



Brownfields Tax Incentive

Outreach and Special Projects Staff (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 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 August 5, 1997, President Clinton signed the Taxpayer Relief Act (HR 2014/PL 105-34), which included a new tax incentive to spur the cleanup and redevelopment of brownfields in distressed urban and rural areas. The Brownfields Tax Incentive builds on the momentum of the Clinton Administration's Brownfields National Partnership Action Agenda, announced in May 1997. The National Partnership outlines a comprehensive approach to the assessment, cleanup, and sustainable reuse of brownfields, including specific commitments from 15 Federal agencies. 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 those expenditures that increase the value or extend the useful life of a property, or that adapt the property to a different use, be capitalized; and, if the property is depreciable, that they are depreciated over the life of the property. This means that the full cost cannot be deducted from income in the year that the expenditure occurs. This capitalization treatment also applies to the cost of acquiring property. In contrast, repair and maintenance expenditures generally can be deducted from income in the year incurred. In the past, many

environmental remediation expenditures had to be capitalized over time, and could not be fully deducted or expensed in the year incurred.

In 1994, the Internal Revenue Service (IRS) issued a ruling that stated that certain costs incurred to clean up land and groundwater could be deducted as business expenses in that same year. However, the ruling only addressed cleanup costs incurred by the same taxpayer that contaminated the land. It did not address cleanup costs incurred by a party that had purchased contaminated property, or an owner who was interested in putting the land to new use. Further, the IRS ruling was unclear as to whether other remediation costs not specifically addressed in the ruling would be deductible in the year incurred or would have to be capitalized.

These unresolved issues created potential financial obstacles in the contaminated properties market. Specifically, owners of contaminated property could 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 had to purchase the property at its impaired value, attributable to the contamination, and capitalize the remediation costs. This arguably left prospective purchasers at a disadvantage in terms of environmental remediation expenditures. Additionally, property owners who wanted to remediate their property and put it to a different use were at a disadvantage because they were not able to fully deduct their remediation costs in the year incurred.

TAX INCENTIVE

Under the new Brownfields Tax Incentive, environmental cleanup costs for properties in targeted areas are fully deductible in the year in which they are incurred, rather than having to be capitalized. The \$1.5 billion incentive is expected to leverage \$6.0 billion in private investment and return an estimated 14,000 brownfields to productive use. The Brownfields Tax Incentive is a valuable and potent tool that communities can now utilize in addressing brownfields.

The tax incentive is 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 1997;
- 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 of their 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
- Any Empowerment Zone or Enterprise Community (and any supplemental zone designated on December 21, 1994).

Both rural and urban sites may qualify for this tax incentive. The taxpayer must get a certification from the state environmental agency that his/her property is in a targeted area. The Brownfields Tax Incentive sunsets after 3 years, thereby covering eligible costs incurred or paid from the date of enactment until January 1, 2001. Sites on EPA's National Priorities List are excluded.

CONTACT

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