



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

October 18, 2013

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 2013, the Department of Revenue received 95 applications under the Brownfields tax credit program, reporting a total of \$198.5 million in spending on Response and Removal expenses at Brownfield sites. Of these applications, 25 with \$38.6 million in spending have been reviewed and approved, resulting in \$19.0 million in total credits. An additional \$149.6 million in spending submitted in FY13 is still under review; at a 50% credit rate, these could total as much as \$74.8 million in credits.¹

Of the credits reviewed and approved, \$17.1 million, or 90.1%, were subsequently transferred to other taxpayers (see the table below).

¹The amount of the credit granted against spending varies according to the extent of the environmental remedy. If the taxpayer's remedy operation status includes an activity and use limitation, then the amount of the credit is 25% of the net response and removal costs incurred by the taxpayer. However, if there is no activity and use limitation, then the amount of the credit is 50% of the net response and removal costs. The average credit for FY13 applications to date is 49.2%.

Brownfields Tax Credit Applications and Transfers by Fiscal Year:					
	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012	Fiscal Year 2013
Applications:					
Number of credit applications reviewed/approved	16	59	73	78	25
Amount of credits approved	\$2,686,559	\$29,309,067	\$35,414,615	\$46,821,873	\$18,997,620
Transfers:					
Number of credits transferred	13	52	67	73	20
Amount of credits transferred	\$2,431,040	\$26,500,906	\$34,427,694	\$42,036,939	\$17,108,052

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 2008-2011 time period (the data in the table is based on returns filed with DOR, and the 2011 figures are still preliminary).

Actual Amount of Brownfields Tax Credits Claimed on the Returns:					
		Tax Year 2008	Tax Year 2009	Tax Year 2010	Tax Year 2011 (Preliminary)
Insurance Companies, Financial Institutions, Public Utilities, and Corporations	Count	10	34	41	42
	\$Amount	1,556,990	11,902,536	26,307,679	43,755,085
Individuals	Count	68	67	102	113
	\$Amount	598,348	1,321,895	4,103,427	4,189,697

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; further, the act extended the credit to non-profit organizations (which were not eligible for the credit prior to 2006) and allowed recipients of the Brownfields tax credits to sell, assign or transfer such credits to another eligible person or non-profit. The two dates were subsequently extended to August 5, 2013 and January 1, 2014, respectively. More recently, under Chapter 38 of the Acts of 2013, the taxpayer must "commence and diligently pursue" the relevant environmental response action(s) on or before August 5, 2018². Also, under the Act, the net response and removal costs must be incurred between August 1, 1998 and January 1, 2019³.

² St. 2013, c.38, § 53 amending G.L. c. 62, § 6(j)(1). St. 2013, c. 38, § 68 amending G.L. c. 63, § 38Q.

³ St. 2013, c. 38, § 54 amending G.L. c. 62, § 6(j)(1). St. 2013, c. 38, § 69 amending G.L. c. 63, § 38Q.

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 the last name "Pitter" clearly distinguishable.

Amy Pitter
Commissioner

cc: Secretary Glen Shor, 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
