



The Commonwealth of Massachusetts
Department of Revenue
Office of the Commissioner
P.O. Box 9550
Boston, MA 02114-9550

September 1, 2012

The Honorable Stephen M. Brewer,
Chair, Senate Committee on Ways and Means
Room 212 State House,
Boston, MA 02133

The Honorable Brian S. Dempsey,
Chair, House Committee on Ways and Means
Room 243 State House,
Boston, MA 02133

Re: Environmental Response Action (Brownfields) Tax Credit Program

Dear Chairmen:

This report on the environmental response action (Brownfields) tax credit program is being issued pursuant to Massachusetts General Laws c. 63 § 38Q(h), and c. 62 § 6(j)(6).

During fiscal year 2012, the Department of Revenue received 93 applications under the Brownfields tax credit program, claiming a total of \$50.7 million in credits. Of these applications, 69 have been reviewed and approved, resulting in \$36.8 million in total credits. An additional \$13.6 million in credits applied for in FY12 are still under review.

Of the credits reviewed and approved, \$33.6 million, or 91.5%, were subsequently transferred to other taxpayers (see the table below).

Brownfields Tax Credit Applications and Transfers by Fiscal Year:						
	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012
Applications:						
Number of credit applications reviewed/approved	*	9	16	59	71	69
Amount of credits approved	*	\$1,391,126	\$2,686,559	\$29,309,067	\$35,201,514	\$36,763,067
Transfers:						
Number of credits transferred	*	6	13	52	63	62
Amount of credits transferred	*	\$883,280	\$2,431,040	\$26,500,906	\$33,999,313	\$33,642,848

(*) Three or fewer taxpayers filed credit applications, and therefore, no detailed information can be provided so as to protect taxpayer confidentiality.

Data may be subject to revision in later years' reports.

The table below shows the actual amount of credits that were claimed by corporate and business taxpayers, and individual taxpayers on their tax returns during the 2006-2010 time period (the data in the table is based on returns filed with DOR, and the 2010 figures are still preliminary).

Actual Amount of Brownfields Tax Credits Claimed on the Returns:						
		Tax Year 2006	Tax Year 2007	Tax Year 2008	Tax Year 2009	Tax Year 2010 (Preliminary)
Insurance Companies, Financial Institutions, Public Utilities, and Corporations	Count	6	6	10	34	40
	\$Amount	7,496,072	176,022	1,556,990	11,902,536	25,622,768
Individuals	Count	69	85	68	67	101
	\$Amount	835,509	535,587	598,348	1,321,895	3,781,279

Data may be subject to revision in later years' reports.

Please note that environmental remediation efforts eligible for the Brownfields credit were originally limited to actions taken between August 1, 1998 and August 5, 2005. Chapter 123 of the Acts of 2006 updated the eligibility dates such that remediation efforts taken on or before August 5, 2011 and completed prior to January 1, 2012 were eligible for the program, and further allowed recipients of the Brownfields tax credits to sell, assign or transfer such credits to another eligible person or non-profit. More recently, under Chapter 240 of the Acts of 2010, the taxpayer must "commence and diligently pursue" the relevant environmental response action(s) on or before August 5, 2013¹. Also, under the Act, the net response and removal costs must be incurred between August 1, 1998 and January 1, 2014².

¹ St. 2010, c. 240, § 113, amending G.L. c. 62, § 6(j)(1). St. 2010, c. 240, § 127, amending G.L. c. 63, § 38Q(a).

² St. 2010, c. 240, § 114, amending G.L. c. 62, § 6(j)(1). St. 2010, c. 240, § 128, amending G.L. c. 63, § 38Q(a).

If you have any questions concerning this matter, please contact me (at 617 626 2201) or Kazim P. Ozyurt, Director of the Office of Tax Policy Analysis (at 617 626 2100).

Sincerely,

A handwritten signature in black ink, appearing to read "Amy A. Pitter". The signature is fluid and cursive, with the first name "Amy" and last name "Pitter" clearly distinguishable.

Amy Pitter
Commissioner

cc: Secretary Jay Gonzalez, Executive Office for Administration and Finance
The Honorable Sal N. DiDomenico, Senate Chair, Joint Committee on Community Development and Small Business
The Honorable Linda Dorcena Forry, House Chair, Joint Committee on Community Development and Small Business
The Honorable Gale D. Candaras, Senate Chair, Joint Committee on Economic Development and Emerging Technologies
The Honorable Joseph F. Wagner, House Chair, Joint Committee on Economic Development and Emerging Technologies