

Technical Bulletin

Federal Bailout Package Extends Brownfields Tax Incentive - A Boost for Redevelopers

Remediation Tax Deduction

Remediation costs can be a significant part of a Brownfields project. The recent Federal financial “bail out” legislation provides more favorable accounting treatment of remediation costs, at least through 2010. Instead of being considered capital costs subject to depreciation, remediation costs can be expensed when incurred, thus lowering income taxes.

The law (signed on October 3, 2008) extends the deadline for Section 198 of the Internal Revenue Code through 2010 for expenditures paid or incurred after December 31, 2007. Section 198 allows taxpayers to receive a current federal income tax deduction for certain qualifying environmental remediation costs that would otherwise be subject to capitalization. The extension is a welcome benefit to companies seeking to acquire or dispose of environmentally contaminated properties.

Companies prefer deductions because they substantially reduce the current income, allowing the company to capture tax savings now rather than later. This is an immediate tax advantage that helps offset short-term cleanup costs.

Qualified Contaminated Sites

- Site must not be proposed for or listed on the Superfund National Priorities List
- Site is held by taxpayer for use in trade or business or for the production of income
- Site is subject of a real or potential threat of a release or disposal of any hazardous substance
- Taxpayer must receive a statement from the appropriate State agency that the site is in an area that meets the requirements (that cleanup is required)

Qualified Expenditures

A qualified environmental remediation expenditure is one which is otherwise chargeable to a capital account and which is paid or incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

An earlier change in the law (December 2006) expanded eligible properties to include those affected by petroleum contamination, in addition to Superfund hazardous substances.

Other Brownfield Incentives

This change in Federal tax accounting joins a host of incentives for redevelopment of tainted properties. In order to encourage business development and commercial economic revitalization, federal, state, and local governments have created a full range of enabling incentives and financial aid that can be used to turn environmentally-challenged sites into smart growth for communities and financial opportunities for owners, developers, and investors. The mix of available incentives varies by state and city.

SCS Engineers

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