of your investment. (Check only one block.)
 - (a.) The Taxpayer for purposes of **industrial expansion** places qualified investment property in service or use.
 - (b.) The Taxpayer for purposes of **industrial revitalization** places qualified investment property in service or use.
 - (c.) The Taxpayer for purposes of both industrial expansion and revitalization places qualified property in service or use.

2. **Business Activity in West Virginia:**
 - (a.) Enter the North American Industry Classification System Code that most closely describes your business activity in West Virginia.
 - (b.) Describe the industrial expansion or industrial revitalization activity in West Virginia that is associated with your new investment (e.g., construction of a new reconstituted wood product manufacturing plant).

- 3a. Investment:** Enter the year investment is placed into service or use in the first column, the total dollar amount of investment placed into service or use in the second column and the dollar amount of qualified investment placed into service or use in the third column. Qualified Investment is determined according to the following useful life (straight line depreciation):

Useful Life		Bust Less Than	Percent Qualified
At Least			
0	—	4 years	0
4	—	6 years	33-1/3
6	—	8 years	66-2/3
8 or more years			100

- 3b.** Enter the location(s) of the qualified investment property (i.e. Main Street, Weston, or 12 miles north of Pipestem at the Intersection of State Route 3 and State Route 20).

- 3c.** Provide a general description of the qualified investment property in the space provided (i.e. \$100,000 to be invested in buildings, \$500,000 to be invested in machinery and equipment, etc.)

4. Employment:

- a) Enter your total West Virginia payroll and number of jobs attributed to that payroll for the prior year (i.e., twelve-month period) before the placement of this year's qualified investment subject to Manufacturing Investment Tax Credit into service or use.
- b) Enter your total West Virginia payroll and number of jobs for the current year.

5. Benefits:

- a) Enter the percentage of your employees covered under your sponsored health insurance plan.
- b) Enter the average annual cost of your employer-provided health insurance benefits (i.e., benefit costs divided by number of covered employees).
- c) Enter the percentage of your employees covered under your retirement plan.
- d) Enter the average annual retirement benefit contribution cost per covered employee.

The timely filing of this application coincides with the authorization for the Applicant to begin claiming Manufacturing Investment Tax Credit benefits. Such filing of the application will not bar or otherwise prevent the Tax Commissioner from auditing or examining Applicant's books and records for compliance with the Manufacturing Investment Tax Credit law and regulations.

This application must be signed by an officer of the company to be valid.