



Form BCA Brownfields Credit Application

2017

Massachusetts
Department of
Revenue

For calendar year 2017 or taxable year beginning

and ending

Name of applicant

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 Total net response and removal costs incurred 1
- 2 Is the property located in an economically distressed area as defined under G.L. c. 21E and its associated regulations? ☐ Yes ☐ No
- 3 Did the Applicant own or lease the property during the remediation process? ☐ Own ☐ Lease
- 4 Date of the deed or lease for the property _____
- 5 Does the Applicant currently own or lease the property? ☐ Yes ☐ No. If No, date this relationship ended _____
- 6 Assessed value of the property prior to remediation 6
- 7 Percentage of costs with respect to the assessed value of the property prior to remediation. 7
- 8 Is the Applicant an "eligible person" as defined under G.L. c. 21E, § 2? ☐ Yes ☐ No
- 9 Is the Applicant subject to any enforcement action under G.L. c. 21E? ☐ Yes ☐ No
- 10 Identify all release tracking numbers associated with this application _____
- 11 What is the outcome that has been achieved? _____
- _____
- _____
- 12 Does the permanent solution or remedy operation status include an activity and use limitation? ☐ Yes ☐ No
- 13 Date the permanent solution or remedy operation status has been achieved _____
- 14 Has the permanent solution or remedy operation status been maintained? ☐ Yes ☐ No
- 15 Did the Applicant cause or contribute to the release of oil or hazardous material from or at the site? ☐ Yes ☐ No
- 16 Did the Applicant own or operate the site at the time of the release of oil or hazardous material from or at the site? ☐ Yes ☐ No
- 17 Can any other person or entity claim the credit for the property and/or site? ☐ Yes ☐ No
- 18 Amount of the credit that Applicant is seeking 18

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

Name of preparer (print)

Title

Date

Signature of preparer

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 G. L. c. 62 and c. 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, § 6(j) and G.L. c. 63, § 38Q. In general, the amount of the credit will be either 25% or 50% of the net response and removal costs incurred between August 1, 1998 and January 1, 2019, provided that the applicant commences and diligently pursues an environmental response action before August 5, 2018.

Who is Eligible for the Credit?

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

An eligible person is defined as 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:

1. The property is owned or leased by the applicant for business purposes.
2. The property has been reported to the Department of Environmental Protection (DEP).
3. 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/eea/agencies/massdep/cleanup/programs/list-of-economically-distressed-areas.html>.

Limitations on the Credit

There are limitations on the credit:

- Fifty-percent limitation for G.L. c. 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 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.

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 G.L. c. 21E. The costs must be equal or greater than 15% of the assess value of the property prior to remediation. The Department in conjunction with DEP has determined that the following costs are eligible for consideration as net response and removal costs where such costs are a direct and necessary part of attaining a permanent solution or remedy operation status and where such costs have been incurred by the taxpayer while the taxpayer owned or leased the property:

- Any assessment, removal, or containment action as required under G.L. 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) pursuant to 310 CMR 40.0000;
- 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;
- Geotechnical or environmental testing; Demolition or repair of buildings;
- Replacement or repair of blacktop or concrete;
- Hydrogeologic/aquifer tests;
- Provisions for the temporary and/or permanent replacement or treatment 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;
- Attorney fees for "compliance assistance" in the preparation of submittals documenting response actions required pursuant to the MCP;
- Permit fees, cost of paid police details and security details;

- Closure or removal of components of an Underground Storage Tank System pursuant to 527 CMR 9.07(H), 9.07(I), or 310 CMR 80.00 et. seq., as the case may be; and
- Rental of temporary storage tanks for the management of remediation wastes.

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;
- Landscaping expenses including expenses related to the loss, replacement, or installation of trees, shrubs, or signs;
- All governmental, federal, state and local oversight fees;
- Compliance fees, punitive damages, civil or administrative penalties, and criminal fines;
- Interest payments or any finance charges;
- Small tools;
- 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 ordinary course of development of the property in the absence of contamination, oil and hazardous materials management, and replacement of tanks;
- Insurance costs associated with remediation;
- Costs attributable to the time and expense of an owner, operator, or principal;
- Any other costs that are not a direct and necessary part of attaining a permanent solution or remedy operation status and incurred by the taxpayer while the taxpayer owned or leased the property;

- Any costs for which the taxpayer received or anticipates reimbursement; and
- Any other costs not expressly listed as eligible.

Additional Requirements

Please submit the following along with this application:

- A copy of the Response Action Outcome Report/Remedy Operation Status Report/Permanent Solution Statement prepared by the Licensed Site Professional hired for this project;
- Documentation showing the assessed value of the property prior to remediation;
- The deed or lease agreement for the property;
- 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 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. This list should include the invoice date, invoice number, vendor, eligible net response and removal costs and a brief description of the service(s) provided.

Questions or concerns relating to the Brownfields Credit Application should be directed to the Brownfields Unit at 617-887-6974.

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