United States Environmental Protection Agency | Office of Solid Waste and Emergency Response | Publication. EPA/500/F-95/057 | March 1996

EPA

Proposed Brownfields Tax Incentive

Office of Outreach and Special Projects (5101) | Quick Reference Fact Sheet

EPA's Brownfields Economic Redevelopment Initiative is designed to empower States, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and sustainably reuse brownfields. A brownfield is a site, or a portion thereof, that has actual or perceived contamination and an active potential for redevelopment or reuse. EPA's Brownfields Initiative strategies include funding pilot programs and other research efforts, clarifying liability issues, entering into partnerships, conducting outreach activities, developing job training programs, and addressing environmental justice concerns.

OVERVIEW

On March 11, 1996, President Clinton announced a new tax incentive to spur the cleanup and redevelopment of brownfields in distressed urban and rural areas. The President's announcement builds on the momentum of EPA's Brownfields Action Agenda, announced in January 1995, which outlines a comprehensive approach to assessing, safely cleaning up, and sustainably reusing brownfields. The Brownfields tax incentive will help bring thousands of abandoned and under-used industrial sites back into productive use, providing the foundation for neighborhood revitalization, job creation, and the restoration of hope in our nation's cities and distressed rural areas.

BACKGROUND

Federal tax law generally requires that expenditures which increase the value or extend the useful life of a property, including costs that adapt the property to a different use, be capitalized and, if the property is depreciable, depreciated over the life of the property. This capitalization treatment also applies to the cost of acquiring property. In contrast, repair and maintenance expenditures generally are deducted in the year incurred. Currently, many environmental remediation expenditures fall into the former category and must be capitalized, not expensed.

In 1994, the Internal Revenue Service (IRS) issued a rule which concluded that certain costs incurred to clean up land and groundwater are currently deductible as business expenses. The ruling only addresses cleanup costs incurred by the same taxpayer that contaminated the land It does not address cleanup costs incurred by a party that purchases contaminated property, or an owner interested in putting the land to new use. While this IRS ruling resolved some issues, it is still unsettled whether other remediation costs not addressed in the ruling are currently deductible or must be capitalized.

These unresolved issues create potential financial obstacles in the contaminated properties market. Current owners of contaminated property can remediate their property and sell the clean property at its full market value, enabling them to fully recover the cost of remediation. However, prospective purchasers of contaminated property must purchase the property at its impaired value, attributable to the contamination, and capitalize the remediation costs. This arguably leaves prospective purchasers at a disadvantage in terms of environmental remediation expenditures. Additionally, property owners who want to remediate their property and put it to a different use are at a disadvantage because they are not able to deduct their remediation costs.

TAX INCENTIVE

Under the proposed tax incentive, environmental cleanup costs for properties in designated areas would be fully deductible in the year in which they are incurred, rather than capitalized. This incentive would reduce the capital cost for these types of investments by more than one half. The $2 billion

Brownfields tax incentive, fully paid for in the President's seven year balanced budget, is expected to leverage $10 billion in private investment and return an estimated 30,000 brownfields to productive use.

The tax incentive would be applicable to properties that meet specified land use, geographic, and contamination requirements. To satisfy the land use requirement, the property must be held by the taxpayer incurring the eligible expenses for use in a trade or business or for the production of income, or the property must be properly included in the taxpayer's inventory. To satisfy the contamination requirement, hazardous substances must be present or potentially present on the property. To meet the geographic requirement, the property must be located in the one of the following areas:

- EPA Brownfields pilot areas designated prior to February 1996;
- Census tracts where 20 percent or more of the population is below the poverty level;
- Census tracts that have a population under 2,000, have 75 percent or more land zoned for industrial or commercial use, and are adjacent to one or more census tracts with a poverty rate of 20 percent or more; and
- Empowerment Zones and Enterprise Communities (both existing and those that would be designated in the second round proposed in the President's budget).

Both rural and urban sites may qualify for this incentive. Sites on EPA's National Priorities List would be excluded.

While many of EPA's Brownfields activities have concentrated on removing liability barriers and clarifying cleanup issues, the Agency recognizes the importance of providing financial incentives to spur the cleanup and redevelopment of brownfields. The Brownfields tax incentive is an important tool that would accelerate the cleanup of brownfields—returning them to productive use and creating jobs in communities across the country.

The information contained in this fact sheet is based on the President's **proposed** tax incentive and is entirely subject to change by Congress during the legislative process

CONTACT

Mary Culler
U.S. EPA
(202) 260-9347

EPA
United States
Environmental Protection
Agency (5101)
Washington, DC 20460

Official Business
Penalty for Private Use
$300