

Brownfields Tax Deduction - Federal Taxpayer Relief Act

Dear Texas Taxpayer:

Thank you for your interest in the Brownfields tax deduction contained in the U.S. Taxpayer Relief Act, HR 2014, intended to stimulate the cleanup and redevelopment of Brownfields. Under this incentive, qualified environmental costs incurred in connection with the abatement or control of hazardous substances for properties in targeted areas are fully deductible business expenses in the year in which costs are incurred or paid. An amendment to the law extending it to December 31, 2007 expanded its scope to allow the deduction of expenses for the cleanup of petroleum contamination (e.g., crude oil, crude oil condensates, and natural gasoline) that previously were ineligible. The eligible time period for this law is from August 5, 1997 until December 31, 2009.

To receive the tax deduction, you must obtain certification from the Texas Commission on Environmental Quality (TCEQ) that the property is located within a targeted area and the property has had a release, or threat of release, or disposal of any federal hazardous substance or petroleum products. This new eligibility for petroleum products applies to cleanup expenses incurred from January 1, 2006 to the tax incentives current expiration date of December 31, 2009.

A federal hazardous substance, as defined in section 101(14) of CERCLA 1980 is:

“(A) any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of this Act, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act, (E) any hazardous air pollutant listed under section 112 of the Clean Air Act, and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic substances Control Act.

In addition, you should be aware of several other requirements including:

- ◆ The property must be held by the taxpayer incurring or paying the expenses.
- ◆ The property must be held for use in a trade or business or for the production of income, or property included in the taxpayer's inventory.
- ◆ The property is not a site on U.S. Environmental Protection Agency's (EPA's) National Priorities List (Federal Superfund).
- ◆ For costs incurred before December 16, 2000, the property must be located in one of four eligible areas. See the pre-certification form for more details.

Please fill out and return the attached pre-certification form to the address at the bottom of the form. If you have any questions, please contact Christine Whitney at 512/239-0843.

Brownfields Federal Tax Deduction Pre-Certification Form

Notice: Completion of this form is voluntary, but the TCEQ cannot certify that your property complies with Internal Revenue Code sec. 198(c)(1)(B) without this completed form. TCEQ certification is required to obtain a federal tax deduction under IRC sec. 198 for environmental remediation costs.

Instructions: Please check the appropriate boxes, attach any requested information, and return this form to the address on the bottom of the form. After reviewing this form, the TCEQ will send you a letter certifying that your property meets the requirements of IRC sec. 198(c)(1)(B), or explain why your property does not meet those requirements.

Contact Information

Name _____
Title _____
Organization _____
Telephone () _____ Fax () _____
Address _____
City _____ State _____ Zip Code _____

Taxpayer Information and Property Information

Tax Payer Name _____
Property Address _____
City _____ State _____ Zip Code _____
Legal Description of Property (Example: "Lot 1 of Block A in City Survey") _____

Program Requirements (you must answer yes to all three requirements to obtain certification):

Yes	No	
___	___	Is the property an area at or on which there has been a release or threat of release, or disposal of a federally defined hazardous or petroleum substance?
___	___	I have attached information which demonstrates that a release or threat of release, or disposal of a federal hazardous or petroleum substance is present or has occurred at the property. Information may include a Certificate of Completion, No Further Action Letter, Site Investigation Report, Affected Property Assessment Report, federal or TCEQ identification number or any other relevant information.
___	___	I have verified that the property is not listed as a site on the EPA's National Priorities List (Federal Superfund).

Complete the following section only if deductible costs were incurred BEFORE December 16, 2000.

The taxable property MUST be located within one of the following areas (check all that apply):

- _____ 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 less than 2,000 and 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; or
- _____ Any empowerment zone or enterprise community (EZ/EC) (and any supplemental zone designated on December 21, 1994). EZ/EC designated areas may be located by contacting the Texas Department of Economic Development at (512) 936-0260.

Documentation which verifies that the taxable property meets one or more of the above-listed criteria must be attached to this form.

Taxpayer Signature

I certify that all the above information is true and correct under penalty of law.

Taxpayer Signature _____ Date _____

Send this completed form to the TCEQ, Remediation Division, VCP-CA Section, MC-221, P.O. Box 13087 MC-221, Austin, TX 78711