



Form BCA Brownfields Credit Application

2012

Massachusetts
Department of
Revenue

For calendar year 2012 or taxable year beginning

and ending

Name of company/nonprofit organization

Federal Identification or Social Security number

Mailing address

City/Town

State

Zip

Name of contact person

Telephone

E-mail address

Type of entity:

☐ Corporation ☐ Trust ☐ Partnership ☐ Sole proprietorship ☐ LLC ☐ Nonprofit ☐ Other:

Address of property

City/Town

State

Zip

Date(s) eligible costs incurred

1 Percentage of costs with respect to the assessed value of the property prior to remediation **1**

2 Net response and removal costs incurred during the taxable year. Net response and removal costs are eligible costs as described in TIR 99-13. However, the environmental response action commencement cutoff date has been extended to August 5, 2013 and the time for incurring eligible costs that qualify for the credit has been extended to January 1, 2014 **2**

Note: Include only those eligible costs pertaining to an environmental response action which has been commenced and diligently pursued and which achieves and maintains a permanent solution or remedy operation status in compliance with M.G.L. Ch. 21E and the regulations promulgated there under. Eligible costs must pertain to a property owned or leased for a business purpose and which is located in an economically distressed area as defined in M.G.L. Ch. 21E, sec. 2. The costs must be equal to or greater than 15% of the assessed value of the property prior to remediation. The credit cannot be claimed until a response action outcome statement or remedy operation status submittal has been filed with the Massachusetts Department of Environmental Protection.

3 Brief description of environmental response action to which the eligible cost relate _____

I declare under the pains and penalties of perjury that to the best of my knowledge, the information contained herein is accurate and complete.

Signature

Date

Mail to: **Massachusetts Department of Revenue, Audit Division, 200 Arlington Street, Room 4300, Chelsea, MA 02150, attn.: Brownfields Unit.**

Form BCA Instructions

What is the Brownfields Credit?

Non-profit organizations and taxpayers subject to tax under General Laws chapters 62 and 63 are allowed a credit for incurring eligible costs to remove oil or hazardous materials on property the taxpayer owns or leases for business purposes and which is located within an economically distressed area. See G.L. c. 62, sec. 6(j) and G.L. c. 63, sec. 38Q. In general, the amount of the credit will be either 25% or 50% of certain environmental response and removal costs incurred between August 1, 1998 and January 1, 2014, provided that the applicant commences and diligently pursues an environmental response action before August 5, 2013.

Who is Eligible for the Credit?

Only a non-profit organization or taxpayer who is an eligible person as defined in G.L. c. 21E, s. 2 and is not subject to any enforcement action pursuant to c. 21E may receive a credit.

An eligible person is an owner or operator of a site from which there has been a release of oil or hazardous material who did not cause or contribute to the release and did not own or operate the site at the time of the release.

What Properties are Eligible for the Credit?

Eligible property where all three conditions must be met:

- The property is owned or leased by the applicant for business purposes.
- The property has been reported to the Department of Environmental Protection (DEP).
- The property is located in an economically distressed area. A list of economically distressed areas is available from the DEP website at <http://www.mass.gov/dep/cleanup/eda>.

Limitations on the Credit

There are two types of limitations on the credit:

- Fifty-percent limitation for chapter 62 taxpayers: the maximum amount of credit that may be taken may not exceed fifty percent (50%) of the tax liability for the taxable year;
- Fifty-percent limitation for business corporations: the maximum amount of credit that may be taken may not exceed fifty percent (50%) of the excise tax for the taxable year;

Minimum excise limitation for business corporations: the credit may not be used to reduce the tax liability below the minimum excise which is currently \$456.

Carryover of Credit

An unused credit may be carried over for up to five succeeding tax years. However, in no event may the taxpayer apply the credit in any taxable year in which it has ceased to maintain the remedy operation status or the permanent solution for which the credit was granted.

Corporations Filing Combined Returns

Pursuant to M.G.L. c. 63, § 32B, for tax years beginning on or after January 1, 2009, a credit that may be validly claimed by a taxable member of a combined group and that is attributable to the combined group's unitary business may be shared with the other taxable members of the combined group to the extent such sharing of the credit is consistent with the statutory requirement for claiming the credit, taking into account the nature of the business and activities of each of the taxable members that seek to share the credit.

Financial Aid Received by All Taxpayers

Taxpayers may claim this credit even if they receive financial assistance from the Brownfields Development Fund or from the Redevelopment Access to Capital (RAC) Program. However, the amount of state funds received from either of these funds must be deducted from the expense base for which the credit is available.

With reference to RAC, the amount of state financial assistance is calculated as the amount of state funds paid on behalf of the borrower for participation in the program. If the taxpayer has borrowed funds subject to a state guarantee in order to finance the expenses of remediation, the amount of the loan is permitted to be included in the expense base for which the credit is available. However, if the borrower defaults on the loan and the guarantee is invoked, any credit taken for the amount of the loan will be recaptured as taxes due in the year the loan is paid.

Line 1. Enter the percentage of costs with respect to the assessed value of the property prior to remediation. Please note that the net response and removal costs must be equal to or greater than 15% of the assessed value of the property, including any improvements thereon, prior to remediation to qualify for the credit.

Line 2. Enter the net response and removal costs incurred. The Brownfields Act states that eligible costs are net response and removal costs paid by the taxpayer for the purpose of achieving a permanent solution or remedy operation status in compliance with chapter 21E. Note that any eligible costs must have been incurred while the taxpayer owned the property.

Note: See below for a list of eligible costs.

Line 3. Enter a brief description of the environmental response action to which the eligible costs relate.

Eligible Costs

The Brownfields Act states that eligible costs are net response and removal costs paid by the taxpayer for the purpose of achieving a permanent solution or remedy operation status in compliance with chapter 21E. The Department in conjunction with DEP has determined that the costs of the following activities are eligible for the Brownfields credit when performed as part of a response action conducted for the purpose of achieving a permanent solution or remedy operation status:

- Any assessment, removal, or containment action as required under c. 21E;
- Assessment activities performed prior to notification that identify an obligation to notify DEP;
- Preparation of phase reports, status reports, or other submittals required by the Massachusetts Contingency Plan (MCP) directly related to the response action, pursuant to 310 CMR 40.0000;
- Post-RAO response actions undertaken voluntarily or as required by the MCP;
- Removal, assessment, containment, treatment, transport, storage, reuse, recycling and/or disposal of soil, groundwater, surface water or sediments that contain oil and/or hazardous materials;
- Development and implementation of assessment and remediation plans, including pilot testing and treatability tests;
- Sampling and analysis of released oil and hazardous materials and environmental media;

- Demolition or repair of buildings where that activity is directly related to the response action;
- Replacement or repair of blacktop or concrete directly related to the response action but not arising solely from tank removal or repair;
- Hydrogeologic/aquifer tests;
- Provisions for the temporary and/or permanent replacement of potable drinking water supply contaminated by oil and/or hazardous materials;
- Installation of test borings, monitoring wells, recovery wells, and/or gaseous injection or extraction wells; and
- Attorney fees for “compliance assistance” in the preparation of submittals documenting response actions required pursuant to the MCP.

Costs that are not eligible for the Brownfields credit include the following:

- Retro-fitting, relining or replacing UST systems;
- Loss of business revenue because of shutdown of business due to a release or the performance of response actions;
- Rental of temporary storage tanks other than for the management of remediation wastes generated in conjunction with the conduct of response actions;
- Landscaping expenses, including loss and replacement of trees, shrubs, or signs unless groundcover is specifically required to prevent exposures;
- All governmental, federal, state and local oversight fees, permit fees, charges, cost of paid police details and security details unless directly related to response actions, compliance and permit fees, punitive damages, civil or administrative penalties, and criminal fines;
- Interest payments or any finance charges;
- Geotechnical or environmental testing not directly related to the response action;
- Environmental audits or pre-purchase site assessments unless performed as part of the response action;
- Expenses related to replacing or treating a water supply system or well which are not directly caused by or related to the release or the response action;
- Closure or removal of components of an Underground Storage Tank System pursuant to 527 CMR 9.07(H) or 9.07(I);
- Replacement or repair of blacktop or concrete not directly related to the response action;
- Demolition or repair of buildings not directly related to the response action;

- Small tools except as required for the response action (defined pursuant to c. 21J);
- Replacement, closure and/or abandonment of water supply systems or wells not directly related to the response action;
- Costs incurred prior to notification to the DEP of the release and the receipt of a DEP tracking number that are not otherwise eligible;
- Ordinary business expenses or capital improvements, including expenses that would have been incurred in the course of ordinary oil and hazardous materials management and replacement of tanks;
- Insurance costs associated with remediation;
- Costs arising in connection with conveyance of real and personal property unless directly related to the response action;
- Costs attributable to the time and expense of an owner, operator, or principal or employee of the owner or operator in connection with the response action;
- Any other costs not directly related to the response action; and
- Any other cost not expressly listed as eligible.

Additional Requirements

Please submit the following along with this application:

- A copy of the Response Action Outcome Report prepared by the Licensed Site Professional hired for this project.
- Documentation showing the assessed value of the property prior to remediation.
- A description of the business purpose for which the property is owned or leased, i.e., the current business activity that is taking place on this site.
- Copies of all correspondence sent to and received from the Department of Environment Protection (DEP) relating to the cleanup and outcome of this property.
- The following requirement should be submitted in an electronic format (**Note:** This must be in a standard database spreadsheet format): A complete list of all eligible costs. The list should include the invoice date, invoice number, vendor, eligible net response and removal costs, service provided.

Questions or concerns relating to the Brownfields Credit Application should be directed to the Brownfields Credit Unit at **617-887-6725**.

Mail completed application to: **Massachusetts Department of Revenue, Audit Division, 200 Arlington Street, Room 4300, Chelsea, MA 02150; attn.: Brownfields Credit Unit.**