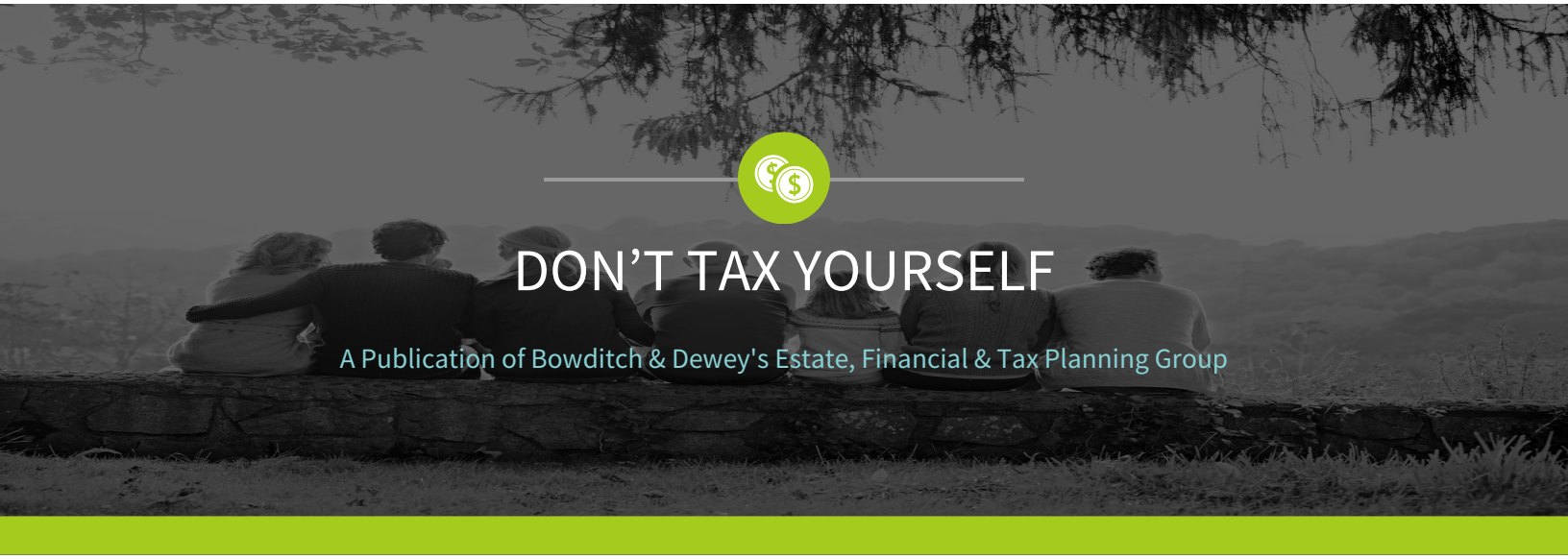


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Tax Incentives for Manufacturing Corporations

BY BOWDITCH & DEWEY • MAY 22, 2020

In these challenging times, businesses might seek to evaluate whether certain local tax incentives offered by the Commonwealth of Massachusetts are available to them. "Manufacturing Corporations," for example, receive a number of tax benefits including:

- Single sales factor apportionment for Massachusetts corporate excise tax;
- Sales/use tax exemptions for property purchased and used in manufacturing or research and development.
- A 3% investment tax credit for newly purchased machinery and equipment that can be used against a company's Massachusetts corporate excise tax; and
- An exemption from local personal property taxation.

To qualify as a Manufacturing Corporation, a corporation must file a Form 335Q "Application for Manufacturing Classification" by January 31 of the calendar year in which it seeks qualification and meets one of the following four tests:

- The corporation must derive 25% of its sales from product manufactured in Massachusetts;
- The corporation's payroll must be comprised of 25% of employees located in Massachusetts performing manufacturing activities and it must derive 15% of its sales from products made in Massachusetts;
- The corporation must derive 15% of its sales from products made in Massachusetts and 25% of its property value in Massachusetts must be associated with tangible property used in the manufacturing process; or
- 35% of the corporation's property value in Massachusetts must be associated with tangible property used in the manufacturing process.

Massachusetts case law has broadly defined manufacturing to involve "the implication of change wrought through the

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application of forces directed by the human mind, which results in the transformation of some pre-existing substance or element into something different, with a new name, nature, or use." *Boston & Maine R.R. v. Billerica*, 262 Mass. 439, 444-445 (1928). A bakery or brewing company can qualify as a Manufacturing Corporation, for example. A retail store cannot so qualify. By statute, Massachusetts has expanded the application of manufacturing to include the transformation of intangible assets: software development now qualifies as manufacturing under Chapter 42B of the Massachusetts General Laws. The application of the Manufacturing Corporation tax incentives is therefore broad and worth examining.

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