



California Environmental Protection Agency Department of Toxic Substances Control

Federal Taxpayer Relief Act Provides New Incentive for Brownfields Redevelopment

In August 1997, President Clinton signed the Taxpayer Relief Act (HR 2014/PL 105-34), which included a new Brownfields Tax Incentive designed to spur the cleanup and redevelopment of Brownfields. In December 2000, as part of Public Law 106-554, the tax incentive was amended. Under this federal tax incentive, environmental cleanup costs for properties are fully deductible business expenses in the year in which costs are incurred during the eligible time period from August 5, 1997 through December 31, 2003. Prior to the amendment, the tax incentive was only applicable to sites that met specified geographic criteria and had a hazardous substance release or threat of such release; the geographic requirements were removed on December 21, 2000. On October 4, 2004, President Bush extended the Brownfields tax incentive (HR 1308/PL 108-311) until December 31, 2005 for expenditures paid or incurred after December 31, 2003.

The taxpayer must receive a statement from the California Environmental Protection Agency (Cal/EPA), Department of Toxic Substances Control (DTSC), for properties located in California, that there has been a release or threat of release of hazardous substances on the property. In order to receive a statement from DTSC, the following specific requirements must be met.

- 1) The property is an area at or on which there has been a release (or threat of release) or disposal of a hazardous substances, as defined in section 101(14) and 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (exceptions are outlined in CERCLA section 104(a)(3)). Analytical results or other evidence of a release or threat of release must be submitted.
- 2) The property is NOT a site on or proposed for the National Environmental Protection Agency's (EPA) National Priorities List (Superfund sites).

Please note that costs incurred after August 5, 1997, the effective date of the initial tax incentive law, and prior to December 21, 2000, can only be deducted in the same year if the property also qualifies under the tax incentive's original geographic criteria. For these properties, the taxpayer must verify that the property is located in one of the following:

- a) a U.S. EPA Brownfields Pilot area designated prior to February 1997.*
- b) a census tract where 20% or more of the population is below the poverty level.

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- c) *a census tract that has a population under 2,000, has 75% or more of land zoned for industrial or commercial use, and is adjacent to one or more census tracts with a poverty rate of 20% or more.*
- d) *any federal Empowerment Zones or federal Enterprise Communities; Los Angeles City and County Supplemental Empowerment Zone; Imperial County Enterprise Community (USDA Rural EC); City of Watsonville/County of Santa Cruz Enterprise Community (USDA Rural EC); South Central Los Angeles Enterprise Community; Oakland San Diego Enterprise Community; and San Francisco Enterprise Community.*

*** For properties within a U.S. EPA Brownfields pilot area, certification requires submittal of a map of the designated zone with the marked location of the property.**

The Brownfields redevelopment incentive is expected to provide \$1.5 billion tax benefits and to leverage \$6.0 billion in private investment, while returning approximately 14,000 Brownfields to productive use. This incentive should be particularly powerful in California when combined with other California redevelopment and reuse initiatives such as the Voluntary Cleanup Program, Prospective Purchaser Policy, Lender/Fiduciary Liability Relief legislation and other Brownfields Initiatives.

For more information about certification of eligible properties in California or to request a certification submittal form, contact Janet Naito at (510) 540-3833 or Lynn Nakashima at (510) 540-3839. For more information on the tax incentive, contact U.S. EPA-OSWER, Outreach and Special Projects Staff at (202) 260-4039. Alternatively, please use the Internet World Wide Web to access the EPA Brownfields Home Page at <http://www.epa.gov/brownfields>.