APTD-1119

GUIDE TO TECHNICAL AND FINANCIAL ASSISTANCE FOR AIR POLLUTION CONTROL

U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Air Programs
Stationary Source Pollution Control Programs
Research Triangle Park, North Carolina 27711

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GUIDE TO TECHNICAL AND FINANCIAL ASSISTANCE FOR AIR POLLUTION CONTROL

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INTRODUCTION

The Clean Air Act, as amended by Congress in 1970,[1] is, to date, the most important Federal legal authority for controlling air pollution. The Act lays the framework under which the Federal government will work with state and local governments to achieve acceptable air quality in the United States. More specifically, the Act requires the Administrator of the Environmental Protection Agency to set ambient air quality standards based on air quality criteria and present control technology. The states must then develop implementation plans which will achieve the ambient air quality standards within specified periods of time. Accordingly, each state has legislated its own specific abatement requirements directed toward this end and, in some cases, local governments have done the same.

While delegating the primary responsibility for preventing and controlling air pollution to state and local governments, the Act made the Federal government responsible for providing them with the necessary technical and financial assistance.[2] This document has been produced to provide aid in this direction.

This document describes the Federal, state and other

technical and financial assistance sources which business and industry can use in complying with their abatement obligations. Tax law provisions, sources of low cost financing and special aid, eligibility requirements, application procedures, review and appeal procedures, and sources of technical aid and supplementary information are discussed herein.

This document should not, and is not intended to, take the place of a qualified tax counsel. The document is a paraphrase or interpretation of the actual legal documents. The reader should realize that tax laws undergo constant revision and the tax incentives presented herein are (or were) accurate only at the time of publication. The reader, therefore, should verify the existence and nature of the pertinent tax incentive before application is made.

The tax incentives discussed are specifically for devices which control air pollution. It should be noted that these devices may also qualify for other forms of financial assistance.

TECHNICAL ASSISTANCE

Technical assistance, of an advisory nature, is available from many diverse sources including the Federal, state and local government agencies, professional and technical associations, industrial associations and private and industrial corporations whose business it is to supply services and/or equipment for air pollution control. A list of some of these sources, the nature of the technical assistance offered, and methods for obtaining such assistance follows.

FEDERAL

The Clean Air Act authorizes the Federal government to lend direct technical assistance(3) to state and local air pollution control agencies and other appropriate public or private groups or individuals in the conduct of research, investigation, training control activities and others. This enables the Office of Air Programs to offer technical advice to companies having particularly difficult problems. Such technical assistance may be requested through the local EPA regional office listed in Appendix A.

In addition to direct assistance, the Federal govern-

ment under the Clean Air Act has been authorized to conduct research and publish "Control Techniques" documents[4] discussing available technology which can be used to abate air pollutant emissions--substances which the Federal government has classified as air pollutants and on which it has published air quality criteria.[5] Those documents presently available include particulates, sulfur oxides, carbon monoxide, nitrogen oxides, hydrocarbons, and photochemical oxidants. Additionally, EPA has published general air pollution control engineering manuals, field enforcement manuals and other technical materials related to the control of emissions for specific industries.

STATE AND LOCAL GOVERNMENTS

The majority of state and local air pollution control agencies require that engineering plans for the construction of control devices be filed with the office prior to installation and/or operation. Hence, such plans must ultimately be reviewed by engineers at these local control offices. The engineers are usually amenable to preliminary discussions about the choice of method of control, its effectiveness, and other technical details. Often, these local offices will be able to offer their experience and can suggest either professional engineers with whom to consult, equipment manufacturers making devices which have proven effective, or other government agencies which may be helpful. Publications of upgrading requirements and

technical or engineering guidelines are often available from local offices.

PROFESSIONAL, TECHNICAL AND INDUSTRIAL ASSOCIATION

In most instances, local professional associations (e.g. Society of Professional Engineers, Society of Professional Architects, etc.) will advise an individual on how to obtain assistance from members of their group. Many technical associations (e.g. American Institute of Chemical Engineers, American Society of Mechanical Engineers, etc.) and industrial associations (e.g. American Paper Institute, American Petroleum Institute, etc.) have ad hoc or standing committees on air pollution control and have literature or studies available which may be of assistance. The addresses of local offices of such associations can be found in the Yellow Pages. Main offices can be contacted through the United Engineering Center, New York City.

CORPORATIONS

Many corporations, both service or consulting-oriented and equipment or hardware-oriented, will offer preliminary counsel on air pollution matters. Often catalogues describing basic equipment and methods of analysis or calculation are available from this source. Corporations are, of course, available for complete technical assistance on

a per diem, fixed price, or turnkey basis for air pollution control problems. Names may be obtained from professional associations, the Yellow Pages, and other such sources of information.

FINANCIAL ASSISTANCE

INTRODUCTION

Financial assistance for the construction operation and installation of air pollution control facilities takes two forms: direct financial assistance, which generally consists of a low-interest rate loan from either a public or private source, and indirect financial assistance which consists of a tax incentive for the installation of an air pollution control facility.

DIRECT FINANCIAL ASSISTANCE

Presently, there are only two sources of direct financial assistance available to a business for the installation of air pollution control facilities. This condition should soon change, however, since many financial institutions and governmental bodies are investigating the need to provide this type of financial assistance.

The first source is limited to banks which provide funds for a lease financing program or for low interest rate loans. The other source includes the State and local government programs which enable business to obtain funds through tax-exempt bonds or through State-sponsored low interest rate bank loans. Examples of direct finan-

cial assistance include:

Commercial Bank - Lease Financing

Two banks, the Chase Manhattan in New York City and the Pennsylvania Bank and Trust of Philadelphia, have programs to lease the installation of air pollution control equipment. Lease financing of air pollution control equipment through banks is similar in many ways to the borrowing of funds to finance the purchase of any capital asset. The financial condition of the company largely dictates the bank's decision to lease the equipment. Generally, a lease rather than a loan is used in order to finance the equipment over a period of time greater than the usual term of loans.

Commercial Bank - Low Interest Rate Loans

The Chemical Bank of New York and the First Pennsylvania Bank and Trust of Philadelphia have programs to finance the installation of air pollution control equipment through low interest loans. For instance, in New York City the Chemical Bank will lend a New York landlord 100% of the cost of installing pollution control equipment in his building in any amount up to $15,000 per installation. The loan can be used only for upgrading incinerators and oil burners, or for installing equipment to compact garbage. All equipment must meet the criteria established by the city's Department of Air Resources, and other city agencies. These loans are non-profit to the bank and the landlord has up to seven (7) years to repay the loan in equal monthly

installments. To determine whether similar loans are available elsewhere an interested party should contact its local bank.

State And Local Government Tax Exempt Bond Program

Although Congress stopped the financing of industrial development through tax exempt bonds as of 1969, it did provide for the financing of air and water pollution control facilities with bonds sold by local governments under the Revenue and Expenditure Act of 1968. Since then, a growing number of bonds have been sold for this purpose. Examples include bonds sold by Missoula County in Montana for the Hoerner Waldorf Corp. and by Chatham County in Georgia for the Union Camp Corp. facility at Savannah. The advantage of this type of financing is the lower interest cost to the company.

When air pollution control equipment is financed by this method, another advantage to the company is that the accelerated depreciation Federal income tax deduction is also available.

Generally the fixed costs of underwriting these bonds, such as the underwriter's fees, make it impractical to issue a bond issue smaller than $300,000 to $500,000.

The usual procedure under this method of financing involves the issuing of tax exempt bonds by the governmental unit. The funds from the bonds are then used to pay for the air pollution control facility which is then leased to the company owning the industrial plant. The company then

makes lease payments to the governmental unit which in turn uses these funds to pay the bond's interest and retires them in due course. When the bond has been completely retired, the title to the equipment is turned over to the company by the governmental unit. The company may treat the transaction as an installment sale thereby making the accelerated tax deduction available.

State Government Sponsored Tax Exempt Bond Program

This source of financing is similar to the preceding one except that the corporation rather than the state actually pledges its credit behind the bond. An example of this is found in Ohio.

The Ohio Air Quality Development Authority (OAQDA) has the power to sell tax exempt revenue bonds for the financing of air pollution control facilities that aid in reducing or removing noxious emissions. The financing may cover both new installations or additions to existing facilities. To qualify for this program the facility must meet the Federal emissions guidelines. In addition, the Ohio Department of Health must approve the construction plans.

The credit of the corporation backs these bonds, and not the credit of the State of Ohio. Usually a lending institution is used as a trustee to administer the bond proceeds and its retirement program. The period of retirement normally runs between 10 and 12 years with semi-annual payments to the trustee's retirement account. The corporation has the use of the facility under a lease agreement

with the OAQDA, but full ownership is transferred to the corporation at the time of the bond's retirement. There are several costs to the borrowing corporation in a bond sale under this program. They include: trustee fees, legal fees, underwriting fees, printing expenses, and the fee of the Ohio Air Quality Development Authority.

INDIRECT FINANCIAL ASSISTANCE

Federal Assistance

On the Federal level, indirect financial assistance for the construction or installation of air pollution control equipment consists solely of accelerated amortization. Appendix B details the procedure for obtaining the accelerated amortization deduction, and includes eligibility requirements, application procedures, review and appeal procedure and conditions for discontinuance of the deduction.

State Assistance

State assistance is presently composed of 4 types of tax incentives: property tax exemptions, sales and use tax exemptions, franchise or income tax credits (a specified percentage of the total capital investment is deductible), and franchise or income tax deductions (the entire capital investment is deductible).

The franchise or income tax credit or deduction is almost always an accelerated amortization deduction, with the method of taking the deduction or credit varying according to the laws of each state.

Table 1 of Appendix C is a tabulation of tax incentives

specifically directed toward air pollution control for each state. The remainder of Appendix C describes eligibility requirements, application procedures, review and appeal procedures, sources of supplementary information, and additional comments, if applicable.

REFERENCES

1. Clean Air Act (42 U.S.C. 1857 et seg.) including the Clean Air Act of 1963 (P.L. 88-206) and amendments made by the "Motor Vehicle Air Pollution Control Act" - P.L. 89-272 (October 20, 1965), the "Clean Air Act Amendments of 1966" - P.L. 89-675 (October 15, 1966), the "Air Quality Act of 1967" - P.L. 90-148 (November 21, 1967), the "Clean Air Amendments of 1970" - P.L. 91-604 (December 31, 1970). See section 101 (a)(3).

2. Ibid, section 101 (a)(4).

3. Ibid, section 101 (a)(3).

4. Ibid, section 108, section 109.

5. Ibid, section 110.

APPENDIX - A

REGIONAL AIR POLLUTION CONTROL OFFICES

Region I - Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

John A. S. McGlennon
Administrator, Region I
John F. Kennedy Federal Building
Boston, Massachusetts 02203
Telephone: 617-223-6883 or 223-6339

Region II - New Jersey, New York, Puerto Rico, Virgin Islands

Gerald M. Hansler
Administrator, Region II
Federal Office Building
26 Federal Plaza (Foley Square)
New York, New York 10007
Telephone: 212-264-2517

Region III - Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Edward W. Furia, Jr.
Administrator, Region III
Curtis Building
6th and Walnut Streets
Philadelphia, Pennsylvania 19106
Telephone: 215-597-9800

Region IV - Alabama, Florida, Georgia, Mississippi, Kentucky, North Carolina, South Carolina, Tennessee

Jack E. Ravan
Administrator, Region IV
1421 Peachtree Street, N.E.
Atlanta, Georgia 30309
Telephone: 404-526-3043

Region V - Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin

Francis T. Mayo
Administrator, Region V
1 North Wacker Drive
Chicago, Illinois 60606
Telephone: 312-353-6942

Region VI - Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Bill V. McKarland
Administrator, Region VI
1600 Patterson Street, Suite 1100
Dallas, Texas 75201
Telephone: 214-749-1962

Region VII - Iowa, Kansas, Missouri, Nebraska

Jerome H. Svore
Administrator, Region VII
1735 Baltimore Avenue
Kansas City, Missouri 64108
Telephone: 816-374-3791

Region VIII - Colorado, Montana, North Dakota, South Dakota. Utah, Wyoming

John A. Green
Administrator, Region VIII
Suite 900
1860 Lincoln Street
Denver, Colorado 80203
Telephone: 303-837-4831

Region IX - Arizona, California, Hawaii, Nevada, Guam, American Samoa

Paul DeFalco, Jr.
Administrator, Region IX
100 California Street
San Francisco, California 94111
Telephone: 415-556-2320

Region X - Washington, Oregon, Idaho, Alaska

James L. Agee
Administrator, Region X
1200 Sixth Avenue
Seattle, Washington 98101
Telephone: 206-442-1220

APPENDIX B

FEDERAL TAX INCENTIVE

Type of Tax Incentive

Income tax accelerated amortization deduction

Statute

Section 1.169-1 to section 1.169-4 and section 602 of the Internal Revenue Code of 1954

Eligibility Requirement

The cost of a qualifying air pollution control facility may be amortized over a 60 month period. To be eligible for this deduction, the device must meet the following requirements:

(1) it is used in connection with a plant or other property in operation before January 1, 1969.

(2) it is used to abate or control atmospheric pollution or contamination by removing, altering, disposing of or storing pollutants, contaminants, wastes or heat.

(3) if the facility is a building, it must be devoted to pollution control.

(4) the construction, reconstruction or erection

is completed, or, if purchased, placed in service after December 31, 1968.

(5) it is placed in service before January 1, 1975.

(6) the appropriate state authority has certified to the Environmental Protection Agency that the facility has been constructed, reconstructed, erected or acquired in conformity with the particular State program for such air pollution control facilities.

Application to Appropriate Certifying Agencies

Application for certification of the facility must be made to the appropriate Regional EPA Administrator (see Regional Offices, Appendix A). Applications must be signed by the applicant and must contain the following information:

(1) name, address and Internal Revenue Service identifying number of the applicant.

(2) type and narrative description of the facility for which certification is or will be sought, including a copy of schematic or engineering drawings, and a description of the function and operation of the facility.

(3) address, or proposed address, of facility location.

(4) a general description of the specific process or processes resulting in emissions which are, or will be, controlled by the facility.

(5) if the facility is used, or will be used, in connection with more than one plant or other property, one of which was not in operation prior to January 1, 1969, a description of the operations of the facility in respect to each plant or other property, including a reasonable allocation of the costs of the facility among the plants being serviced, and a description of the reasoning and accounting method used to arrive

at such an allocation.

(6) description of the effect of the facility in terms of type and quantity of pollutants, contaminants, wastes or heat, removed, altered, stored or disposed of by such a facility.

(7) if the facility performs functions in addition to qualifying functions, a description of all functions and a reasonable identification of the costs of the facility allocable to qualified functions, including a description of the reasoning and the accounting of methods used to arrive at such an allocation.

(8) date when construction, reconstruction, erection or acquisition will be completed, or when such facility was or will be acquired.

(9) date when the facility is or will be placed in operation.

(10) identification of the applicable State and local air pollution control regulations.

(11) expected useful life of the facility. (The period of time it is expected to be used by the taxpayer.)

(12) cost of construction, acquisition, installation, operation and maintenance of the facility.

(13) estimated profits reasonably expected to be derived through the recovery of wastes over the

useful life of the asset.

Application Procedure for Election of Deduction

The taxpayer elects to take this deduction by attaching a statement to his return for the taxable year in which the first month of the 60 month amortization period occurs. In addition, the following information must be included:

(1) a description clearly identifying each certified pollution control facility for which an amortization is claimed.

(2) the date on which the control facility was completed or acquired.

(3) the useful life of the facility determined in accord with the applicable tax code provision, and beginning as of the date the property is placed in service.

(4) the date on which the amortization period is to begin.

(5) the date the plant or other property to which the facility is connected began operation.

(6) total costs and expenditures paid or incurred in the acquisition, construction, and installation of the facility.

(7) a description of any wastes which the facility will recover during the course of its operation, and a reasonable estimate of the profits which will be realized by the sale of

such wastes whether pollutants or not, over the useful life of the facility. The estimate must include a schedule setting forth a detailed computation illustrating how the estimate was computed including every item of estimated profit.

(8) a computation showing the amortizable basis of the facility as of the first month for which the deduction is elected.

(9) a statement that the facility has been certified by the Environmental Protection Agency (EPA), a copy of the certification, and a copy of the application which was filed with the EPA. If the EPA has not certified the facility, a statement must be included that application has been made to the state certifying authority and copies of applications to the state certifying authority and the EPA must be included.

Review Procedure

The EPA Regional Administrator reviews the application to determine whether the facility:

(1) has been certified by the appropriate state certifying authority.

(2) removes, alters, disposes of, or stores pollutants, contaminants, wastes or heat, which, but for the facility, would be released into the environment.

(3) in its use, complies with all applicable regulations of Federal agencies.

(4) furthers the general policies of the United States and the states in the prevention and abatement of pollution.

If the facility is found to comply, the Regional Administrator will issue a notice of certification to the Secretary of the Treasury.

Appeal Procedure

An applicant may appeal from a decision of the EPA Regional Administrator by filing within 30 days with the EPA Administrator a written statement of objections to the decision. Within 60 days the EPA Administrator must return a decision in writing.

Discontinuance of Election

A taxpayer may revoke or discontinue the election of this deduction by a written statement to the IRS Administrator. The statement must specify the month in which the

discontinuance is to begin, and must be filed before such month. The statement must clearly identify the certified pollution control facility and include a copy of the original Federal certification.

Certification may be revoked by the Regional Administrator on 30 days written notice to the applicant whenever the Regional Administrator determines that the facility is no longer being operated consistent with the requirements for certification. Within the 30 day period, the applicant may submit evidence to show why the certification should not be revoked.

Notification of revocation will also be given to the Secretary of the Treasury.

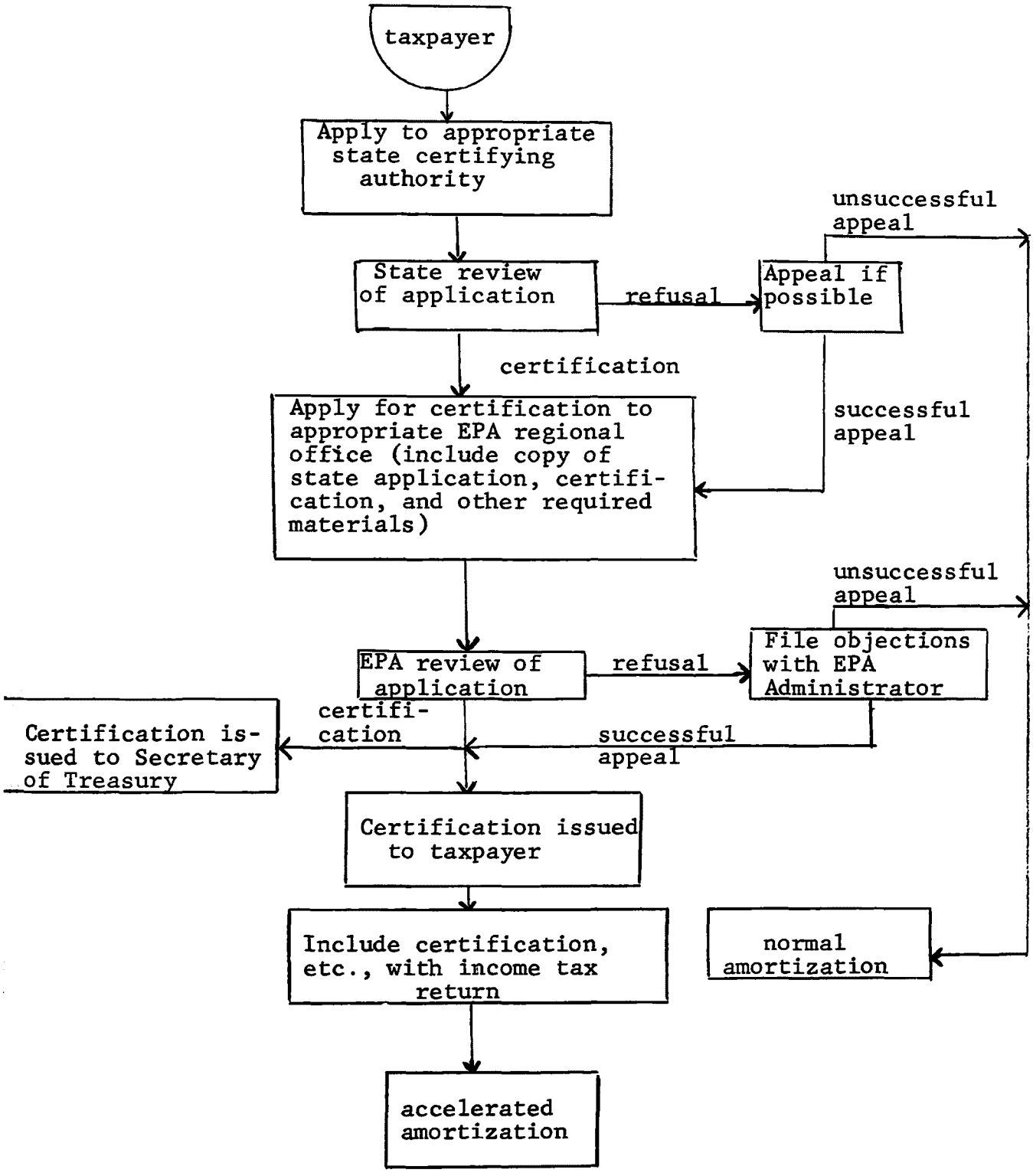

Figure 1

Flow chart of procedure for

application for federal accelerated amortization

APPENDIX C

CATALOG OF STATE FINANCIAL ASSISTANCE

State Government

The following pages contain information necessary for a business concern wishing to determine what kind of financial assistance is available in the state in which the business concern is located. All of the states are listed in alphabetical order, and the data include the type of tax incentive, the procedure for application, the appeal procedure which the taxpayer has open to him if the review procedure has determined a disallowance, any applicable comments, and finally, sources which the taxpayer can consult for further information and/or application forms, unless they are specifically listed as different under the specific procedures for applications.

We suggest that anyone interested in pursuing this subject further investigate the specific sources of information cited under each state. The information herein is our interpretation of the legal and financial documents and may be subject to recent change.

Those states not mentioned in this Appendix do not, at this time, offer direct tax incentives. This situation may change at any time, however, and it is suggested that

the state taxing authority, as well as the state air pollution control agency be contacted.

Table 1

MATRIX BY STATE OF AVAILABLE TAX INCENTIVES
SPECIFICALLY DIRECTED TOWARDS AIR POLLUTION CONTROL

	Property Tax Exemption	Sales & Use Tax Exemption	Franchise Tax Deduction	Income Tax Deduction	Gross Receipts Exemption
Alabama	x	x	x	x	
Alaska					
Arizona				x	
Arkansas					x
California				x	
Colorado					
Connecticut	x	x	x		
Delaware					
District of Columbia					
Florida					
Georgia	x	x			
Hawaii	x				
Idaho	x				
Illinois	x	x			
Indiana	x				
Iowa					
Kansas					
Kentucky					
Louisiana					
Maine		x			
Maryland		x			
Massachusetts	x				
Michigan	x	x			
Minnesota	x			x	
Mississippi					

Table I (Continued)

MATRIX BY STATE OF AVAILABLE TAX INCENTIVES
SPECIFICALLY DIRECTED TOWARDS AIR POLLUTION CONTROL

	Property Tax Exemption	Sales & Use Tax Exemption	Franchise Tax Deduction	Income Tax Deduction	Gross Receipts Exemption
Missouri		x			
Montana	x				
Nebraska					
Nevada					
New Hampshire	x				
New Jersey	x				
New Mexico					
New York	x			x	
North Carolina	x		x	x	
North Dakota					
Ohio	x				
Oklahoma					
Oregon	x			x	
Pennsylvania					
Rhode Island	x	x		x	
South Carolina	x				
South Dakota					
Tennessee	x				
Texas					
Utah					
Vermont	x				
Virginia				x	
Washington		x			
Wisconsin	x			x	
Wyoming	x				

Note: x indicates that state has the particular tax exemption referred to.

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

Code of Alabama, Title 51, Section 2.

ELIGIBILITY REQUIREMENT

All devices, identifiable parts of devices, systems or facilities constructed, used or placed in operation primarily for the protection of the public and its interest through the control, reduction, or elimination of air pollution are exempt from the property taxes. (Effective October 1, 1969).

APPLICATION PROCEDURE

Air pollution control property exemptions must be listed with the county tax assessor and entered on the property tax return in the same manner as any property for which an exemption is sought.

REVIEW PROCEDURE

The review procedure for an air pollution control property exemption is similar to that for any other property tax exemption. The county tax assessor and the county tax equalization board of the county in which the property is located determine the amount of an exemption.

APPEAL PROCEDURE

Appeals on property tax exemptions and/or assessments of air pollution control property are treated in the same manner as all property tax appeals. A taxpayer may object to the board of equalization decision on a property tax

exemption. If the board overrules the objection, an appeal may be made directly to the circuit court of the county in which the property is located. Finally, the taxpayer may appeal the circuit court's decision to the supreme court of Alabama.

COMMENTS

If an exemption claimed for air pollution control property is disputed by the State of Alabama, the taxpayer generally has the burden of proving the claim.

SOURCES OF INFORMATION

Department of Revenue
State Capitol
Montgomery, Alabama 36104

Department of Health
State Office Building
Montgomery, Alabama 36104

TYPE OF TAX INCENTIVE

Sales and use tax exemption

STATUTE

Code of Alabama, Title 51, Sections 786 (34) (n) and (789) (r)

ELIGIBILITY REQUIREMENT

Sales Taxes

The gross proceeds from the sale of all devices, identifiable parts of devices, systems or facilities used or operated (or intended for use or operation) in Alabama primarily for the protection of the public and its interest through the control, reduction, or elimination of air pollution are exempt from the sales tax. In addition, the gross proceeds from the sale of all materials used (or intended for use) in Alabama primarily for the protection of the public and its interest through the control, reduction, or elimination of air pollution are exempt from the sales taxes. (Effective October 1, 1969).

Use Tax

The storage, use or other consumption in Alabama of any devices, identifiable parts of devices, systems or facilities constructed, used or placed in operation for the protection of the public and the public interest through the control, reduction or elimination of air pollution is exempted from the use tax. (Effective October 1, 1969).

APPLICATION PROCEDURE

Air pollution control facility or material sales and use tax exemptions are claimed on the tax return in the same manner as other exemptions from the sales and use taxes.

REVIEW PROCEDURE

The Department of Revenue reviews exemption claims for air pollution control facilities and material sales and use tax in the same manner as other exemptions to this tax. If the Department should disagree with the claim, it will notify the taxpaper of the disallowance or modification of the exemption.

APPEAL PROCEDURE

To appeal the disallowance or modification of an exemption from the sales and use tax for an air pollution control facility or material, the taxpayer lodges a protest at a Department of Revenue hearing. If the hearing produces a decision unsatisfactory to the taxpayer, he may appeal to the Circuit Court and finally to the Alabama Supreme Court. If an exemption is disputed by the Department of Revenue, the burden of proof falls upon the taxpayer to show the exemption is correct.

COMMENTS

Air pollution control facilities are any system, method, construction device or accessory sold or used or intended for the primary purpose of eliminating, preventing or reducing air pollution, which, if uncontrolled, would be harmful,

detrimental or offensive to the public and its interest.

Air pollution is the presence of air contaminants in the atmosphere in a quantity and with characteristics, location and duration which are injurious to the public and its interest in the State of Alabama.

Air contaminants are dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

SOURCES OF INFORMATION

Department of Revenue
State Capitol
Montgomery, Alabama 36104

Department of Health
State Office Building
Montgomery, Alabama 36104

TYPE OF TAX INCENTIVE

Franchise tax deduction

STATUTE

Code of Alabama, Title 51, Section 25 and 348 D(1)(c)

ELIGIBILITY REQUIREMENT

Domestic Corporation

(A domestic corporation is defined as any company incorporated in the State of Alabama.) The book value of all devices, identifiable devices, systems and facilities constructed, used or operated in Alabama primarily for the protection of the public and its interest through the control, reduction or elimination of air pollution is deductible from the value assigned to the capital stock of the corporation for the franchise tax assessment.

Foreign Corporation

(For franchise tax purposes, a foreign corporation is a company incorporated outside Alabama but owning or leasing property within the state.) The amount invested in all devices, identifiable parts of devices, systems and facilities used or placed in operation in Alabama primarily for the protection of the public through the control, reduction or elimination of air or water pollution is deductible from the amount of capital employed in Alabama for franchise tax assessment purposes.

APPLICATION PROCEDURE

This deduction is claimed by completing the designated

space on the franchise tax return. An itemized list of air pollution control devices must be attached to the return.

REVIEW PROCEDURE

The Department of Revenue will review the tax return claim for the deduction to ensure the air pollution control devices are properly described and identifiable and that they are, in fact, for air pollution control.

APPEAL PROCEDURE

A taxpayer may appeal the disallowance or modification of this deduction by the Department of Revenue at a Department hearing. Appeals from the decision at the hearing are taken to the Circuit Court. Appeals from the decision of the Circuit Court are taken to the Alabama Supreme Court.

SOURCES OF INFORMATION

Department of Revenue
State Capitol
Montgomery, Alabama 36104

Department of Health
State Office Building
Montgomery, Alabama 36104

ALABAMA

TYPE OF TAX INCENTIVE

Income tax deduction

STATUTE

Code of Alabama (Title 51, Section 402 (12))

ELIGIBILITY REQUIREMENT

All investments during the tax year in devices, parts of devices, systems or facilities operated, or to be operated in Alabama, primarily for the protection of the public and its interest through the control, reduction or elimination of air pollution are deductible from the net income of corporations. Rather than deducting these amounts in the tax year of the investment, there is an option to elect to amortize them over a period not exceeding the useful life of the pollution control device, system or facility and to deduct from income each year of that useful life the applicable amount of the amortization of the investment. (Effective retroactively to December 31, 1968) If a deduction is taken under this section, it shall be in lieu of an allowance for depreciation or obsolescence otherwise allowable.

APPLICATION PROCEDURE

Deductions for air pollution control investments are entered on the corporation income tax return (Form 20) in the same manner as other deductions from income.

REVIEW PROCEDURE

The Department of Revenue reviews a deduction claim for a pollution control investment in the same manner as it

does other deductions claims. If it disagrees with the deduction, the Department will inform the taxpayer and explain its reasons for disallowing or modifying the allowance.

APPEAL PROCEDURE

To appeal the disallowance or modification of a deduction for an air pollution investment, the taxpayer may lodge a protest at a Department of Revenue hearing. Appeals from the Department of Revenue are made to the Circuit Court and from the Circuit Court to the Alabama Supreme Court. If a deduction is disputed by the Department of Revenue, the taxpayer has the burden of proof to show the deduction to be correct.

SOURCES OF INFORMATION

Department of Revenue
State Capitol
Montgomery, Alabama 36104

Department of Health
State Office Building
Montgomery, Alabama 36104

ARIZONA

TYPE OF TAX INCENTIVE

Income Tax - Rapid Amortization

STATUTE

Arizona Revised Statutes, Title 43, Section 43-123.02

ELIGIBILITY REQUIREMENT

A taxpayer may elect a deduction for amortization of the adjusted basis of any device, machinery or equipment for collecting atmospheric pollutants and contaminants at the source. The amortization must be based on a period of 60 months, and begins with the month in which the property was completed or acquired.

Only that portion of the cost of the property which is properly attributable to the construction, reconstruction, remodeling, installation or acquisition of an air pollution control facility, as certified by the State Department of Health, may be included in the adjusted basis of the property for the purpose of computing the amortization deduction. Land and buildings are not to be included in the basis. This amortization deduction will not be allowed for air pollution control facilities until the property has been certified by the Arizona State Department of Health, and in order to be eligible for certification, the property must have been acquired after December 31, 1967.

The deduction provided in this section of the law must be in lieu of any allowance for exhaustion, wear and tear of the property.

APPLICATION PROCEDURE

To apply for certification of an air pollution control facility, the taxpayer must complete the prescribed application form. These forms are available from the Air Pollution Control Division of the Arizona State Department of Health. The application with plans and invoices of the facility must be filed within six months of the acquisition of an air pollution control facility. However, if the facility is being constructed, the application may be filed from six months preceding to six months following completion of construction. If the facility is certified, the taxpayer must attach the approval notice of certification onto his tax return for the first tax year in which the amortization deduction is claimed.

REVIEW PROCEDURE

The Air Pollution Control Division of the Department of Health will review the application and attachments to determine if the facility is in fact for air pollution control as defined by the Arizona statutes. The taxpayer is informed of the decision by a form letter, which is then attached to the income tax return if the review was favorable.

APPEAL PROCEDURE

The decision of the Air Pollution Control Division may be appealed to the State Court system.

SOURCES OF INFORMATION

Income Tax Division
State Tax Commission of Arizona
Phoenix, Arizona 85007

Division of Air Pollution Control
4019 N. 33rd Ave.
Phoenix, Arizona 85017

TYPE OF TAX INCENTIVE

Gross Receipts Exemption

STATUTE

Arkansas Statutes, Chapter 19, Section 84-1904

ELIGIBILITY REQUIREMENT

The gross receipts or proceeds from the sale of machinery and equipment required by State law to be installed and utilized by manufacturing and processing facilities to prevent or reduce air pollution and contamination are exempt from the gross receipts tax. The plant or facility must be located in Arkansas.

APPLICATION PROCEDURE

Exemptions for air pollution control equipment are claimed on the gross receipts tax return in the same manner as other exemptions from the tax.

REVIEW PROCEDURE

This exemption is reviewed by the Commissioner of Revenues as part of his review of the gross receipts tax return. If the Commissioner disagrees with the exemption, an assessment is made to cover the deficiency in the tax liability resulting from the disallowance or modification of the exemption.

APPEAL PROCEDURE

If an assessment is made to cover a tax liability deficiency resulting from the disallowance or modification of an exemption, the taxpayer may demand a hearing before

the Commissioner within 20 days of his receipt of the assessment notice. Appeals from the Commissioner's decisions are taken to the state courts.

SOURCES OF INFORMATION

Sales & Use Tax Section
Department of Finance and Administration
Little Rock, Arkansas 72201

Arkansas Pollution Control Commission
1100 Harrington Ave.
Little Rock, Arkansas 72202

TYPE OF TAX INCENTIVE

Corporate income tax deduction--rapid amortization

STATUTE

California Bank and Corporation Tax Law, Sections 24372, 24372.5 (1958) Regulation 24372

ELIGIBILITY REQUIREMENT

A taxpayer may elect to take a deduction for the amortization of the adjusted basis (for determining gain) of device, machinery, or equipment (but not land and buildings) for the collection at the source, of atmospheric pollutants and contaminants. The amortization may be taken all in the year of construction (or acquisition) or in the year the certification is received, or it may be spread over a period of 60 months. The 60 month period shall begin either with the month following the month in which the device, machinery or equipment was completed or acquired or with the succeeding income year.

The adjusted basis of the air pollution control device is that amount which is properly attributable to the construction, reconstruction, remodeling, installation or acquisition of such device, machinery or equipment as certified by the California Department of Public Health (effective December 31, 1954). The amount of the deduction is calculated by dividing the adjusted basis by the 60 month period and multiplying the quotient by the number of months in which the deduction is eligible during the taxable

year. This deduction must be in lieu of the deduction for exhaustion; wear and tear, and obsolescence of machinery, devices or equipment.

APPLICATION PROCEDURE

To elect either the one year or 60 month amortization deduction, an appropriate statement must be included in the taxpayer's return for the income year in which the device, machinery or facility was completed or acquired, or in which the certification was made, whichever is later.

To apply for certification, the taxpaper must apply to the California State Department of Public Health. If the Department finds the equipment meets the requirements of the law, it will certify the application and return it. The certified application is attached to the tax return for the first income year in which the deduction is claimed. (Use form FT-84, Application for Deduction for Amortization of Air Pollution Control Devices).

Applications for certification of acquired pollution control devices must be filed within six months of the acquisition. If the device has been constructed, however, the application must be filed within six months after completion. No method of electing this amortization deduction other than that prescribed in this statute is permitted.

REVIEW PROCEDURE

Upon receipt of the application, the Occupational Health Division of the State Board of Health reviews the information to ensure that the device is for controlling

air pollution at its source.

APPEAL PROCEDURE

The decision of the Occupational Health Division may be appealed to the state courts.

SOURCES OF INFORMATION

Franchise Tax Board
1025 P Street
Sacramento, California 95814

Air Resources Board
California Department of
Public Health
1025 P Street
Sacramento, California 95814

State Board of Equalization
1020 N Street
Sacramento, California
(Appeals from findings of deficiencies by the Franchise Tax Board are made to this office.)

CONNECTICUT

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

Connecticut General Statutes, Chapter 203, Section 12-81 (52) (1958)

ELIGIBILITY REQUIREMENT

Structures and equipment acquired after July 1, 1967 for the primary purpose of reducing, controlling or eliminating air pollution are exempt from the property tax if that purpose of the facility is certified as approved by the Clean Air Commission. The structures or equipment are exempt from the property tax if that purpose of the facility is certified as approved by the Department of Environmental Protection. The exemption applies to both owned or leased facilities. The Department of Environmental Protection may certify a portion of the structures and equipment acquired to the extent that such a portion has as its primary purpose the reduction, control or elimination of air pollution.

APPLICATION PROCEDURE

This tax credit may be claimed by completing and submitting an application to the Department of Environmental Protection requesting approval of the air pollution control facility. Applications are available from the Department.

REVIEW PROCEDURE

The Department of Environmental Protection reviews applications for this credit and generally visits the facility

to determine whether it meets the requirements for approval. Upon approval, the Department will mail copies of its certification of approval to the applicant and the tax authority in the town in which the facility is located. The exemption is then entered on town property tax records. A partial approval may be granted if the Department finds only part of the facility has as its primary purpose air pollution control.

APPEAL PROCEDURE

There is no specific appeal procedure from a Department of Environmental Protection finding on an application for approval of an air pollution control facility. The appeal procedure is through the state courts in the same manner as appeals to all others by the Department.

SOURCES OF INFORMATION

State Tax Commissioner
State Capitol
Hartford, Connecticut 06115

Air Pollution Control Section
Department of Environmental Protection
79 Elm Street
Hartford, Connecticut 06115

CONNECTICUT

TYPE OF TAX INCENTIVE

Sales and use tax exemption

STATUTE

Connecticut General Statutes, Chapter 219, Section 12-412 (1958)

ELIGIBILITY REQUIREMENT

The sales, storage, use or other consumption of tangible personal property or supplies for or used in the operation of air facilities are exempt. The Department of Environmental Protection will certify the portion of the property or supplies which has as its primary purpose the reduction, control or elimination of air pollution.

APPLICATION PROCEDURE

This tax credit may be claimed by completing and submitting an application to the Department of Environmental Protection. Application forms are available from the Department.

REVIEW PROCEDURE

The Department of Environmental Protection will review applications for this credit to determine if it meets the requirements for approval. As part of the review process, the Department will generally inspect the facility. If approval is warranted, the Department will mail copies of its certification of approval to the applicant and the Tax Commissioner. A partial approval may be granted if the Department finds air pollution control to be the primary purpose of only part of the facility.

APPEAL PROCEDURE

There is no specific appeal procedure from a Department of Environmental Protection finding on an application for approval of an air pollution control facility. However, there is an appeal procedure available through the state courts. This procedure is the same as appeals from all orders by the Department of Environmental Protection.

SOURCES OF INFORMATION

State Tax Commission
State Capitol
Hartford, Connecticut 06115

Air Pollution Control Section
Department of Environmental Protection
79 Elm Street
Hartford, Connecticut 06115

CONNECTICUT

TYPE OF TAX INCENTIVE

Franchise (Income) tax credit

STATUTE

Connecticut General Statutes, Chapter 208, Section 12-217 (1958)

ELIGIBILITY REQUIREMENTS

A credit against the Franchise Tax will be allowed in any income year for five percent of the expenditures paid or incurred during that income year for the construction, rebuilding, acquisition or expansion, including the planning, of air pollution abatement facilities. The Department of Environmental Protection must approve the facility. Facility construction, rebuilding, acquisition or expansion must have begun after January 1, 1967. If the amount of the credit provided by the expenditures for the air pollution abatement facility exceeds the amount of precredit tax, the balance of credit remaining may be taken in any of nine successive years.

APPLICATION PROCEDURE

This tax credit may be claimed by completing and submitting an application to the Department of Environmental Protection. Application forms are available from the Department.

REVIEW PROCEDURE

The Department of Environmental Protection will review applications for this credit to determine whether it meets

the requirements for approval. If approval is warranted, the Department will mail copies of its certification of approval to the applicant and the Tax Commissioner. A partial approval may be granted if the Department finds air pollution control to be the primary purpose of only a part of the facility.

APPEAL PROCEDURE

There is no specific appeal procedure from a Department of Environmental Protection finding on an application for approval of an air pollution control facility. However, there is an appeal procedure available through the state courts.

SOURCES OF INFORMATION

State Tax Commission
State Capitol
Hartford, Connecticut 06115

Air Pollution Control Section
Department of Environmental Protection
79 Elm Street
Hartford, Connecticut 06115

GEORGIA

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

Georgia Code, Chapter 92-2, Section 92-201.1 (f)

ELIGIBILITY REQUIREMENT

All property used in a facility or part of a facility which has been installed or constructed for the primary purpose of eliminating or reducing air pollution is exempt from property taxes. The exemption is dependent upon the facilities having been certified by the State Department of Health Air Quality Control Branch, as necessary and adequate for the purposes intended. There is no effective date for the installation or construction of the air pollution control facility.

APPLICATION PROCEDURE

This exemption for an air pollution control facility may be claimed by filing an "Application for a Certificate of Exemption" with either the Revenue Department or the Air Quality Control Branch of the State Department of Health. Application forms are available from the Revenue Department.

REVIEW PROCEDURE

The Air Quality Control Branch of the State Department of Health will inspect the facility for which an application has been received from the taxpayer or Department of Revenue. The inspection will be made only after the facili-

ty has been installed and is in use. The Air Quality Control Branch will recommend to the Revenue Department certification if the inspection determines the facility to be, in fact, installed and in use as an air pollution control facility.

APPEAL PROCEDURE

There is no specific appeal procedure for determination by the Air Quality Control Branch and the Revenue Department for Air Pollution Control facility certifications. However, the appeal procedure used for all tax exemptions is available, namely appeal directly to the state courts.

SOURCES OF INFORMATION

Property Tax and Intangibles Tax Unit
State Revenue Commissioner
Atlanta, Georgia 30334

Air Quality Control Branch
Georgia Department of Public Health
116 Mitchell St., S.W.
Atlanta, Georgia 30303

GEORGIA

TYPE OF TAX INCENTIVE

Sales and use tax exemption

STATUTE

Georgia Code, Act 173, Section 92-21 50.3

ELIGIBILITY REQUIREMENT

The sale of machinery or equipment which is incorporated into a real estate facility used primarily for the purpose of reducing or eliminating air pollution is exempt from sales taxes. However, the person making the sale must collect the tax, unless the purchaser furnishes him with a Certificate of Exemption (Form ST-M8) issued by the Commissioner of the State Revenue Department certifying that the purchaser is entitled to purchase the machinery or equipment without paying the tax. For the Commissioner to issue the certificate, the Air Quality Control Branch, Georgia Department of Public Health must certify to the primary purpose of the machinery being for the elimination of air pollution, and that the machinery is necessary and adequate for its intended purpose.

This statute is only applicable to machinery and equipment purchased after April 1, 1967.

APPLICATION PROCEDURE

The purchaser of machinery and/or equipment to be installed in air pollution control facilities may secure the benefit of this statute by filing an Application for Certificate of Exemption (Form ST-M7) with the State Revenue

Department. The purchaser should furnish such other information as the Commissioner may deem necessary in determining the adequacy of such machinery and/or equipment. Upon approval of the application and certification by the Air Quality Control Branch, the Commissioner will issue the Certificate of Exemption (Form ST-M8) for presentation by the purchaser to his supplier.

In the event the issuance of the Certificate of Exemption has been delayed pending certification by the Air Quality Control Branch or for other reasons, the purchaser must pay the tax to his supplier and promptly file a claim for Refund (Form ST-12A). Upon receipt of the Claim, Waiver and Certification, refund of tax will be given directly to the purchaser. The purchaser must maintain records of machinery purchased and a Certificate of Exemption (Form ST-M8). In the event that property other than the approved items were purchased under this exemption, the purchaser will be liable for the tax, interest and penalties.

REVIEW PROCEDURE

As discussed above, an application for Certificate of Exemption is forwarded to the Air Quality Control Branch by the State Revenue Department. If the Air Quality Control Branch certifies to the necessity and adequacy of the machinery and/or equipment for the purposes intended, the Revenue Department will issue the Certificate of Exemption.

APPEAL PROCEDURE

There is no specific appeal procedure for determination by the Air Quality Control Branch and the Revenue Department for air pollution control facility certifications. However, the appeal procedure used for all tax exemptions is available, namely appeal directly to the state courts.

SOURCES OF INFORMATION

Sales and Use Tax Unit
State Revenue Commissioner
Atlanta, Georgia 30334

Air Quality Control Branch
Georgia Department of Public Health
116 Mitchell St., S.W.
Atlanta, Georgia 30303

HAWAII

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

Hawaii Revised Statutes, Section 246-34.5 (1968)

ELIGIBILITY REQUIREMENT

An exemption from property taxes may be claimed for property used or to be used as an air pollution control facility. This exemption is effective for the taxable years beginning July 1, 1971.

APPLICATION PROCEDURE

A claim for an air pollution control facility exemption must be filed with the Department of Taxation by June 30 of the preceding tax year for which the exemption is claimed.

REVIEW PROCEDURE

The Tax Assessor of the tax district in which the air pollution control facility is located will assess the facility and consider the exemption claimed for the facility.

APPEAL PROCEDURE

If the taxpayer's claim for the exemption is disallowed or reduced by the Tax Assessor, he may appeal to the Board of Review of the tax district in which the air pollution control facility is located, or, as an alternative, he may appeal to the Tax Appeal Court, but in either case, the appeal must be initiated on or before September 25 of the tax year.

SOURCES OF INFORMATION

Property Technical Office
Department of Taxation
Honolulu, Hawaii 96813

Air Sanitation Branch
Division of Environmental Health
P. O. Box 3378
Honolulu, Hawaii 96801

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

Idaho Code, Chapter 1, Section 63-105 T (1047)

ELIGIBILITY REQUIREMENT

Facilities, installations, machinery or equipment designed, installed and used in eliminating, controlling or preventing air pollution are exempt from the property tax. If the air pollution control property also serves other beneficial purposes and uses, the portion of the assessed valuation determined to be necessary for and devoted to eliminating or preventing air pollution will be exempted.

APPLICATION PROCEDURE

Air pollution control property is not required to be listed or assessed by the tax assessor.

REVIEW PROCEDURE

The County Tax Assessor is responsible for assessing all property in his county and transmits the county tax roll to the County Board of Commissioners, which meets as a county board of equalization to adjust the property assessment. The Board may allow, disallow or modify any claimed exemptions. The Board must give the taxpayer notice and opportunity to be heard before disallowing or modifying his exemption.

APPEAL PROCEDURE

The Board of Equalization will hear appeals of the

assessments by its County Assessor. An appeal of a decision of a Board of Equalization may be made by the taxpayer within 30 days after the mailing of notice of the decision. Their decision may be appealed to the District Court and the decision of the District Court may be appealed to the State Supreme Court.

SOURCES OF INFORMATION

Property and Inheritance Tax
State Tax Commission
Boise, Idaho 83701

Air Pollution Control Section
Environmental Improvement Division
Idaho Department of Health
Statehouse
Boise, Idaho 83703

TYPE OF TAX INCENTIVE

Property tax basis for assessment

STATUTE

Revenue Act of 1939, Sections 21a - 1 through 21a - 8

ELIGIBILITY REQUIREMENT

For the purposes of the property tax, pollution control facilities are valued in relation to the fair cash value of their economic productivity to their owners. Pollution control facilities are defined as any system, method, construction, device or appliance designed, constructed, installed or operated for the primary purpose of eliminating, preventing or reducing air pollution. Pollution control facilities include any building or equipment, or portion thereof, designed, constructed, installed or operated with the primary purpose of treating, pretreating, modifying or disposing of any potential gaseous pollutant, which if released might be harmful, detrimental or offensive to human, plant or animal life, or to property. This definition applies to pollution control facilities designed, constructed, or installed prior to and after the effective date of this statute, August 14, 1967.

APPLICATION PROCEDURE

Pollution control facilities must be certified by the Pollution Control Board to qualify for property tax exemptions. The application for a pollution control facility certificate is filed with the Pollution Control Board as

prescribed by the regulations issued by the Board. The application must contain appropriate and available descriptive information concerning anything claimed to be entitled in whole or in part to an exemption. The exemption is claimed on the taxpayer's return and the certificate is attached to the return.

REVIEW PROCEDURE

The Board will review the application and determine whether the facility or a portion of the facility is in compliance with the definition of such a facility. If the Board enters a finding for the claimed exemption it will issue a certificate to that effect. The certificate requires tax treatment as a pollution control facility, but only for the portion certified if there is not complete certification. The effective date for the certificate shall be the date of the application or the date of the construction of the facility, whichever is later.

APPEAL PROCEDURE

Before denying a certificate, the Pollution Control Board will give reasonable notice in writing to the applicant and will grant him a reasonable opportunity for a fair hearing. If an application for a certificate has been denied, modified, restricted, or revalued (if previously issued), the applicant may appeal from the Pollution Control Board's findings by bringing an action before the Board for an administrative review.

COMMENTS

The Pollution Control Board may on its own initiative revoke or modify a certificate under any of the following circumstances:

- the certificate was obtained by fraud or misrepresentation.
- the holder of the certificate has failed substantially to proceed with construction, reconstruction, installation, or acquisition of pollution control facilities.
- the pollution control facility to which the certificate applies has ceased to be used for the primary purpose of pollution control and is being used for a different purpose.

If the Board takes action to revoke or modify a certificate, it will promptly notify the taxpayer and furnish him with a copy of the Board's findings. The taxpayer may also use the appeal procedures described above.

SOURCES OF INFORMATION

Commissioner of Taxation
Department of Revenue
Springfield, Illinois 62607

Pollution Control Board
Illinois Environmental Institute
189 W. Madison Street
Chicago, Illinois 60602

ILLINOIS

TYPE OF TAX INCENTIVE

Sales tax exemption
Service Use tax exemption
Use tax exemption
Service Occupation tax exemption

STATUTE

S.B. 959, Laws 1967, Section 1a (Retailer's Occupation Tax)
S.B. 961, Laws 1969, Section 2a (Service Use Tax)
S.B. 960, Laws 1969, Section 2a (Use Tax)
S.B. 962, Laws 1969, Section 2a (Service Occupation Tax)

ELIGIBILITY REQUIREMENT

The purchase, employment and transfer of air pollution control facilities is not considered a purchase, use or sale of tangible personal property and is thereby exempt from Sales tax exemption, Service Use tax exemption, Use tax exemption and Service Occupation tax exemption benefit.

An air pollution control facility is defined as any system, method, construction device or appliance sold, used, or intended for the primary purpose of eliminating, preventing, or reducing air pollution. The air pollution control facility may also have as its primary purpose the treating, pretreating, modifying, or disposing of any potential gaseous pollutant which, if released without such treatment, pretreatment, modification, or disposal might be harmful or offensive to human, plant, or animal life, or to property.

This exemption includes the purchase of air pollution control facilities by contractors who sell the facilities to their customers as part of a contract to furnish and in-

stall air pollution control facilities. Replacement parts for the facility are also included in the exemption, but chemicals or fuel used in the equipment are not exempted. Any tangible personal property used with a facility but not a physical component part of the equipment is not exempt.

Commercial or industrial incinerators may qualify for the exemption, but the taxpayer must obtain a ruling for each installation from the Rules and Regulations Division of the Department of Revenue.

A gas-fired boiler used to produce steam or heat when replacing a coal-fired boiler which was considered a source of air pollution is not exempt. This is because the primary purpose of the boiler is not to reduce air pollution, but to produce steam or heat. Mufflers, exhaust pipes and air filters on motor vehicles are not exempt, because their primary purpose is also not air pollution control. A chimney or smokestack usually does not qualify for an exemption. However, if to control air pollution a chimney is built higher than normal, the portion of the chimney above the normal construction may qualify for an exemption.

Exemptions are granted for materials purchased for and used in the construction of a structure built solely for the purpose of housing air pollution control facilities.

APPLICATION PROCEDURE

If a purchaser or his contractor-installer buys an item whose intended use is as an air pollution control facility, he should certify to the seller its use as an air pollution

control facility or its use in such a facility in order to relieve the seller of the duty of collecting the tax for the Department of Revenue.

REVIEW PROCEDURE

As soon as practicable after the seller's tax return is filed, the Department of Revenue will examine it and make any decisions to disallow or modify exemptions for air pollution control facilities. The Department uses the general guidelines set forth in the Eligibility section above. When necessary, the Department will consult with the State Air Pollution Control Board before making a decision. If the Department disallows or modifies an exemption, it will send the seller a notice of the amount of tax due.

APPEAL PROCEDURE

A taxpayer has 20 days after the issuance of a notice of tax liability (as discussed above) to file a protest and request a hearing to appeal the Department's disallowance or modification of an exemption. As an alternative, the taxpayer may elect to pay the tax under protest and within 30 days file for an injunction (see 89-320). If the taxpayer requests a hearing, he will receive a revised final assessment after the hearing from the Department.

A Circuit Court of the County has the power to review all final assessments of the Department of Revenue. An appeal to a Circuit Court must be initiated within 35 days from the notice of the Department's final assessment. It is necessary for the taxpayer to pay the amount of the tax

under a declaration of protest to provide for an effective court determination of liability.

COMMENTS

The purchaser of an air pollution facility will be held liable for the tax by the Department if it is found that he does not use the facility for air pollution control.

SOURCES OF INFORMATION

Commissioner of Taxation
Department of Revenue
Springfield, Illinois 62607

Pollution Control Board
Illinois Environmental Institute
189 W. Madison Street
Chicago, Ill. 60602

INDIANA

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

Laws 1965, Chapter 119, Section 1 and 2

ELIGIBILITY REQUIREMENT

A property tax exemption may be claimed for any tangible personal property that constitutes a stationary industrial air purification system. The system must be a part of a privately owned manufacturing or industrial plant. In addition, it must be employed exclusively for air purification and not used in the production of property for sale. The industrial air purification system must be designed and used for the improvement of public health and welfare by eliminating air contamination caused by industrial wastes and contaminants for which no public sanitary treatment or elimination service is available. The amount of the exemption claimed is limited to the cost of the depreciable personal property that is attributable to the air purification system.

APPLICATION PROCEDURE

This exemption is claimed upon the owner's annual personal property tax return which is filed with the assessor of the township in which the property is located.

REVIEW PROCEDURE

The assessor of the township in which the property is located will review the exemption claim and will allow

or deny it in whole or in part as he views the claim under the provisions of this law. The action of the assessor on the claim is subject to review by the County Board of Review and the State Board of Tax Commissioners.

APPEAL PROCEDURE

The taxpayer may appeal the assessor's action on the claim for exemption by filing a complaint with the County Board of Review. After a hearing and a decision by the County Board and if the taxpayer is still dissatisfied with the treatment of his claim, he may appeal to the State Board of Tax Commissioners. Finally, the taxpayer has the right to appeal the final determination of the State Board to the Circuit or Superior Court of the County in which the property is located.

SOURCES OF INFORMATION

Commissioner of Taxation
Department of Revenue
Indianapolis, Indiana 46204

Air Pollution Control Board
1330 W. Michigan St.
Indianapolis, Ind. 46206

MAINE

TYPE OF TAX INCENTIVE

Sales and use tax exemption

STATUTE

Maine Revised Statutes Annotated, Title 36, Section 1760,30

ELIGIBILITY REQUIREMENT

Sales, storage or use taxes are not collected on air pollution control facilities certified as such by the Environmental Improvement Commission. An air pollution control facility is defined as any appliance, equipment, machinery, installation or structure installed, acquired or placed in operation primarily for the purpose of reducing, controlling, eliminating, or disposing of industrial air pollutants. Air conditioners, dust collectors, fans and similar facilities designed, constructed or installed solely for the benefit of the person for whom installed or the personnel of such person do not qualify as air pollution control facilities and are not exempt from sales, storage and use taxes.

APPLICATION PROCEDURE

An application must be filed with the Environmental Improvement Commission in order to claim this exemption. The form, entitled Application for Sales and Use Tax is available from the Environmental Improvement Commission. Instructions accompany the application.

REVIEW PROCEDURE

The Environmental Improvement Commission reviews the application to ensure the device is, in fact, for air pollution control.

APPEAL PROCEDURE

The taxpayer may appeal the decision of the Environmental Improvement Commission directly to the State courts.

SOURCES OF INFORMATION

Bureau of Taxation
Sales Tax Division
State House
Augusta, Maine 04330

Environmental Improvement Commission
State House
Augusta, Maine 04330

TYPE OF TAX INCENTIVE

Sales and Use tax rate reduction

STATUTE

Maryland Annotated Code, Article 81 Section 342(s), Article 81 Section 325(g), Article 81 Section 372(r), Article 81 Section 373(g).

ELIGIBILITY REQUIREMENT

Air pollution control devices which might normally be considered as part of real estate and which are required in order to conform to air pollution laws or regulations are taxed at a reduced rate for the Sales and Use tax. Thus, on each sale or use, the device is taxed at two cents, if the price is from 51 cents to one dollar, and at an additional cent for each 50 cent increment above one dollar.

APPLICATION PROCEDURE

The buyer informs the supplier that he is going to be using the device for air pollution control. If it later appears there was a misrepresentation involved, the uncollected taxes will be solicited.

REVIEW PROCEDURE

The Retail Sales Tax Division will examine all the facts, but will not normally inspect the facility, unless it deems it necessary.

REVIEW PROCEDURE

The Retail Sales Tax Division will examine all the facts, but will not normally inspect the facility, unless it deems it necessary.

APPEAL PROCEDURE

The assessment may first be appealed by calling for a formal hearing; second, to the Tax Court; and finally, through the State Courts

SOURCES OF INFORMATION

Department of Taxation
State Office Building
301 W. Preston Street
Baltimore, Maryland 21201

Bureau of Air Quality Control
Maryland State Department
of Health & Mental Hygiene
610 N. Howard Street
Baltimore, Maryland 21201

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

General Laws of Massachusetts, Chapter 59, Section 5, Clause 39

ELIGIBILITY REQUIREMENT

Any equipment, device or facility installed on or attached to real property is exempt from property taxes if its purpose is the abatement or prevention of air pollution within the Commonwealth.

APPLICATION PROCEDURE

This exemption may be claimed by a written request to the Board of Assessors in the town or city in which the property is located.

REVIEW PROCEDURE

There are no statewide review procedures. The town in which the property is located is responsible for the review.

APPEAL PROCEDURE

The assessor's valuation of the pollution control property may be appealed to the Board of County Commissioners or to the Appellate Tax Board. If the taxpayer is dissatisfied with the Board of County Commissioners' or the Appellate Tax Board's decision to modify or disallow the claim for exemption, an appeal may be taken to the Supreme Judicial Court.

SOURCES OF INFORMATION

Commissioner of Taxation
Department of Corporation
and Taxation
Boston, Massachusetts 02202

Bureau of Air Use Management
Department of Public Health
600 Washington Street
Boston, Mass. 02111

MICHIGAN

TYPE OF TAX INCENTIVE

Property tax exemption

Sales and use tax exemption

STATUTE

Compiled laws, Chapter 336, Sections 336.1 through 336.8

ELIGIBILITY REQUIREMENT

Air pollution control facilities are exempt from real and personal property taxes. An air pollution control facility is defined as machinery, equipment or structures which are installed or acquired for the primary purpose of controlling or disposing of air pollution. The air pollution, if not controlled, must be harmful or inimical to the public for the facility to qualify for the exemption. The definition does not include air conditioners, dust collectors, fans, or other similar facilities installed for the benefit of personnel of a business or for private use.

In order to qualify for the exemption, the taxpayer must receive a tax exemption certificate from the State Tax Commission which must receive approval from the Director of Health for the facility as being designed and operated primarily for the control, capture, and removal of pollutants from the air. The Director of Public Health must also find the facility suitable, reasonably adequate, and meeting the interest and purposes of the law. (Effective 1965)

APPLICATION PROCEDURE

To claim this exemption the taxpayer must file an application for a pollution control tax exemption certificate with the State Tax Commission. The application, which is available from the Commission, must include plans, specifications and a descriptive list of all materials and equipment to be incorporated in the facility. In addition, the proposed operating procedure for the control facility must be submitted with the application. A tax exemption granted under this statute will be reduced to the extent of any commercial or productive value derived from any materials captured or recovered by an air pollution control facility.

REVIEW PROCEDURE

Upon receipt of an application for a pollution control tax exemption certificate, the State Tax Commissioner shall request the Director of Public Health's approval of the air pollution control facility. The Commissioner shall also notify the Department of Revenue and the tax assessor of the taxing unit in which the facility is located (or to be located). In addition, the Commissioner shall give both the applicant and the tax assessor an opportunity for a hearing.

When the Director of Public Health approves or disapproves the facility, he will notify the State Tax Commissioner, who will in turn, issue a certificate or notice of refusal of certification to the applicant. Copies

of the certificate or notice of disapproval will be mailed to the tax assessor and to the Department of Revenue. Certificates will state the total application cost of the facility entitled to exemption.

APPEAL PROCEDURE

If a taxpayer is dissatisfied by the modification or disallowance of an exemption claim or the revocation or modification of an existing air pollution control tax exemption certificate, he may appeal from the State Tax Commission's finding through an administrative review by the Commission within 20 days of the notice of the filing.

COMMENTS

The exemption certificate may be modified or revoked by the State Tax Commission by its own initiative or on a complaint by the Director of Public Health, the Department of Revenue, or by the Assessor of the taxing unit in which the facility is located. The revocation or modification of the certificate is possible when any of the following take place:

- the certificate was obtained by fraud or misrepresentation.
- the holder of the certificate has substantially failed to proceed with the construction, reconstruction, installation or acquisition of the facility.
- the holder of the certificate has failed substantially to operate the facility for the pur-

pose and to the degree of control specified in the certificate.

- the primary purpose of the facility is no longer pollution control.
- substantial noncompliance with Act 348 of the Public Acts of 1965 as amended or any rule promulgated thereunder.

SOURCES OF INFORMATION

Revenue Division
Department of Treasury
Lansing, Michigan 48920

Michigan Air Pollution
Control Commission
3500 N. Logan St.
Lansing, Michigan 48906

MINNESOTA

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

Minnesota Statutes, Section 272.02 (15)

ELIGIBILITY REQUIREMENT

All real and personal property used primarily for air pollution abatement and control is exempt from property taxes. To claim this exemption, the taxpayer and the air pollution control facility must satisfy the following conditions and qualifications:

- this exemption only covers the facility to the extent that it is used for the abatement and control of air pollution.
- the air pollution control facility must meet the standards, regulations or criteria prescribed by the Minnesota Pollution Control Agency.
- the facility must be installed or operated in accordance with a permit or order issued by the Minnesota Pollution Control Agency.
- the facility will continue to be exempt as long as the permit issued by the Minnesota Pollution Control Agency remains in effect.

APPLICATION PROCEDURE

To request an exemption of all or a portion of any equipment or device operated primarily for the control or abatement of air pollution, an application must be filed with the

Commissioner of Taxation.

REVIEW PROCEDURE

The Commissioner of Taxation may request the Minnesota Pollution Control Agency to furnish information or advice concerning the application. If the Commissioner determines that the facility qualifies for an exemption, he will issue an order exempting the air pollution control facility from property taxes.

APPEAL PROCEDURE

Appeals from decisions by the Commissioner of Taxation are taken to the Tax Court and appeals from the Tax Court's decisions are taken to the State Supreme Court.

SOURCES OF INFORMATION

Property Tax Division
Department of Taxation
St.Paul, Minnesota 55101

Minnesota Pollution Control Agency
Division of Air Quality
717 Delaware Street, S.E.
Minneapolis, Minn. 55440

MINNESOTA

TYPE OF TAX INCENTIVE

Income tax credit

STATUTE

Minnesota Statutes, Section 290.06

ELIGIBILITY REQUIREMENT

There is available an income tax credit of five percent (5%) of the cost of the equipment installed and operated to prevent air pollution. The following conditions and qualifications must be met to qualify for the credit:

- the air pollution control equipment must be operated within Minnesota for the sole purpose of preventing air pollution.
- the equipment and its operation must be in accordance with the engineering principles approved by the Minnesota Pollution Control Agency.
- the credit may only be deducted from the tax due in the first year for which a depreciation deduction is allowed for the equipment.
- this credit may not exceed $50,000 in a year.

If the credit exceeds this limitation, the excess may be treated as follows:

- a credit carryback to each of the three taxable years preceding the year of excess credit, and
- a credit carryover to each of the seven taxable years following the year of excess credit.

The entire amount of the unused credit from the year of excess credit must be carried to the earliest year in the 10 year carryback-carryforward period discussed above and then to each of the nine following years in chronological sequence. The maximum credit allowable in any one of these 10 years must not exceed $50,000. This credit applies only to air pollution control equipment acquired in taxable years beginning on or after January 1, 1961.

APPLICATION PROCEDURE

This credit may be claimed by filing an application with the Minnesota Pollution Control Agency for certification of the air pollution control equipment. Application forms are available wherever there are state tax return forms. The certification, when received, must be attached to the state income tax return. The Schedule for Pollution Control Equipment (schedule PC) must also be completed and attached to the return.

REVIEW PROCEDURE

Upon receipt of the application, the Pollution Control Agency will inspect the equipment and review the application to determine if the equipment is in fact for air pollution control. The equipment must also have a valid installation and operating permit to receive the certification.

APPEAL PROCEDURE

The decisions of the Pollution Control Agency may be appealed through an administrative review to the agency. Appeals from the decisions are taken to the state courts.

SOURCES OF INFORMATION

Income Tax Division
Department of Taxation
St. Paul, Minn. 55101

Minnesota Pollution Control Agency
Division of Air Quality
717 Delaware Street, S.E.
Minneapolis, Minn. 55440

MISSOURI

TYPE OF TAX INCENTIVE

Sales and use tax exemption

STATUTE

Revised Statutes of Missouri, Section 144.030 (13) and (14)

ELIGIBILITY REQUIREMENT

Machinery, equipment, appliances and devices purchased or leased and used solely to prevent or abate air pollution are exempt from sales and use taxes. The air pollution control facility must be certified as such by the Executive Secretary of the Air Conservation Commission.

APPLICATION PROCEDURE

The taxpayer, prior to submitting informal application for certification, calls the Air Conservation Commission and describes the facility he wishes exempted. Then, if he desires, he should submit three copies of MACC Form No. 9 to the Commission. Upon certification, the air pollution control facility exemption may be approved either by sending invoices for the cost of the facility to the Department of Revenue after installation and then deducting the entire amount when filing the income tax return, or in lieu of paying the sales or use tax, estimates for the facility's cost may be made before installation and presented to the vendor with a copy of the certification letter from the Air Conservation Commission.

REVIEW PROCEDURE

The Air Conservation Commission will determine whether the facility is actually for air pollution control. There are two form letters sent upon approval: one to the taxpayer and the other to the Department of Revenue.

APPEAL PROCEDURE

Any action taken by the Executive Secretary of the Air Commission in connection with this sales and use tax exemption may be appealed to the Air Conservation Commission. The Commission may uphold or reverse the Executive Secretary's action.

SOURCES OF INFORMATION

Division of Collection
Department of Revenue
Jefferson City, Missouri 65101

Missouri Air Conservation Commission
P. O. Box 1002
112 W. High Street
Jefferson City, Mo. 65101

MONTANA

TYPE OF TAX INCENTIVE

Property tax reduced assessment rate

STATUTE

Revised Codes of Montana, Section 69-39 23

ELIGIBILITY REQUIREMENT

Facilities, machinery or equipment utilized to reduce, eliminate, control or prevent air pollution are classified as Class Seven (7) property for the purposes of property taxes. Class Seven property is taxed at 7% of its true and full value.

APPLICATION PROCEDURE

An application must be filed with the Environmental Control Section of the State Department of Health for an air pollution control facility to be classified as Class Seven property. Application forms are available from the Environmental Control Section.

REVIEW PROCEDURE

Upon receipt of an application, the Environmental Control Section will review the data to determine whether the facility meets the state's pollution control standards. If these are met, a certificate will be issued and notification will be made to the State Board of Equalization. The Board will then designate the property as Class Seven and notify the County Assessor in the county in which the air pollution control facility is located.

APPEAL PROCEDURE

Appeals from the decisions of the Environmental Control Section of the State Board of Health are made directly to the state courts. Appeals from the decisions of the Board of Equalization are made to the Board of Equalization itself.

SOURCES OF INFORMATION

State Board of Equalization
Department of Revenue
Helena, Montana 59601

Environmental Control Section
of State Board of Health
Montana State Department
of Health
Cogswell Building
Helena, Montana 59601

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

Revised Statutes, Amended, Chapter 72, Section 72:12-a and b

ELIGIBILITY REQUIREMENT

Any firm, person, or corporation which builds, constructs, installs, or places in use in New Hampshire a treatment facility, device, appliance, or installation wholly or partly for the purpose of reducing, controlling or eliminating any source of air pollution is entitled to a property tax exemption for the facility and any real estate necessary for the facility. If the facility is not solely used for pollution control, the Air Pollution Control Commission will determine the exemption according to the percentage of the investment in the facility that can be properly allocated to pollution control. The exemption period begins the April first following the receipt of the Commission's determination.

APPLICATION PROCEDURE

To claim this exemption, the taxpayer must file an application with the Air Pollution Control Commission with a copy to the taxing authorities in the municipalities where the facilities are located. The application must describe the facilities and their function(s), and the total invest-

ment with the portion allocable to each function, if there is more than one function.

REVIEW PROCEDURE

The Air Pollution Control Commission will investigate the application and determine whether the purpose of the facility is solely or only partially for air pollution control. If the Commission finds the purpose only partially for air pollution control, it will determine by an allocation of the applicant's investment in the facility what percentage of the facility is used to control air pollution. In making its investigation, the Commission may inspect the facility and request such other information it deems reasonably necessary to make its determination. The Commission will notify the applicant and the municipal taxing authorities of its determination. The taxing authorities will then reduce the assessment of the facility by the percentage of the facility to be used for pollution control.

APPEAL PROCEDURE

The owner of the air pollution control facility may request a rehearing or appeal the determination of the Air Pollution Control Commission. Further appeal may be made to the state courts.

SOURCES OF INFORMATION

Commissioner of Taxation
State Tax Commission
Concord, New Hampshire 03301

Air Pollution Control
Commission
61 South Spring
Concord, New Hampshire 03301

NEW JERSEY

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

New Jersey Revised Statutes, Section 54; 4-3.56

ELIGIBILITY REQUIREMENT

Equipment, facilities, or devices constructed or installed and used primarily for the purpose of abating or preventing pollution of the atmosphere and which have been certified to be an air pollution abatement facility by the Department of Environmental Protection are eligible for exemption. The certification exempts the device from taxation beginning the tax year following the year in which the certificate was issued.

APPLICATION PROCEDURE

Application for certification should be made to the Department of Environmental Protection which will certify the device if it is found that the device is designed primarily for the control or abatement of air pollution and is suitable and reasonably adequate for such purpose. Applications are available in the offices of the Department.

REVIEW PROCEDURE

The Department of Environmental Protection, upon receipt of an application, will assure itself that the facility is, in fact, an air pollution control facility. A physical inspection of the facility may be made if necessary. If the

Department certifies the facility, it will send its certification papers to the Division of Taxation of the State Department of Treasury. The Division will in turn notify the County Board of Taxation of the county in which the facility is located. Upon receipt of the certification, the County Board will enter the exemption on the taxpayer's property records.

APPEAL PROCEDURE

A taxpayer may request an administrative appeal to the Department of Environmental Protection from its decision on the taxpayer's application. If the decision is negative, it may be appealed to the state courts.

COMMENTS

The certificate may be revoked if, after notice of an opportunity for a hearing has been given to the certificate holder, the State Commissioner of Health finds:

- the certificate was obtained by fraud or misrepresentation.
- substantial failure to proceed with construction or acquisition of the device has taken place.
- the device has ceased to be used primarily for pollution control.
- that the design or construction of the device has changed so substantially that the primary purpose, suitability or adequacy has changed from being primarily for pollution abatement.

- the performance of the device is not suitable and reasonably adequate.

SOURCES OF INFORMATION

Local Property Tax Bureau
Division of Taxation
Department of the Treasury
Trenton, New Jersey 08625

Department of Environmental Protection
P. O. Box 1390
Trenton, New Jersey 08625

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

New York Consolidated Laws Chapter 50-a, Article 4, Section 481

ELIGIBILITY REQUIREMENT

This Statute enables a county, city, town or village to exempt from property and special ad valorem taxes the amount by which the value of the property is increased by the construction or reconstruction of a facility, built in order to comply with the state law, which removes, reduces, or renders less noxious the contaminants from air contamination sources.

APPLICATION PROCEDURE

Application for this exemption must be made to the Commissioner of Environmental Conservation on Form 108. The application form is available from the offices of the Department. The original should be filed with the local assessor where the facility is located and a copy should be filed with the Commissioner.

REVIEW PROCEDURE

There is no formal procedure for the review of the applications for this exemption. The application and its documentation are reviewed for adequacy and to determine if the facility is for air pollution control.

APPEAL PROCEDURE

Appeals from the decision of the Commissioner of Environmental Conservation are taken directly to the State Supreme Court.

SOURCES OF INFORMATION

State Board of Equalization and Assessment
155 Washington Avenue
Albany, New York 12210

N. Y. State Department of Environmental Conservation
50 Wolf Road
Albany, New York 12205

TYPE OF TAX INCENTIVE

Corporate income tax deduction

STATUTE

New York Consolidated Laws Chapter 60, Article 9A, Section 208-9(g)

ELIGIBILITY REQUIREMENT

A deduction is allowed from net income for expenditures paid or incurred during the taxable year on the acquisition or construction of air pollution control facilities used in connection with a trade or business. Such deduction is limited to depreciable property and is conditioned on obtaining a certificate from the State Commissioner of Environmental Conservation. The facility must remove, reduce or render less noxious the contaminants from an air contamination source. Excluded from eligibility are parts of the facility of which the primary purpose is to salvage valuable materials.

APPLICATION PROCEDURE

Application for this deduction must be made to the Commissioner of Environmental Conservation on Form 108. The application form is available from the offices of the Department. The taxpayer should file an election with his tax return for the year in which the deduction is taken. A copy of the State certificate should be attached to the election form.

REVIEW PROCEDURE

There is no formal procedure for the review of applications for this exemption. The application and its documentation are reviewed for adequacy and to determine if the facility is, in fact, for air pollution control.

APPEAL PROCEDURE

Appeals from the decisions of the Commissioner of Environmental Conservation are taken directly to the State Supreme Court.

COMMENTS

No depreciation deduction is allowed on such property in subsequent years, but, if the property is sold, gain or loss is reckoned by the treatment accorded the property under the Federal income tax.

SOURCES OF INFORMATION

Corporate Tax Bureau
State Department of Taxation and Finance
Albany, New York 12226

New York State Department of Environmental Conservation
50 Wolf Road
Albany, New York 12205

TYPE OF TAX INCENTIVE

Personal income tax deduction

Unincorporated business tax-deduction

STATUTE

New York Consolidated Laws Chapter 60, Article 22, Section 612 (h)

New York Consolidated Laws Chapter 60, Article 23, Section 706 (9)

ELIGIBILITY REQUIREMENT

A deduction is allowed from adjusted gross income expenditures paid or incurred during the taxable year on the acquisition or construction of air pollution control facilities used in connection with a trade or business. Such deduction is limited to depreciable property and is conditioned on obtaining a certificate from the State Commissioner of Health. To be eligible for the deduction, the facility must remove, reduce or render less noxious the contaminants emitted from an air contamination source; excluded from eligibility are parts of the facility which have the salvage of valuable materials as their primary purpose.

APPLICATION PROCEDURE

Application for certification is made to the Commissioner of Environmental Conservation on Form 108. The application form is available from the offices of the Department. The taxpayer should file an election to take the deduction with his tax return for the year in which the deduction is

taken. A copy of the state certificate should be attached to the election form.

REVIEW PROCEDURE

There is no formal review procedure for the review of the applications for this exemption. The application and its documentation are reviewed for adequacy and to determine if the facility is for air pollution control.

APPEAL PROCEDURE

Appeals from the decisions of the Commissioner of Environmental Conservation are taken directly to the State Supreme Court.

SOURCES OF INFORMATION

Income Tax Bureau
State Department of Taxation and Finance
Albany, New York 12226

N.Y. State Department of Environmental Conservation
50 Wolf Road
Albany, New York 12205

NORTH CAROLINA

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

General Statutes of North Carolina, Article 12, Section 105-280 (15) (1943)

ELIGIBILITY REQUIREMENT

Real and personal property used exclusively for air cleaning or air pollution abatement facilities are exempt from property taxes if the following conditions and qualifications are met:

- if only a portion of a facility is used exclusively for air cleaning or pollution abatement, the portion so used will be exempt from property taxes and the remainder will be taxed.
- the exemption is allowed only upon certification of the facility by the Board of Water and Air Resources. The Board determines whether or not the facility is an air cleaning device and that the facility complies with the Board's requirements. It also determines whether or not the facility is being effectively operated in accordance with the terms and conditions of the permit issued by the Board. In addition, the Board determines whether the primary purpose of the facility is to reduce air pollution resulting

from the emission of air contaminants. The Board's certificate is delivered to the Tax Supervisor of the county in which the air pollution abatement facility is located.

APPLICATION PROCEDURE

This exemption is claimed by completing and filing an "Application for a Permit to Construct and/or Operate an Air Pollution Control Facility". The application form is available from the Department of Air and Water Resources. The facility's plans, specifications and technical data must be included as support information to the application.

REVIEW PROCEDURE

The Department of Air and Water Resources reviews the application and supporting material to determine if the facility meets the requirements, rules, regulations and standards governing air pollution control facilities within the state.

APPEAL PROCEDURE

A taxpayer may appeal the Department's decision on an application for certification to the Board of Air and Water Resources. Appeals from the Board's decisions are taken directly to the Superior Court of the state.

SOURCES OF INFORMATION

Commissioner of Revenue
State Department
Raleigh, N. C. 27602

Department of Air & Water Resources
P. O. Box 27048
Raleigh, N. C. 27611

TYPE OF TAX INCENTIVE

Corporate income tax - rapid amortization deduction

Personal income tax - rapid amortization deduction

STATUTE

General Statutes of North Carolina, Article 4, Section 105-130.10 (1943)

General Statutes of North Carolina, Section 105-147 (13)

ELIGIBILITY REQUIREMENT

A deduction for the amortization of the cost of any air cleaning device or pollution abatement equipment which meets the following conditions and qualifications is allowed over a 60 month period.

- the device or equipment must reduce the amount of air pollution resulting from emissions of air contaminants or other polluting materials into the atmosphere.
- the corporation claiming this deduction must furnish the Commissioner of Revenue with a certificate from the Board of Water and Air Resources. The certificate will be issued by the Board if it determines that the device or equipment has actually been constructed and installed and that the device or equipment complies with the Board's requirements.
- after the air pollution abatement facility is in operation, the Board will determine whether

or not the device or equipment is being effectively operated in accordance with the terms and conditions set forth in the permit issued by the Board. It will also establish that the primary purpose of the device or equipment, as operated, is, in fact, to reduce air pollution resulting from the emission of air contaminants not merely incidental to other purposes and functions.

- the deduction may be claimed for equipment installed before January 1, 1955, but only to the extent of the present undepreciated value of the equipment. (Effective June 12, 1969).

APPLICATION PROCEDURE

This exemption is claimed by completing and filing with the Department of Air and Water Resources an "Application for a Permit to Construct and/or Operate an Air Pollution Control Facility". The application form is available from the Department. The facility's plans, specifications and technical data must support the application.

REVIEW PROCEDURE

The Department of Air and Water Resources reviews the application and supporting material to determine whether the facility meets the requirements, rules, regulations and standards governing air pollution control facilities within the state.

APPEAL PROCEDURE

A taxpayer may appeal the Department's decision on an application for certification to the Board of Air and Water Resources. Appeals from the Board's decisions are taken to the Superior Court of the state.

SOURCES OF INFORMATION

Corporate Income and Franchise Tax Division
Commissioner of Revenue
Raleigh, N. C. 27602

Individual Income Tax Division
Commissioner of Revenue
Raleigh, N. C. 27602

Department of Air & Water Resources
P. O. Box 27048
Raleigh, N. C. 27611

NORTH CAROLINA

TYPE OF TAX INCENTIVE

Franchise tax deduction

STATUTE

General Statutes of North Carolina, Section 105-122

ELIGIBILITY REQUIREMENT

The entire cost of any air cleaning device or pollution abatement equipment may be treated as a deductible liability reserve in the computation of the franchise tax, if the following conditions and qualifications are met:

- the device or equipment must reduce the amount of air pollution which results from the emission of air contaminants into the outdoor atmosphere.
- the corporation claiming the deductible liability must furnish the Commissioner of Revenue with a certificate from the Board of Water and Air Resources certifying that the Board has found the device or equipment actually constructed and installed and in compliance with the terms and conditions of the Board's installation and operation permit.

The Board will also determine whether the device or equipment has as its primary purpose the reduction of air pollution resulting from the emission of air contaminants.

APPLICATION PROCEDURE

This exemption is claimed by completing and filing an

"Application for a Permit to Construct and/or Operate an Air Pollution Control Facility". The application form is available from the Department of Air and Water Resources. The facility's plans, specifications and technical data must be included as support information to the application.

REVIEW PROCEDURE

The Department of Air and Water Resources reviews the application and supporting material to determine whether the facility meets the requirements, rules, regulations and standards governing air pollution control facilities within the state.

APPEAL PROCEDURE

A taxpayer may appeal the Department's decision on an application for certification to the Board of Air and Water Resources. Appeals from the Board's decisions are taken directly to the Superior Court of the State.

SOURCES OF INFORMATION

Corporate Income and Franchise Tax Division
Commissioner of Revenue
Raleigh, N. C. 27602

Department of Air & Water Resources
P. O. Box 27048
Raleigh, N. C. 27611

TYPE OF TAX INCENTIVE

Property tax exemption

Sales and use tax exemption

Franchise tax exemption

STATUTE

Ohio Revised Code, Section 5709.25 (A)

Ohio Revised Code, Section 5709.25 (C)

ELIGIBILITY REQUIREMENT

A device which is designed, constructed or installed for the primary purpose of eliminating or reducing the emission of, or ground level concentration of, air contaminants which render air harmful or inimical to the public health or property within the state, if certified as such by the Tax Commissioner, is exempt from the above taxes. However, devices which have as their sole purpose either the safety, health, protection, or benefit of the personnel, or the benefit of the company are not exempt.

APPLICATION PROCEDURE

Applications must be filed with the Tax Commissioner and must include, in addition to the items specified by the Commissioner, plans and specifications of the structure including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of pollution control.

REVIEW PROCEDURE

If the Tax Commissioner finds that the proposed facility was designed primarily for the control of pollution of the air and is suitable and reasonably adequate for such purpose, he will issue a certificate to that effect.

APPEAL PROCEDURE

Appeals from refusals by the Tax Commissioner to grant a certificate or from revocation of a certificate may be taken to the Board of Tax Appeals.

COMMENTS

A certification, once granted, can be revoked by the Commissioner if, after notice of and opportunity for hearing, he finds that:

- the certificate was obtained by fraud or misrepresentation.
- the certificate holder has failed substantially to proceed with the work.
- the facility has ceased to be used for the primary purpose of pollution control.

SOURCES OF INFORMATION

Tax Commissioner
State Department
Columbus, Ohio 43215

Ohio Air Pollution Control Board
450 East Town St.
Columbus, Ohio 43216

TYPE OF TAX INCENTIVE

Property (ad valorem) tax exemption

STATUTE

Oregon Revised Statutes, Title 29, Sections 449.605, 307.405 (Property Tax)

ELIGIBILITY REQUIREMENT

Air pollution control facilities are exempt from property taxes under the following conditions and qualifications:

- it is necessary to satisfy the intents and purposes of the Oregon Revised Statutes, Chapter 449 and regulations adopted thereunder.
- the facility must have been constructed on or after January 1, 1967 and on or before December 31, 1978.
- the Department of Environmental Quality must certify the facility and a percentage of its actual cost as properly allocable to the prevention, control, or reduction of air pollution.
- the taxpayer may elect to take this credit only if an election has not been made to take the corporate or personal income tax credit.
- the facility must be on Oregon property.
- the taxpayer must own or lease a business that utilizes Oregon preperty which requires this facility to prevent or minimize air pollution.

- the exemption shall expire 20 years from the date of its first certification if the facility was constructed on or prior to December 31, 1971. If the facility was completed after 1971, the 20-year exemption shall be reduced by a number of years computed as follows:
  - subtract 1971 from the year of completion.
  - multiply the remainder by (2).
  - subtract the product from the 20-year exemption, and compute the available period of exemption.
- the owner of a certified air pollution control facility must give notice of any sale, exchange, or other disposition of that facility to the Sanitary Authority who will automatically revoke the certification.

  The new owner may apply for a new certificate, but the number of years of exemption that may be claimed by the new owner is the remainder of the exemption period used by the original owner. This exemption is not available for an air pollution control facility erected, constructed, or installed or first put into operation after December 31, 1973, unless it is set up to prevent air pollution from a business activity. Further this business activity must be conducted by the taxpayer on his owned or leased Oregon property

as of January 1, 1971.

- if the facility is also used to prevent air pollution on property that does not wholly qualify for this exemption, the certification may only cover that percentage of the facility which is used in a qualifying business on qualifying property.
- Federal grants or tax credits do not affect the ad valorem exemption, nor are depreciation or amortization deductions affected by the ad valorem exemption.
- the facility must not be an air conditioner or similar device, a septic tank or other facility used for human waste disposal, or a facility installed for moving sewerage to public sewage facilities.

APPLICATION PROCEDURE

Application for this credit must be made to the Department of Environmental Quality. It must contain information as to the actual cost of the device, a description of the materials, all machinery and equipment that are part of the device, the proposed operational procedure, a statement of the purpose to be served by the device and the proportional cost of the device that is related to pollution control.

REVIEW PROCEDURE

The Environmental Quality Commission will act upon applications within 120 days after their receipt. The Com-

mission, upon finding that the device is proper, will issue a certificate and a "Notice of Election" form. One copy of the notice must be returned to the Department of Environmental Quality within 60 days after receipt of the certificate.

COMMENTS

Upon any sale, exchange, or other disposition of the facility, the taxpayer shall notify the Department of Environmental Quality who shall revoke the certification.

The Department may revoke a certificate if it was obtained by fraud or if the facility is not operated for the purpose of air pollution control.

SOURCES OF INFORMATION

Consult the tax assessor in the county where the facility is located.

State of Oregon
Department of Environmental Quality
1234 S.W. Morrison Street
Portland, Oregon 97205

TYPE OF TAX INCENTIVE

Corporation excise and personal income tax credit

STATUTE

Oregon Revised Statutes, Sections 317.072, 449.605, and 316.480

ELIGIBILITY REQUIREMENT

A credit against corporation excise or income taxes is available for owners of air pollution control facilities. To qualify for this credit the taxpayer and the facility must meet the following conditions and qualifications:

- the facility must satisfy the intents and purposes of the Oregon Revised Statutes, Chapter 449 and regulations adopted thereunder.
- the facility must not be an air conditioner or similar device, a septic tank or other facility used for human waste disposal, or a facility installed for moving sewerage to public sewerage facilities.
- the taxpayer must irrevocably claim <u>either</u> the property tax exemption, the personal income tax credit, or the corporate excise tax credit.
- this credit is in lieu of any depreciation or amortization deduction for the facility to which the taxpayer might otherwise be entitled.
- the maximum credit allowed in any one taxable year is the lesser of the taxpayer's tax lia-

bility or the following portion of the cost of the facility allocable to pollution control:

a. five percent, if the portion of the actual cost is 80 percent or more.

b. four percent, if the portion is 60 percent or more, but less than 80 percent.

c. three percent, if the portion is 40 percent or more, but less than 60 percent.

d. two percent, if the portion is 20 percent or more, but less than 40 percent.

e. one percent, if the portion is less than 20 percent.

- this credit may be claimed only in the tax years beginning on or after January 1, 1967 and ending on December 31, 1978 regardless of when the facility was erected, constructed, or installed during this period.
- the taxpayer must be the owner of the business that utilizes Oregon property requiring a pollution control facility to prevent or minimize pollution. The "owner" may be a contract purchaser of the property or he may be a lessee or other person who operates the business under an agreement that involves use of the property.
- the facility must be owned or leased during the tax year by the taxpayer and it must have been in use and operation during that tax year.

- the maximum total credit allowable shall not exceed that obtained by taking the allowed credit for ten consecutive years.
- the credit is to the extent of the highest percentage figure certified by the Sanitation Authority as the portion of the actual cost properly allocable to air pollution prevention, control or reduction.
- any credit not used in any particular year may be carried forward and used only in the next three years.
- no tax relief shall be allowed for any pollution control facility constructed for, used by or for the benefit of any governmental body or public corporation.

APPLICATION PROCEDURE

An application for the credit must be made to the Department of Environmental Quality. The application must contain information as to the actual cost of the device, a description of the materials, all machinery and equipment made a part of the device, the proposed operational procedure, a statement of purpose to be served by the device and the proportional cost of the device that is related to pollution control.

REVIEW PROCEDURE

The Environmental Quality Commission acts on the application within 120 days after its receipt. The Commission, upon finding that the device is proper, will issue a certificate and a "Notice of Election" form. One copy of the notice must be returned to

the Department of Environmental Quality within 60 days after receipt of the certificate.

APPEAL PROCEDURE

If no notification is received within 120 days, or if the Commission acts unfavorably upon the application in any respect, the taxpayer has the right to appeal to the circuit court of the county of his residence, trade, or business location within 30 days after denial.

COMMENTS

If a taxpayer obtains grants or tax credits from the Federal Government in connection with a pollution control facility that has been certified, the income or excise tax credits under this statute must be reduced by the amount of the Federal grant or tax credit. The taxpayer must notify the State Department of Revenue of each application for such Federal grants and tax credits. The notification must be made in the taxpayer's next Oregon income or excise tax return. Upon any sale, exchange, or other disposition of the facility the taxpayer shall notify the Department of Environmental Quality who shall revoke the certification.

The Department may revoke a certificate if it was obtained by fraud or if the facility is not operated for the purpose of air pollution control.

SOURCES OF INFORMATION

Income Division Administrator
State Department of Revenue
Salem, Oregon 97310

State of Oregon
Department of Environmental Quality
1234 S.W. Morrison Street
Portland, Oregon 97205

RHODE ISLAND

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

Rhode Island General Laws, Section 44-3-3 (22)

ELIGIBILITY REQUIREMENT

Real and tangible personal property acquired and used primarily to control the pollution or contamination of the air, as defined by federal or state requirements or standards, is exempt from taxation so long as it is operated in compliance with the order of approval from the Director of Health.

APPLICATION PROCEDURE

Application for an order of approval of the treatment facility must be filed with the Director of Health by letter. No formal application form is necessary.

REVIEW PROCEDURE

There is an informal review of the application with the Department utilizing its powers under the applicable pollution laws to obtain on-site inspection and other records.

APPEAL PROCEDURE

The usual administrative appeal procedures entitle the applicant to a hearing before the Superior Court of the district in which the Department sits.

SOURCES OF INFORMATION

State Department of Community Affairs
Providence, Rhode Island 02903

Division of Air Pollution Control
204 Health Bldg.
Davis Street
Providence, Rhode Island 02908

TYPE OF TAX INCENTIVE

Sales and use tax exemption

STATUTE

Rhode Island General Laws, Section 44-18-30 (P)

ELIGIBILITY REQUIREMENT

Devices purchased primarily in furtherance of or in compliance with federal and/or state requirements or standards for the control of air pollution and certified in an order issued by the Division of Air Pollution Control are exempt. Exemption certificates must be shown to the seller to avoid the sales and use tax.

APPLICATION PROCEDURE

Application for a certified order should be made to the Division of Air Pollution Control.

REVIEW PROCEDURE

There is an informal review of the application with the Department utilizing its powers under the applicable pollution laws to obtain on-site inspection and other records.

APPEAL PROCEDURE

Usual administration appeal procedures entitle the applicant to a hearing before the Superior Court for the district in which the Department sits.

COMMENTS

A person may obtain the exemption certificate from the Tax Administrator, 49 Westminister Street, Providence, Rhode Island 02903. If the person has no exemption certificate, he should pay the tax and later file a claim for a refund.

SOURCES OF INFORMATION

Tax Commissioner
State Tax Administration
Providence, Rhode Island 02903

Division of Air Pollution Control
204 Health Bldg.
Davis Street
Providence, Rhode Island 02908

TYPE OF TAX INCENTIVE

Corporate income tax deduction - accelerated amortization

STATUTE

Rhode Island General Laws, Section 44-11-11.1

ELIGIBILITY REQUIREMENTS

The adjusted basis of air pollution control devices may be amortized over a period of 60 months beginning, at the election of the taxpayer, either the month after completion of the device or the first month of the next taxable year. The depreciation allowed is reckoned by dividing the adjusted basis remaining at the beginning of the month in question by the number of months remaining in the six month period.

In order for an air pollution control device to qualify, it must: 1) be in furtherance of or in accordance with federal or state requirements or standards for the control of air pollution or contamination, 2) be primarily for the control of pollution or contamination of the air, 3) be certified as approved in an order entered by the Director of Health.

APPLICATION PROCEDURE

The taxpayer must file, with his return, a statement saying that he is electing the accelerated method. Such statement must be accompanied by an attested copy of an order of approval entered by the Director of Health and a

written statement by the Department of Health certifying that the installation has been completed and is in proper operation.

REVIEW PROCEDURE

There is an informal review of the application with the Department utilizing its powers under the applicable pollution laws to obtain on-site inspection and other records.

APPEAL PROCEDURE

The usual administration appeal procedures entitle the applicant to a hearing before the Superior Court for the district in which the Department sits.

SOURCES OF INFORMATION

Tax Administrator
Department of Taxation
Providence, Rhode Island 02903

Division of Air Pollution Control
204 Health Bldg.
Davis Street
Providence, Rhode Island 02908

SOUTH CAROLINA

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

South Carolina Code, Section 65-1522 (45.1)

ELIGIBILITY REQUIREMENT

Air pollution control devices operated by manufacturing plants are exempt from property taxation.

APPLICATION PROCEDURE

Application for exemption should be made to the township boards of assessors as other applications are now made.

REVIEW PROCEDURE

There is no statewide review procedure. Each township determines its own procedures.

APPEAL PROCEDURE

The South Carolina Tax Commission is authorized to review decisions of the township boards of assessors to determine whether such assessment was correctly decided. The Commission has the power to order a new assessment.

SOURCES OF INFORMATION

Property Tax Division
South Carolina Tax Commission
State Capitol
Columbia, South Carolina 29202

Division of Air Pollution Control
Owen Bldg.
1321 Lady Street
P. O. Box 11628
Columbia, South Carolina 29211

TENNESSEE

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

Tennessee Code Annotated, Section 67-512

ELIGIBILITY REQUIREMENT

Any air pollution control device or any part of any other property used and which is primarily for and necessary to the control, reduction or elimination of air pollution, is exempt from the property tax.

APPLICATION PROCEDURE

Application for exemption must be made to the Tennessee Bureau of Environmental Health or to designated county health boards which will issue a certificate to the applicant upon finding that the device complies with the requirements of Tennessee law (designated counties: Davidson, Hamilton, Knox, and Shelby). Applications are available from the Bureau of Environmental Health.

REVIEW PROCEDURE

Upon receipt of the application, the Bureau or the county health board will inspect the device and review the information to determine whether the device is used to control air pollution.

APPEAL PROCEDURE

There is no specific appeal provided from the decisions of the Bureau or the county health boards. However, decisions may be appealed through the state courts.

SOURCES OF INFORMATION

Commissioner of Taxation
Department of Revenue
Nashville, Tennessee 37219

Tennessee Air Pollution Control Board
Bureau of Environmental Health
C2-212 Cordell Hull Bldg.
Nashville, Tennessee 37219

VERMONT

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

10 Vermont Statutes Annotated, Section 369

ELIGIBILITY REQUIREMENT

Approved air pollution equipment is exempt from real and personal taxation.

APPLICATION PROCEDURE

To obtain approval of air pollution equipment contact the State Air Control Officer for instructions.

REVIEW PROCEDURE

No formalized procedure exists.

APPEAL PROCEDURE

Appeals from the decisions of the State Air Pollution Control Officer are taken to the State Board of Health, and further appeals are taken to the state courts.

COMMENTS

The Vermont statute is vague as to whom applications must be made and by what standards the devices will be judged.

SOURCES OF INFORMATION

Commissioner of Taxes
State Capitol
Montpelier, Vermont 05602

Agency of Environmental Conservation
Air Pollution Control
Montpelier, Vermont 05602

VIRGINIA

TYPE OF TAX INCENTIVE

Income tax - accelerated amortization deduction

STATUTE

Virginia Code, Section 58-81.1

ELIGIBILITY REQUIREMENT

The cost of an air pollution control device installed and completed pursuant to any order, directive or other requirement or with the consent and approval of the State Air Pollution Board may be amortized over a period of 60 months. No amortization is allowed on other than depreciable property.

APPLICATION PROCEDURE

Written notice of election to take this amortization must be filed with the Department of Taxation on or before the filing date of the return for the first taxable year. In addition, copies of the recommendations, orders and approvals issued by the State Air Pollution Control Board in respect to such devices shall be filed with the Department of Taxation.

REVIEW PROCEDURE

Upon receipt of the application, the Board will inspect and otherwise ensure the facility fits the state's requirements for air pollution control devices.

APPEAL PROCEDURE

There is no administrative procedure for the appeal of the decisions of the State Air Pollution Control Board.

Appeals from the Board's decisions are taken directly to the state courts.

SOURCES OF INFORMATION

Department of Taxation
State Capitol
Richmond, Virginia 23215

State Air Pollution Control Board
Room 1106
Ninth Street Office Bldg.
Richmond, Virginia 23219

WASHINGTON

TYPE OF TAX INCENTIVE

Sales and use tax exemption

STATUTE

Washington Statutes, Section 82.34.050

ELIGIBILITY REQUIREMENT

The original acquisition of an air pollution control device by the holder of a credit certificate is exempt from the sales tax. The exemption, however, does not apply to servicing, maintenance, repairs and replacement of parts after a device is complete and in operation. If a person so chooses, he may elect not to claim the exemption, and apply the sales tax paid against the business and occupation tax, the use tax, or the public utility tax.

APPLICATION PROCEDURE

An application for credit certificates shall be filed with the Department of Revenue. The application shall contain estimated or actual costs, plans and specifications of the device including all materials incorporated or to be incorporated therein, and a list describing and showing the cost of all equipment acquired or to be acquired by the applicant together with a time schedule for acquisition and installation of the device.

REVIEW PROCEDURE

Within 30 days, a certificate will be issued if the appropriate control agency finds that the facility is designed and is operated primarily for the control, capture,

and removal of pollutants from the air. In making such a determination, the appropriate control agency shall afford the applicant an opportunity for a hearing.

APPEAL PROCEDURE

If the local or regional air pollution control agency fails to act, or if the applicant feels aggrieved by the action taken, an appeal is available to the state's air pollution control board

SOURCES OF INFORMATION

Department of Revenue
State Capitol
Olympia, Washington 98501

Ecological Commission
P. O. Box 820
Olympia, Washington 98504

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

Wisconsin Statutes 70.11 (21)

ELIGIBILITY REQUIREMENT

All air pollution control devices purchased or constructed with the approval of the Department of Resource Development, Department of Natural Resources, State Board of Health, a city council, a village board or county board is exempted from general property taxation. This exemption applies only to air pollution control devices associated with income-producing equipment.

APPLICATION PROCEDURE

A taxpayer may claim this exemption by filing an Application for Property Tax Exemption for Air Pollution Control Facilities (Form PA 008) with the State Bureau of Air Pollution Control. This form is available from either the Department of Revenue or the Bureau of Air Pollution Control. When approval of the application is received from the Bureau, the taxpayer must file an annual statement not later than May 10th with the Supervisor of Assessment of the Department of Revenue in the district in which the device is located. Forms for the annual statement are available from the Department of Revenue.

REVIEW PROCEDURE

Upon receipt of the application, the Bureau investi-

gates and inspects the device to ensure that it is an air pollution control device. Then, if the device is approved, the application is signed and sent to the local tax assessor.

APPEAL PROCEDURE

A taxpayer may appeal the Bureau of Air Pollution Control's decision in a public hearing with the Bureau. The Board of the Natural Resources Department will then make a decision based on the record of the hearing. An appeal from the Board's decision is made to the state courts.

SOURCES OF INFORMATION

Department of Revenue
Property and Special Tax Division
State Capitol
Madison, Wisconsin 53701

Air Pollution Control Section
Bureau of Air Pollution and Solid Waste Disposal
4610 University Avenue
Madison, Wisconsin 53705

WISCONSIN

TYPE OF TAX INCENTIVE

Corporate income tax credit - accelerated amortization deduction

STATUTE

Wisconsin Statutes 71.04 (2b)

ELIGIBILITY REQUIREMENT

The cost of all air pollution devices pursuant to order, recommendation or approval of the Department of Resource Development, Department of Natural Resources, state board of health, city council, village board, or county board pursuant to Section 59.07 (53) or (35) may be deducted in the year paid, may be depreciated, or may be amortized over a period of 5 years. The deduction election, once made, cannot be changed. In no event shall the sum of past and current year deductions be permitted in excess of the cost of the device. No deduction shall be allowed on other than depreciable property.

APPLICATION PROCEDURE

The taxpayer files copies of recommendations, orders and approvals issued by the Department listed under the previous heading, with the Department of Revenue at the time of his election for accelerated depreciation.

REVIEW PROCEDURE

If found necessary, the Department of Natural Resources will inspect the facility. There is no formal procedure for informing the company of what decision has been reached.

APPEAL PROCEDURE

The taxpayer has 30 days to submit a formal appeal to the Department of Revenue, which passes the appeal to a conferee. From the conferee, the appeal is passed to the Division Chief. If the corporation is not satisfied with the decision, an appeal may be made to the Wisconsin Tax Board of Tax Appeals, and finally through the State Courts.

SOURCES OF INFORMATION

Department of Revenue
Income, Sales and Excise Tax Division
State Capitol
Madison, Wisconsin 53701

Air Pollution Control Section
Bureau of Air Pollution Control and Solid Waste Disposal
4610 University Avenue
Madison, Wisconsin 53705

TYPE OF TAX INCENTIVE

Personal income tax - accelerated amortization deduction

STATUTE

Wisconsin Statutes 71.05 (1) (h)

ELIGIBILITY REQUIREMENT

When acquired pursuant to order, recommendation or approval of the Department of Resource Development, Department of Natural Resources, State Board of Health, City Council, village or county board pursuant to Section 59.07 (53) or (85), the cost of air pollution devices, less any Federal depreciation taken, can be deducted from the taxpayer's adjusted gross income. Appropriate modifications must be made in subsequent years to reverse Federal depreciation or to correct gain or loss indisposition. The acceleration is allowed only on depreciable property and only up to the cost of the device.

APPLICATION PROCEDURE

The taxpayer files with the Department of Revenue copies of all recommendations, orders or approvals relating to the installation of such property and such other documents or data as the Department requests. The city, county, state or the Department of Natural Resources may be contacted for the maximum amount of information.

REVIEW PROCEDURE

If found necessary, the Department of Natural Resources

will inspect the facility. There is no formal procedure for informing the company of the decision that has been reached.

APPEAL PROCEDURE

The taxpayer has 30 days to submit a formal appeal to the Department of Revenue, which passes the appeal to a conferee. From the conferee, the appeal is passed to the Division Chief. If the corporation is not satisfied with the decision, an appeal may be made to the Wisconsin Tax Board of Tax Appeals, and finally through the State courts.

SOURCES OF INFORMATION

Department of Revenue
Income, Sales and Excise
Tax Division
State Capitol
Madison, Wisconsin 53701

Air Pollution Control Section
Bureau of Air Pollution Control
and Solid Waste Disposal
4610 University Ave.
Madison, Wisconsin 53705

WYOMING

TYPE OF TAX INCENTIVE

Property tax exemption

STATUTE

Wyoming Statutes 35-501

ELIGIBILITY REQUIREMENT

Air pollution control devices are exempt from the property tax if they are designed, installed and utilized to eliminate, control or prevent air pollution. Should such a device also serve other beneficial purposes, the portion of the assessed valuation of the device which is reasonably calculated to eliminate, control or prevent air pollution is exempt. The State Board of Equalization determines such exempt portion.

APPLICATION PROCEDURE

This exemption may be claimed by completing and filing the exemption application form for air pollution control facilities. The form is available from the Ad Valorem Tax Department of the State Department of Revenue.

REVIEW PROCEDURE

The Ad Valorem Tax Department reviews exemption application. A physical inspection is made of the facility to determine whether its purpose is air pollution control, and to what extent, if any, it produces a benefit of economic value. Generally, the Department requests the Health Department to determine whether it is functioning properly as an air pollution control facility and, if so, what portion is

used for control.

APPEAL PROCEDURE

Appeals from the decision of the Ad Valorem Tax Department are taken to the State Board of Equalization. Further appeal may be made to the District Court.

SOURCES OF INFORMATION

Commission of Taxation
Wyoming State Tax Commission
Cheyenne, Wyoming 82001

Wyoming Air Resources Council
State Office Bldg.
Cheyenne, Wyoming 82001

GLOSSARY

Ad Valorem Tax	Taxation based on the true value of any given taxable item.
Air Pollution Control Facilities	This definition is dependent on the exact nature of the law(s) in question, but generally it is a piece of equipment or a system that will abate or lessen the emission of an air pollutant from a source.
Air Quality Criteria Document	A document issued by the Federal EPA which assesses and consolidates the current state of knowledge on the origin and effects of a single or group of air pollutants.
Air Quality Standard	The maximum allowable concentration of pollutants in the ambient air.
Amortization	A compensation for the gradual extinguishment of a facility or property by periodic contribution to a sinking fund. (Often used interchangeably with "depreciation".)
Amortizable Basis	The value assigned to a facility or property for the purpose of amortization or depreciation.
Book Value	The value of equipment carried on the accounting books. It consists of the asset value minus depreciation (see depreciation) plus salvage value, if any.

Depreciation	A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence. (Often used interchangeably with "amortization".)
Franchise Tax	A tax levied by a state on a corporation for the privilege of doing business in that state.
Implementation Plans	Plans submitted by state air pollution control agencies to the Federal EPA to define exactly how they intend to achieve and maintain national air quality standards in accord with Section 110 of the Clean Air Act.
Service Occupation Tax	An Illinois tax paid by servicemen and professionals on the cost of tangible property purchased and transferred incidentally to the sale of a service.
Service Use Tax	An Illinois tax paid by servicemen and professionals on the cost of tangible property bought and used outside the state prior to being used inside Illinois in connection with the sale of a service.
Use Tax	A tax usually similar to a sales tax. The definition of a use tax varies by state.

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