



Brownfields Tax Incentive Fact Sheet

Overview

Initially enacted in 1997 and extended through December 31, 2009, the Brownfields Tax Incentive encourages the cleanup and reuse of brownfields. Brownfields are properties where reuse is complicated by environmental contamination concerns. The Brownfields Tax Incentive provides the following advantages to taxpaying stakeholders conducting environmental cleanup at brownfields sites:

- Allows environmental cleanup costs at eligible properties to be fully deductible in the year incurred, rather than capitalized and spread over a period of years.
- Improvements in 2006 expanded the types of properties eligible for the incentive to include those with petroleum contamination.
- Previously filed tax returns can be amended to include deductions for past cleanup expenditures.

The Tax Incentive

Originally signed into law as part of the Tax Relief Act of August 1997, and codified through Section 198(a) of the Internal Revenue Code, the Brownfields Tax Incentive is intended to spur the cleanup and revitalization of brownfield properties. The Brownfields Tax Incentive is applicable to properties that meet specific land use and contamination requirements. To satisfy the land use requirement, the property must either 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 or petroleum must be present or potentially present on the property. Sites listed or proposed for listing on EPA's National Priorities List are not eligible for the tax incentive. Taxpayers must obtain a statement from a designated state agency verifying a property's eligibility for the tax incentive. State contacts can be found on EPA's Web site at <http://www.epa.gov/brownfields/stxcntct.htm>.

In addition to extending the Brownfields Tax Incentive, amendments in December 2006 expanded its scope to allow the deduction of expenses for the cleanup of petroleum products (e.g., crude oil, crude oil condensates, and natural gasoline) that previously were ineligible. This new eligibility for petroleum products applies to cleanup expenses incurred from January 1, 2006 to the tax incentive's current expiration date of December 31, 2009.

Amended tax returns may be filed to deduct expenditures from prior tax years. IRS guidance indicates that such returns must be filed within three years after the date a corporation filed its original return, or within two years after the date a corporation paid the tax (if filing for a refund), whichever is later. The IRS or a qualified tax professional should be consulted if there is any uncertainty as to whether prior tax year deductions are allowable.

Brownfields Tax Incentive Allows Developer in Milwaukee, Wisconsin to Deduct more than \$100,000 in Cleanup Costs



New apartments and a dentist's office built on a former brownfields property.

When a developer in Milwaukee, Wisconsin purchased a former industrial property for mixed-use redevelopment, local environmental engineering firm J. Spear Associates advised the developer to make use of the Brownfields Tax Incentive—a strategy that had benefited many clients before. Assessments of the approximately one-acre site, located within the city's Historic Martin Luther King (MLK) Drive Business Improvement District, had revealed PCB contamination in groundwater. After the developer requested and obtained a statement from the Wisconsin Department of Natural Resources that the property was a “qualified, contaminated site,”

more than \$100,000 in cleanup costs became deductible under the Brownfields Tax Incentive. Mr. Spear, head of J. Spear associates, felt that “...the incentive really drove the project forward.” The site is now home to new commercial and residential space, and has greatly added momentum to efforts within the Business Improvement District.

Contact for Further Information

U.S. EPA, Office of Brownfields and Land Revitalization (202) 566-2777.

For additional information on the Brownfields Tax Incentive, including a Frequently Asked Questions (FAQ) document, guidelines, and individual case studies, please visit:

<http://www.epa.gov/brownfields/bftaxinc.htm>.

For additional information on EPA's Brownfields Program, visit the EPA Brownfields Web site at:

<http://www.epa.gov/brownfields>.