



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Guidance on How to File an Air Pollution Control Equipment Property Tax Exemption Certification Form

Purpose of Guidance Document

This guidance document provides instructions on how an owner/operator of a facility may request from the Department of Environmental Protection (MassDEP) certification that the air pollution control equipment installed at the facility is effective in eliminating or reducing industrial air pollution to an acceptable level for purposes of requesting an exemption from property tax. This document does not provide guidance on the process for requesting an exemption from property tax from the assessor's office in the city/town where the facility is located. Please contact your tax assessor's office for those types of questions.

An owner/operator of a facility who is installing or has installed any structure, building, device, appliance, machinery, equipment or other property to control air pollution (air pollution control equipment) may be eligible to receive an exemption from property tax for the cost of installing the air pollution control equipment. ¹ In order to receive the property tax exemption, the owner/operator of the facility must request MassDEP to certify to the city/town's tax assessor that the air pollution control equipment was installed for the purpose of preventing, abating or eliminating industrial air pollution; and that such property listed is effective in eliminating or reducing pollution to an acceptable level. (See Attachment A for complete statute: M.G.L. Chapter 59, Section 5, Clause 44, as amended.)

Instructions for Completing Form BWP AQ TAX

To qualify for the property tax abatement, the owner/operator of the facility must complete and submit the Application & Affidavit for Tax Exemption Certification Form (BWP AQ TAX), along with any supporting information such as a copy of the facility's Air Pollution Control Plan Approval, to the appropriate regional office of the MassDEP: Attention: BWP -Permit Chief. The address of the regional office can be found online: <http://www.mass.gov/dep/about/region/findyour.htm>

¹ Air pollution equipment purchased and installed after 1980 may no longer be eligible for an income tax credit for the cost of installing such equipment. M.G.L. chapter 63, section 38D. Under subsection (b)(1), deductions shall only be allowed for air pollution control equipment permitted after 1972 and only for expenditures paid or incurred prior to 1980. Therefore, MassDEP's certification of the air pollution control equipment can only be used for abating income tax if the company paid for the equipment prior to 1980.

If any facility is used solely in its entirety to eliminate air pollution, then the property tax exemption shall be for the total cost of the facility. If only a portion of the facility is used to eliminate air pollution, then the owner/operator must determine the pro-rated cost of the air pollution equipment claimed for property tax exemption. The pro-rated cost is calculated based on the portion of the total facility used for the air pollution control equipment (Area); the hours of operation of the air pollution control equipment out of the total hours of operation of the facility (Time); and the cost of the air pollution control equipment (Cost).

In order to complete the Form, the owner/operator must provide the following information:

Area: What fraction of the facility is used for the air pollution control equipment? This is determined by dividing the area of the facility used for the air pollution control equipment by the total area of the facility.

Time: What fraction of the facility's hours of operation does the air pollution control equipment operate? This is determined by dividing the number of hours the air pollution control equipment operates by the total number of hours the facility operates.

Cost: What was the cost of the air pollution control equipment?

Pro-rated cost = (Area) x (Time) x (Cost)

MassDEP's regional office will review the application form and if it is found to meet the conditions in M.G.L. chapter 59, section 5, clause 44, as noted in the sample Certification letter (Attachment B), MassDEP will mail a completed certification letter to the appropriate local and state tax office, along with a copy to you.

There is no fee for this service. You should allow at least 90 days for MassDEP to process your application form and send the Certification to the tax assessor's office.

ATTACHMENT A

M.G.L. Chapter 59 (Assessment of Local Tax), Section 5 (Property; Exemption)

The following property shall be exempt from taxation and the date of determination as to age, ownership or other qualifying factors required by any clause shall be July first of each year unless another meaning is clearly apparent from the context; provided, however, that any person who receives an exemption under the provisions of clause Seventeenth, Seventeenth C, Seventeenth D, Twenty-second, Twenty-second A, Twenty-second B, Twenty-second C, Twenty-second D, Twenty-second E, Thirty-seventh, Thirty-seventh A, Forty-first, Forty-first B, Forty-first C, Forty-second or Forty-third shall not receive an exemption on the same property under any other provision of this section, except clause Eighteenth or Forty-fifth.

Forty-fourth, Any structure, building, device, appliance, machinery, equipment or other property, whether consisting of real or tangible personal property, or a combination of both, which is constructed, installed or placed in operation, in whole or in part, for the purpose of eliminating industrial waste or reducing such waste to a level of toxicity that is not injurious to fish, fowl, animal life or aquatic vegetation and thereby abating or preventing the pollution of the waters of the commonwealth or for the purpose of abating, preventing or eliminating industrial pollution of the atmosphere of the commonwealth. This exemption shall apply to facilities for the treatment, neutralization or stabilization of industrial waste or industrial air pollution from a point immediately preceding the point of such treatment, neutralization or stabilization to the point of disposal, including the necessary pumping and transmitting facilities, but excluding such facilities installed for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable. The term "industrial waste" and the term "industrial air pollution", as used in this section, shall mean any liquid, gaseous, solid or waste substance, or a combination thereof, resulting from any process of industry, manufacture, trade or business or from the development or recovery of any natural resources, which may cause or might reasonably be expected to cause pollution of the waters or the atmosphere of the commonwealth.

If any such structure, building, device, appliance, machinery, equipment or other property is used solely and in its entirety for the elimination or control of water or air pollution, the exemption granted hereunder shall be total; if, however, only a portion of such structure, building, device, appliance, machinery, equipment or other property is used for the elimination or control of water or air pollution, the exemption shall be prorated as follows: for structures and buildings, the ratio which the area or volume, as applicable, thereof used solely for pollution control bears to the entire area or volume; for devices, appliances, machinery, equipment or other property, the ratio which the operating time devoted solely to pollution control bears to the total operating time.

No exemption shall be granted under this clause unless the department of environmental protection certifies to the assessors of the city or town involved that such structure, building, device, appliance, machinery, equipment or other property is effective in eliminating or reducing pollution to an acceptable level. No exemption shall be granted under this clause to any hazardous waste facility sited under the provisions of said chapter twenty-one D, which is maintained principally for the treatment of hazardous waste produced by other persons and transported to the facility for treatment and disposal.

ATTACHMENT B

(REGIONAL OFFICE LETTERHEAD)

CERTIFICATION OF PROPERTY EXEMPT FROM TAXATION

M.G.L. Chapter 59 Section 5
Clause 44

TO: The Assessors of

RELATIVE TO: Taxpayer Name
Site Address
City or Town

The Department of Environmental Protection hereby certifies pursuant to M.G.L. Chapter 59, Section 5, Clause 44, as amended, the attached listing of real and tangible property which may include a structure, building, device, appliance, machinery, equipment, or other property as being constructed, installed or placed in operation, in whole or in part as designated in the attached listing, for the purpose of eliminating industrial waste or reducing such waste, thereby preventing, abating or eliminating industrial pollution from the waters or atmosphere of the Commonwealth; and that such property listed is effective in eliminating or reducing pollution to an acceptable level, as reflected in the terms of the permit(s) issued by the Department of Environmental Protection and applicable to such property.

The Department of Environmental Protection bases this conclusion on the assertions made by the taxpayer, _____, in its application and affidavit dated _____ (see attached Exhibits _____).

The Department of Environmental Protection is NOT certifying that the equipment or taxpayer is in full compliance with all applicable environmental laws.

Date:

Regional Director
Department of Environmental Protection

cc: with attachment

- Applicant
- Mass Department of Corporation and Taxation
Room 600-100 Cambridge Street
Boston, MA 02202
- US EPA, Region I
5 Post Office Sq. Suite 100
Boston, MA 02109-3912
Attention: Air Permits Program