

EXTENSION AND EXPANSION OF THE BROWNFIELDS TAX INCENTIVE
[SECTION 198, U.S. TAX CODE]
December 2000

On December 15, 2000, Congress expanded and extended the brownfields tax incentive. The legislative vehicle was H.R. 4577 (the omnibus appropriations bill) based on section 652 of H.R. 5542 (text below) and was signed by the President on December 21, 2000 [P.L. 106-554].

H.R.5542 Taxpayer Relief Act of 2000 (Introduced in the House)

SEC. 652. MODIFICATIONS TO EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) EXPENSING NOT LIMITED TO SITES IN TARGETED AREAS- Subsection (c) of section 198 is amended to read as follows:

(c) QUALIFIED CONTAMINATED SITE- For purposes of this section--

(1) IN GENERAL- The term 'qualified contaminated site' means any area--

(A) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(a)(1) in the hands of the taxpayer, and

(B) at or on which there has been a release (or threat of release) or disposal of any hazardous substance.

(2) NATIONAL PRIORITIES LISTED SITES NOT INCLUDED- Such term shall not include any site which is on, or proposed for, the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this section).

(3) TAXPAYER MUST RECEIVE STATEMENT FROM STATE ENVIRONMENTAL AGENCY- An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only if the taxpayer receives a statement from the appropriate agency of the State in which such area is located that such area meets the requirement of paragraph (1)(B).

(4) APPROPRIATE STATE AGENCY- For purposes of paragraph (3), the chief executive officer of each State may, in consultation with the Administrator of the Environmental Protection Agency, designate the appropriate State environmental agency within 60 days of the date of the enactment of this section. If the chief executive officer of a State has not designated an appropriate environmental agency within such 60-day period, the appropriate environmental agency for such State shall be designated by the Administrator of the Environmental Protection Agency.

(b) EXTENSION OF TERMINATION DATE- Subsection (h) of section 198 is amended by striking '2001' and inserting '2003'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act.