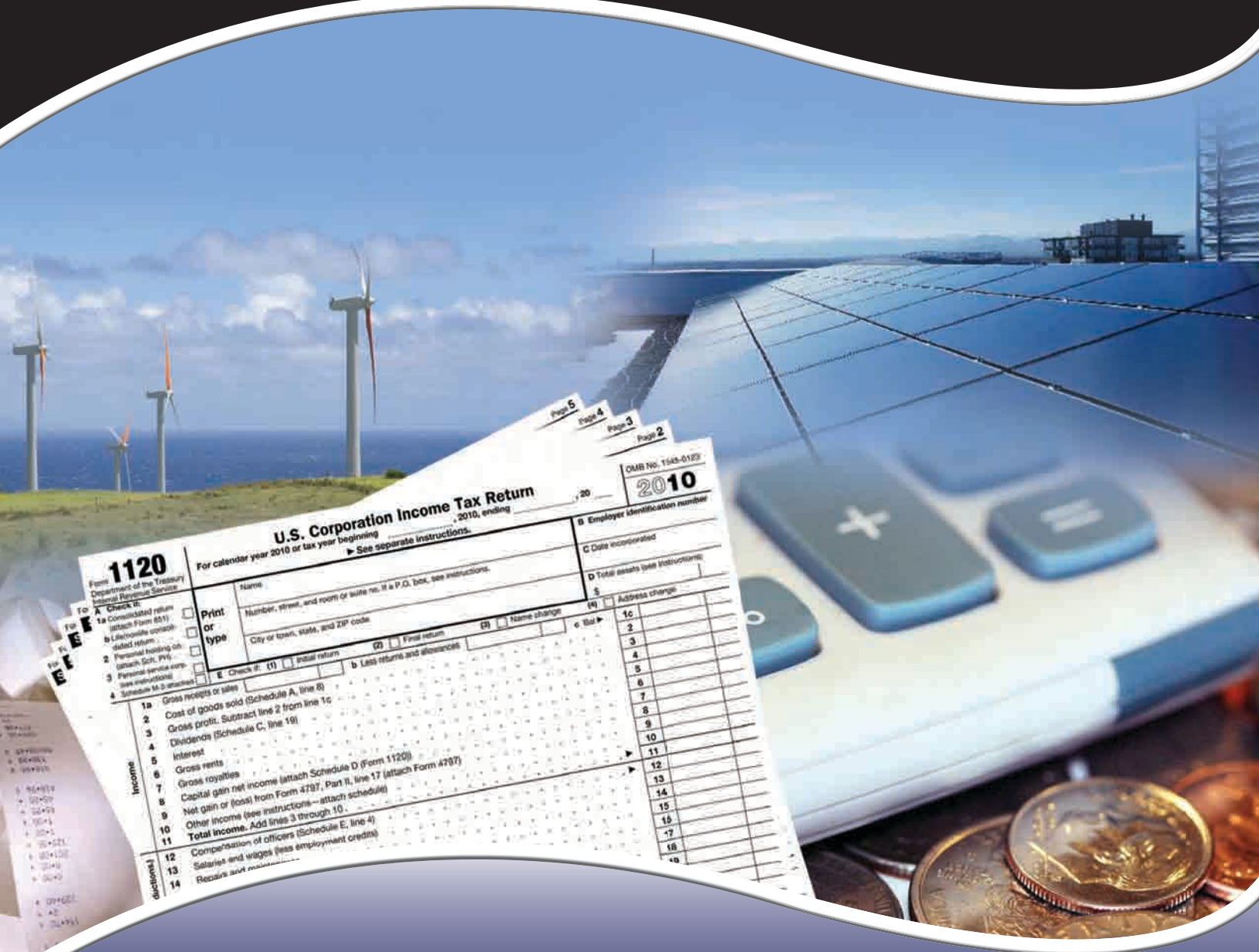
United States Environmental Protection Agency

A Guide to Federal Tax Incentives for Brownfields Redevelopment



2011 Edition

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Introduction

The U.S. Environmental Protection Agency (EPA) encourages brownfields developers to learn about and take advantage of the variety of financial and technical assistance resources available to support a brownfield project. The success of many brownfields cleanup and redevelopment projects depends on the ability of developers and investors to craft a financing package that leverages numerous sources of funding available from a variety of sources.

Taking advantage of federal, state and local tax incentives and credits allows a brownfield developer to use resources normally spent to pay taxes for other purposes. This can help site redevelopers save the cash needed to address contamination issues. The extra cash flow resulting from a tax break also can improve a project's appeal to lenders. Federal tax credits and incentives often are an important part of the mix.

This guide provides an overview of the key federal tax incentives and credits that can be leveraged for brownfields cleanup, redevelopment and reuse. The descriptions of these incentives and credits are simplified explanations of provisions in the U.S. tax code, which often contains additional caveats, restrictions, and modifications. Anyone interested in using these incentives should review the relevant sections of the tax code in detail and consult a tax professional prior to making business decisions.

Readers are encouraged to consult the 2011 edition of the *Brownfields Federal Programs Guide*, from which this information was excerpted. The *Brownfields Federal Programs Guide* is a compendium of federal funding programs and technical assistance resources available for brownfields projects.

For additional information, visit: *http://www.epa.gov/brownfields*.

Brownfields Expensing Tax Incentive

Designed to spur investment in blighted properties and assist in revitalizing communities, the federal brownfields tax incentive is a critical tool in brownfields cleanup and redevelopment efforts. The tax incentive encourages cleanup and redevelopment of brownfields by allowing taxpayers to reduce their taxable income by the cost of eligible cleanup expenses in the year they are incurred. Cleanup costs at eligible properties are fully deductible in the year they are incurred, rather than capitalized and spread over a period of years. Through such favorable tax treatment of cleanup costs, the incentive program aims to level the economic playing field between greenfield and brownfield development.

Both large- and small-scale cleanup and redevelopment activities can benefit from the use of the brownfields expensing tax incentive. From large office buildings to small commercial strips, projects of varying sizes have successfully integrated the tax incentive as a key part of their financing packages. To create consistency in tax and accounting procedures throughout the life of the project, the tax incentive is most beneficial to property owners when considered in the early stages of planning the cleanup and redevelopment process.

How the Program Works: By using the federal brownfields tax incentive, environmental cleanup costs are fully deductible in the year that they are incurred, rather than capitalized over time (up to 30 years in some cases). There are three requirements to qualify:

- The property must be owned by the taxpayer incurring the eligible cleanup expenses, and be used in a trade or business or for the production of income.
- Hazardous substances or petroleum contamination must be present or potentially present on the property.
- Taxpayers must obtain a statement from a designated state agency (typically, the state's environmental agency overseeing the state's voluntary cleanup program (VCP)) that confirms the site is a brownfield and therefore eligible for the tax incentive. Participation in a state VCP satisfies this requirement.

In December 2006, Congress broadened the definition of hazardous substances to include petroleum products for purposes of the tax incentive. This change qualified previously ineligible sites for the tax incentive program, including thousands of former gas stations and underground storage tanks (UST). Properties listed or proposed for listing on EPA's National Priorities List (NPL) continue to be ineligible for the brownfields expensing tax incentive.

To be eligible for the brownfields expensing tax incentive, costs of environmental cleanup must be associated with activities that control the release or disposal of a hazardous substance or petroleum contamination, or activities that abate the threat of a release or disposal of a hazardous substance or petroleum contamination. Costs for activities, such as implementation and monitoring of institutional controls (for example, construction of access roads that serve as caps for contaminated soils), demolition and removal of contaminated materials, and state VCP oversight fees also are all eligible expenditures. Expenses associated with site assessment and investigation activities at a qualified contaminated site also are eligible for the incentive program, if conducted in connection with the abatement or control of hazardous substances or petroleum contamination.

The steps to qualify for and claim the tax incentive are simple and straightforward:

- The site owner determines that a hazardous substance or petroleum contamination is present or potentially present on the property and begins planning for a cleanup and redevelopment project.
- The site owner contacts the designated state agency to inquire about procedures for obtaining a statement that confirms the property is a brownfield site. The owner then provides the agency with documentation that shows whether hazardous substances or petroleum contamination is present or may be potentially present on the property.
- The designated state agency verifies submitted information and provides the site owner with a statement of eligibility for the tax incentive. In most cases, the review process is very quick. (The Congressional Research Service found that virtually every state was able make a determination in less than a month, and three states, New Jersey, Texas,

and Wisconsin, turned around requests in three days or less.) Once state confirmation is issued, the Internal Revenue Service (IRS) considers it valid for the life of the tax incentive.

- To claim the deduction, small business taxpayers write "Section 198 Election" on their income tax return next to the line where the deduction is claimed. Companies or partnerships with more than $10 million in assets fill out Schedule M-3.

Advantages for Brownfields Site Redevelopers: Integrating the tax incentive into a project's financing strategy can enhance project cash flow by offsetting cleanup costs. Prior to the availability of a tax incentive, buyers purchased a contaminated property at its impaired value and then capitalized any cleanup costs over a period of many years. Using the tax incentive, on the other hand, provides brownfields developers an added income boost during the year they invest in cleanup. Small businesses in the environmental cleanup and consulting sector have successfully completed brownfields cleanup and redevelopment projects with the help of the tax incentive and, as a consequence, have encouraged other businesses to seek out brownfields sites for redevelopment. The tax expensing incentive also can be used to leverage money targeted for construction. For example, in a situation where contaminated soil is capped with a parking lot, the costs related to the soil remediation and cap construction are expensible as cleanup costs.

Limitations: The Brownfields Tax Incentive is not frequently used, despite its great potential to support property cleanup and reuse. A key reason for the limited use of the incentive may be uncertainty over its availability over an extended period of time. The tax provision has never had long-term authorization and Congress allowed the provision to lapse five times since it was first introduced in 1997. However, retroactive reauthorizations allowed coverage to be available throughout the entire time period from the incentive's introduction in 1997 until today. In December 2010, the incentive was reauthorized for two years and is retroactive to January 1, 2010. The incentive will remain in effect through December 31, 2011.

Site owners may want to consult their state program or a tax attorney to determine activities that may be considered qualified expenditures. If a taxpayer decides to claim the incentive in future years because cleanup was completed during one of the periods in which the incentive's authority lapsed, an amended tax return can be filed up to three years after the original return was filed. An amended tax return must be filed within two years if a refund is sought.

In addition, the incentive is subject to "recapture," meaning that the gain realized from expensing is taxed as ordinary income rather than at lower capital gains rates when the property is later sold. This aspect of the tax incentive may discourage its use for projects where the developer is not the end-user. Details regarding how long a property must be held before the "recapture" provision is no longer applicable are not defined in statute or Treasury rulings.

ADDITIONAL INFORMATION

The U.S. EPA Brownfields Tax Incentive web site contains background information, program descriptions, frequently asked questions, case studies, and historical information. It is available at: *http://www.epa.gov/swerosps/bf/tax/index.htm*.

Designated state agency contacts are available at: *http://www.epa.gov/swerosps/bf/stxcntct.htm*.

BOSTON, MASSACHUSETTS

A Dorchester neighborhood that at one time included 23 abandoned or demolished buildings now is a new intergenerational neighborhood called Boston's Hope, which is home to young children, their new foster families, and their new "grandparents." The $31 million transformation was made possible in part by a U.S. EPA Targeted Brownfields Assessment (TBA) grant, the federal Brownfields Expensing Tax Incentive, and a partnership between a local social service agency for families and children and the Boston Aging Concerns Young and Old United, Inc. (BAC-YOU), an organization that finds housing for homeless seniors. Site assessment was made possible due to the EPA TBA. After the site was assessed, the city and BAC-YOU were able to begin cleanup of the site. Final cleanup costs for the new Boston's Hope project were over $290,000. Through the federal Brownfields Tax Incentive Program, BAC-YOU, the developer for the project, was able to deduct expenses incurred during the cleanup from its income taxes. The program helped the organization reach the Massachusetts cleanup standards required to prepare the once-contaminated properties for residential redevelopment. The Boston's Hope project includes 41 new and affordable apartments for 30 seniors, ten families and their foster children.

New Markets Tax Credits

The New Markets Tax Credit (NMTC) program is designed to stimulate the economies of distressed urban and rural communities and create jobs in low-income communities by expanding the availability of credit, investment capital, and financial services. The NMTC program was created through the Community Renewal Act of 2000. The program is administered by the Community Development Financial Institutions (CDFI) Fund within the U.S. Department of the Treasury. Each year, tax credits are allocated through the CDFI Fund and distributed to qualified Community Development Entities (CDEs). CDEs include a range of for-profit and non-profit organizations, such as community development corporations, CDFIs, organizations that administer community development venture capital funds or community loan funds, small business development corporations, specialized small business investment companies, and others. Approximately 4,000 organizations are certified as CDEs. Brownfields developers can approach existing CDEs to help fund their projects or may, in certain circumstances, consider applying for CDE certification themselves.

Given their focus on distressed areas, many of which are characterized by blighted and abandoned buildings, NMTCs have significant potential to support brownfields projects. Through October 2009, the CDFI Fund made 495 awards totaling $26 billion in allocation authority. This amount includes $5 billion in new allocations announced in October 2009 in addition to the $3 billion of Recovery Act-authorized allocations ($1.5 billion through the 2008 NMTC allocation round and $1.5 billion through the 2009 NMTC allocation round). As of September 30, 2009, allocation recipients reported raising qualified investments that add up to over $14.3 billion. All 99 of the 2009 recipients indicated that they will invest more than the minimally required 85 percent of qualified investment dollars into low-income communities. Specifically, CDEs securing 2009 allocations anticipate that 41 percent of their NMTC investments ($2.07 billion) will support business activity in low-income communities, and 57 percent (approximately $2.85 billion) will finance real estate projects, commercial endeavors such as retail and industrial projects, as well as community facilities such as health-care centers.

Demand for the tax credits remains high since the program's inception. About 250 applications requesting an aggregate $23.5 billion in authority were submitted for the 2010 round of the NMTC Program, in which $5 billion in new allocation authority is authorized. This unique funding mechanism is a viable option for many brownfields redevelopers, given the target investments that entities receiving allocations typically identify. CDFI anticipates announcing new allocations in early 2011.

How the Program Works: The NMTC program allows certified CDEs to competitively apply for an allocation from the CFDI Fund tax credit pool. Once a CDE receives an allocation of tax credits, the CDE can offer the tax credits to private-sector investors, including banks, insurance companies, corporations, and individuals. Investors acquire (using cash only) stock or a capital interest in the CDE. The investor can gain a potential return for a "qualified equity investment" in the CDE. The investor also receives a 39 percent tax credit on the amount of the investment (total purchase price of the stock or capital interest). The credit is claimed over a seven-year period. A five percent credit is received annually during the first three years after purchase and a six percent credit is received during the final four years. Thus, for each hypothetical $100,000 investment, an investor would realize $39,000 in tax credits. Investors may not redeem their investments in CDEs prior to the conclusion of the seven-year period.

In short, the CDE secures investors through the sale of stock or issuance of an equity interest in exchange for tax credits, and then uses the resulting investor equity to make investments in low-income communities.

In return for providing the tax credit to the investor, the CDE receives cash. The CDE must invest "substantially all" of the cash proceeds into qualified low-income community investments (QLICIs). Over half of all CDE investments are investments in real estate or businesses. Eligible QLICIs include, but are not limited to, loans to or investments in businesses to be used for developing residential, commercial, industrial, and retail real estate projects. Examples of QLICIs include:

- Direct investments in qualified low-income, community-based businesses;
- Purchases of loans made by a CDE to qualified low-income businesses that allow a return via a secondary market-type approach;

- Purchases of financial counseling and other technical services to qualified active low-income community businesses; and
- Loans or investments in real estate projects that can include brownfields cleanup and redevelopment.

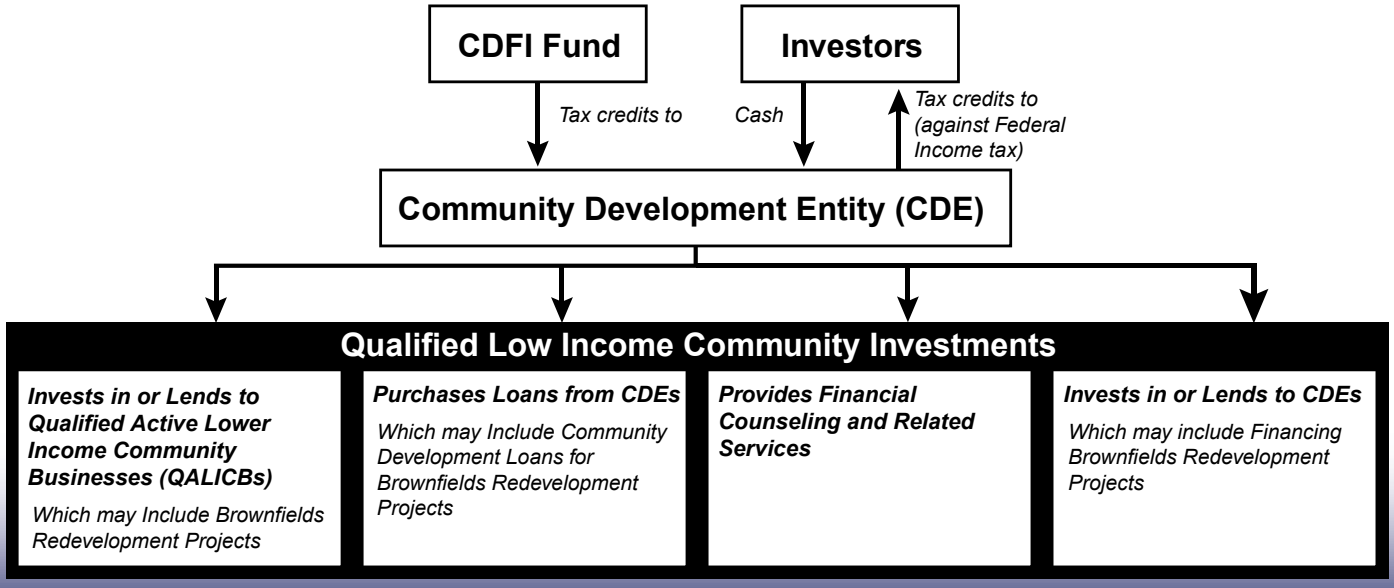
A CDE must be certified to be eligible to receive NMTCs. The Department of the Treasury's CDFI Fund evaluates applications for CDE certification in four areas: business strategy, capitalization strategy, management capacity, and community impact. In addition, the CDE must demonstrate how it will maintain accountability to residents of low-income communities, which is typically done through representation on a governing or advisory board. Community entities applying to become a CDE may submit CDE certification applications at any time of year to the CDFI Fund. Completing an application for CDE certification can be lengthy, but decisions by the CDFI Fund are made relatively quickly. Once an organization is certified, the designation lasts for the life of the organization. Both non-profit and for-profit groups may apply to be certified by the CDFI Fund.

While the CDE certification and the Department of Treasury allocation processes are complex, the actual operation of the NMTC program is relatively simple:

- An investor (taxpayer) decides to seek NMTCs.
- The investor identifies a CDE that received a NMTC allocation (listed on the Department of Treasury's web site) and is in the process of completing a mixed-use redevelopment project, which could be on a brownfields property.
- In exchange for the cash investment in the CDE's project, the investor receives 39 percent of the investment value in tax credits (in other words, $39,000 in credits for each hypothetical $100,000 investment), over the seven-year schedule noted above).
- The investor also receives stock or an equity interest in the CDE's redevelopment project.

Advantages for Brownfields Site Redevelopers: The NMTC program offers several advantages to developers seeking financing to clean up and reuse brownfields properties.

- CDEs may be willing to structure a more favorable deal than traditional lending institutions for brownfields projects, which can be a key consideration when lending is tight.
- CDEs can offer funding for a full range of redevelopment activities, including land acquisition, environmental remediation, demolition, site preparation, construction, renovation, and infrastructure improvements, making them a true "one-stop" financing source.
- CDEs involved in brownfields cleanup and redevelopment projects, especially non-profit entities, can facilitate packaging of different public financing sources for one project. Financing sources can include state and local programs and credits, initiatives such as tax increment financing, and federal programs such as the Department of Housing and Urban Development's Community Development Block Grants (CDBG) and EPA's Brownfields Grants.



- Tax credits available to investors through CDEs can encourage investors to commit additional funds for qualifying projects or attract new investors that may not have ordinarily considered investing in brownfields projects located in low-income communities.

Brownfields stakeholders interested in making the NMTC program part of their brownfields project financing strategies generally follow one of three approaches:

- Contact existing CDEs for funding. Several of the recipients of tax credit allocations between 2007 and 2009 identified brownfields redevelopment as one of the goals for their economic development efforts, but any CDE can potentially invest in a brownfield project. This is the easiest and most common approach. Brownfields developers should consult the CDFI/Treasury web site to identify CDEs operating in their state.
- Apply for and receive CDE certification.
- Apply for an allocation of tax credits to offer to potential investors. Although this process is more complex, it is viable for stakeholders with sufficient staff, technical capacity and commitment for large-scale or long-term brownfields efforts.
- Apply for and achieve CDE certification, then apply to other CDEs that have their own tax credit allocations for equity financing. CDEs can invest in the projects of other CDEs, including brownfields projects, as long as these investments are made in low-income areas. However, little funding was made available through this channel in recent years. Only 1.6 percent (about $79 million) of the 2009 allocations are expected to be used this way.

Through the first seven rounds of the NMTC Program, the CDFI Fund made 495 awards totaling $26 billion in tax credit allocation authority. The seventh round of allocations was announced in October 2009. The $5 billion in credits allocated in 2009 went to 99 private and non-profit CDEs in 30 states, the District of Columbia, and Puerto Rico; entities receiving NMTC allocations anticipate making investments in 49 states. At the aggregate state level, total allocations range from $1.77 billion to 33 CDEs serving California, to $10 million to a CDE serving Hawaii. Total allocations to CDEs in each of 15 states—New York, Texas, Michigan, Ohio, Massachusetts, Illinois, Louisiana, Pennsylvania, Wisconsin, Washington, Maryland, North Carolina, Florida, New Jersey, plus California—exceed $500 million.

Limitations: CDEs can be a vital source of capital for brownfields revitalization. Because of the underwriting effort involved, the NMTC program tends to work best for mid-sized and larger projects. While there is no hard and fast rule, most NMTC projects are at least $1 million in size. Although NMTCs have been used as part of the financing for numerous brownfields projects, many CDEs are unaware of the brownfields redevelopment process and potential leveraging advantages. Consequently, the first task facing local officials and community leaders may be to educate CDEs about the brownfields process and the role that state voluntary cleanup programs can play in bringing certainty and closure to environmental concerns at these properties.

ADDITIONAL INFORMATION

Community Development Financial Institutions Fund
601 13th Street, NW, Suite 200 South
Washington, DC 20005
NMTC Support Line: 202-622-6355
http://www.cdfifund.gov

The CDFI Fund web site provides access to CDE application materials and workshops, legal review services for NMTC-related documents, and a map of qualified census tracts and counties under the NMTC program. It also contains lists of certified CDEs; recent NMTC recipients, and their target states for investing; and profiles of CDE-supported community revitalization projects. In addition, the web site also includes the NMTC Qualified Equity Investment (QEI) Issuance Report, which identifies, among other things, the amount of credits each CDE can allocate, how much credit authority they committed, and the amount remaining to be issued to investors. The most recent QEI was posted in December, 2010.

CHICAGO, ILLINOIS

The Bethel Center in Chicago, IL, is an award-winning, transit-oriented facility developed on a brownfield in Chicago's West Garfield Park area by Bethel New Life (BNL), a faith-based community development corporation. This LEED-certified multi-use facility brings a new commercial anchor to a dilapidated corner. The new facility consists of six storefronts, BNL's program offices, and service-oriented offices that include an employment center, a technology center, and a daycare facility. The Bethel Center was partially funded by a $4 million New Markets Tax Credit allocation that Bethel New Life received in 2003. The NMTC enabled Bethel New Life to receive construction funding, which provided the structure for a more flexible loan package. Prior to receipt of NMTC funds, BNL was denied financing for the project by several financial institutions that were uncertain about annual funding for employment and daycare programs that occupy about 65 percent of the building's space.

Low Income Housing Tax Credits

Low Income Housing Tax Credits (LIHTC) were created under the Tax Reform Act of 1986 to provide incentives for the use of private equity in the development of affordable housing for low-income Americans. The program is administered at the state level. Each state receives an allocation of federal tax credits determined by formula, based on its population: $1.85 per capita, with a minimum allocation of $2,125,000 per state. These credits are intended to ensure an attractive minimum rate of return on investments in low-income housing. Each state can issue LIHTC tax-exempt bonds up to the federally allocated amount to attract investment capital for the development of low-income housing. LIHTCs may be used as part of a brownfields financing package if affordable rental housing is part of a project. The credits have been successfully used in many states as part of mixed-income housing developments and as infill projects on brownfields sites.

LIHTCs are more attractive than tax deductions because tax credits provide investors of affordable housing developments a dollar-for-dollar reduction in their federal taxes while a tax deduction only reduces taxable income and therefore provides a lesser tax benefit. Development capital is raised by "syndicating" the credit to an investor or a group of investors. As these credits are syndicated, developers obtain the equity capital necessary to build or rehabilitate structures for low-income housing. The tax credit is paid to investors annually over a 10-year period. The funds generated through syndication vary from market to market and from year to year. A few years ago, LIHTCs generated about 85 to 95 cents per tax-credit dollar. Recent turmoil in the financial market reduced demand for tax breaks. LIHTCs now bring only about 65 to 75 cents per tax credit-dollar. However, at the end of 2010 the market was showing signs of starting to bounce back.

State housing agencies administer the LIHTC program by reviewing tax credit applications submitted by developers and then allocating the credits. This allows each state to set its own priorities and address its specific housing goals. Some states consider infill, vacant property reclamation, and mixed use in their allocation plans, all of which are priorities that can make brownfield sites more attractive to housing developers as they compete for LIHTC allocations. As an IRS requirement, projects that serve the lowest-income tenants and guarantee low-rent affordability for the longest time period are given priority. Owners must keep the rental units available to low-income tenants for at least 30 years after completion of the project.

Both for-profit and non-profit brownfields developers can use LIHTCs to help finance low-income housing projects. The tax credit program can be used either to construct new buildings or to rehabilitate existing buildings. All activities associated with the development of housing, including cleanup and demolition, can be claimed as expenses associated with the development of low-income housing for the purposes of claiming the tax credit.

As part of their credit allocation plans, some states promote projects located in specific geographic areas or distressed rural or urban areas. To the extent that these policies dovetail with local brownfields priorities, they may encourage investment in brownfields revitalization. In addition, the Housing and Economic Recovery Act of 2008 (HERA) required states to include energy-efficient construction as an allocation priority. To the extent that brownfields housing projects include "green" technologies and sustainable development provisions, they may become more attractive to developers seeking LIHTCs.

Over the past 20 years, states received significant levels of LIHTC allocations that supported the development of many housing units. Since it began, the LIHTC program allocated $7.5 billion in federal tax credits to support 1,761,245 low-income housing units. Almost all new affordable multifamily construction undertaken since 2000 received a subsidy under this program. While some of the projects were conducted on brownfield sites, there actually is much more potential for the development of low-income housing on brownfields than has been realized.

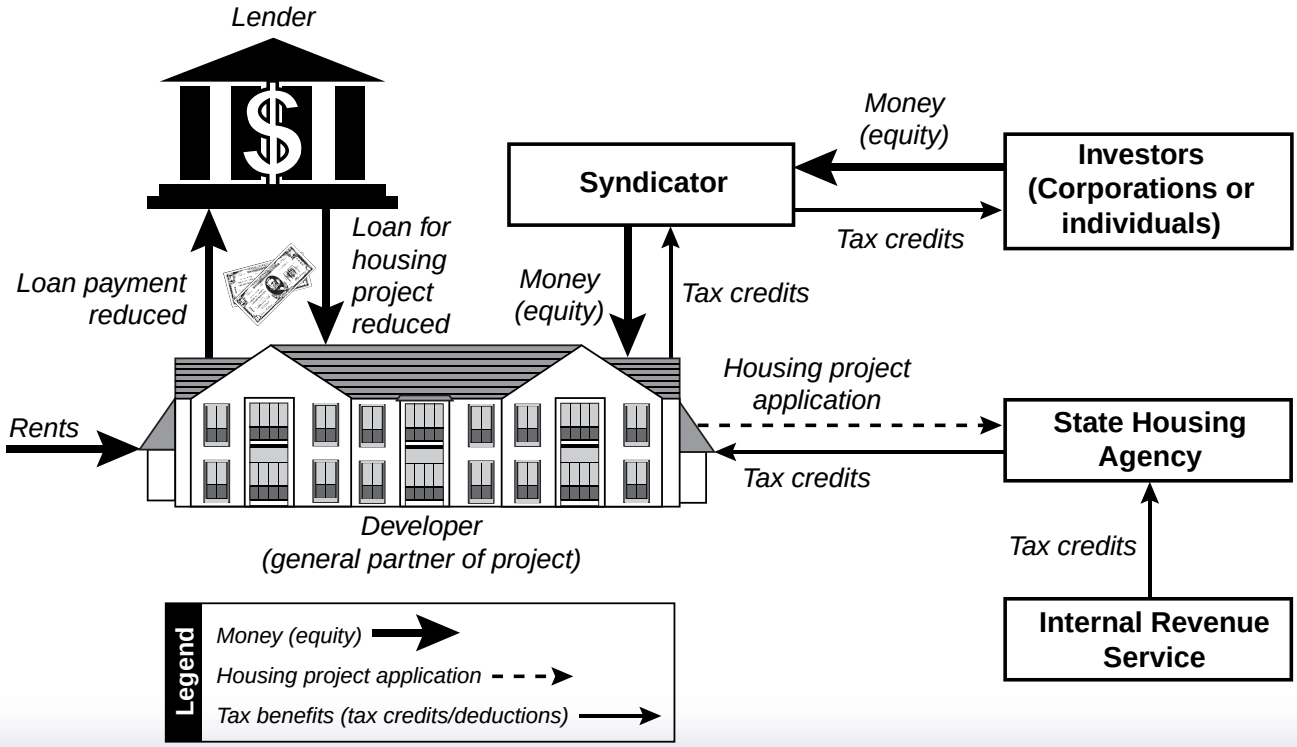
How the Program Works: The LIHTC program enables funding for the development of affordable housing by allowing a taxpayer to claim federal tax credits for the costs incurred during development of affordable units in a rental housing project. The program authorizes state housing credit agencies to award nine-percent tax credits for projects receiving no other federal subsidy, and four-percent credits for projects financed with tax-exempt bonds. Tax credits are available only to help cover the cost of units within qualified projects reserved for rental to low-income households. The tax credits are used by developers to raise equity capital from investors through syndication for their projects.

The equity capital generated from the tax credits prior to the start of a project lowers the debt burden on LIHTC projects, making it easier for owners to offer lower, more affordable rents. Investors, such as banks, obtain a dollar-for-dollar reduction in their federal tax liability. The nine-percent and four-percent tax credits are paid annually over a 10-year period.

To qualify, a project must have at least 20 percent of its units rented to households whose incomes are at or below 50 percent of the area median income, or at least 40 percent of its units rented to households whose incomes are at or below 60 percent of the area median income. Although the developer may claim the tax credit directly, investors generally receive the credits through syndication. A syndicator acts as a broker between the developer and investors in the project. Syndicators may pool several projects' tax credits into one LIHTC equity fund and offer the credits to investors who buy a piece of the equity fund. This process spreads the risk to investors across various projects. In addition, the investors typically become limited partners in the housing project and have an ownership interest. The developer typically receives a development and property management fee plus a share in any cash flows and any gain or profits when the property is sold. By using the investor's equity, the developer is able to complete the project with less debt-service financing. Thus, the rents for the building can be reduced and serve lower-income individuals.

Advantages for Brownfields Site Redevelopers: The LIHTC program offers several advantages to developers considering affordable housing projects on brownfields sites. These range from cost savings to opportunities for leveraging funding from other programs.

- LIHTCs offer an opportunity to restore buildings that may have historical significance to provide affordable housing. These properties may be located in distressed neighborhoods that will benefit from low-income housing options. In other cases, the properties may be in emerging neighborhoods and can lead to affordable housing for lower-wage workers that is located closer to their place of employment.
- LIHTCs can be combined with federal historic preservation tax credits to create a powerful investment incentive. If the brownfield is a historical structure, it can be a relatively easy fit with low-income housing development.
- LIHTCs can attract new investors in redevelopment projects. LIHTCs offer a strong incentive for investors to consider financing a low-income housing project on a brownfields property in instances where they otherwise may not consider including low-income housing in the project. This is especially true if a syndicator is able to pool tax credits from several projects and create a LIHTC equity fund, which can reduce the liability risk for individual investors.



Non-profit housing developers such as community development corporations often find the program especially advantageous because each state must set aside at least 10 percent of its credit allocation for projects developed by non-profits. The guaranteed return stemming from the tax credit can attract private banks not normally interested in housing or brownfields projects. A non-profit can sell the tax credits to investors or syndicators and become the principal partner in the project. The tax-related value of these credits is of little use to non-profits since they already are exempt from paying taxes.

Limitations: Brownfields housing projects may be hindered by the same forces affecting the banking and housing industries in the economic downturn. Reduced credit, tighter bank underwriting, a reduced demand for housing, and tighter due diligence standards all make housing development more challenging. As indicated above, the lower syndication value of LIHTCs (currently well below the 2007 high of 95 cents to the dollar) limits the viability of many potential projects.

In addition, state LIHTC allocation plans may vary in their treatment of projects sponsored by local housing authorities. Some states may award bonus points to such projects. Others states may require local housing authorities to work with non-profit organizations to be eligible to apply for tax credits. Stakeholders interested in information about specific state policies should contact their state housing authorities.

ADDITIONAL INFORMATION

HUD's Office of Policy Development and Research maintains the HUD USER web site, which contains an extensive database of information on projects that have used the LIHTC.

HUD User
PO Box 23268
Washington, DC 20026-3268
Toll Free: 1-800-245-2691
http://www.huduser.org/datasets/lihtc.html

In addition, several housing non-profit and advocacy groups track LIHTC trends and activities, including:

National Low Income Housing Coalition. Among other useful information, their website includes a state resources menu that provides information about individual state programs and contacts.

National Low Income Housing Coalition
727 15th Street NW, 6th Floor
Washington, DC 20005
202-662-1530
http://www.nlihc.org

National Association of Local Housing Finance Agencies. This is a non-profit national association of professionals working to finance affordable housing. Members include city and county agencies, non-profits, and for-profit firms.

National Association of Local Housing Finance Agencies
2025 M. Street, NW, Suite 800
Washington, DC 20036
202-367-1197
http://www.nalhfa.org

PORTLAND, OREGON

LIHTCs were among the 14 public and private funding sources that financed the $4.4 million Abina Corner mixed-use development in Portland that includes 48 units of affordable housing built over 12,000 square feet of commercial space. The project, which was built on a brownfield site, includes a child care center and a second-floor courtyard and play lot. Albina Corner is adjacent to bus lines and near a major light rail station. The area also is a gateway to several inner-city neighborhoods impacted by brownfields.

Historic Rehabilitation Tax Credits

Historic rehabilitation tax credits were adopted by Congress to discourage unnecessary demolition of sound older buildings and to slow the loss of businesses from older urban areas. The tax credits encourage private investment in the cleanup and rehabilitation of historical properties. The National Park Service (NPS) administers the program in partnership with the Internal Revenue Service (IRS) and State Historic Preservation Offices (SHPOs). The historic rehabilitation tax credit is well-suited for packaging with other economic development grant and loan programs. In FY 2009, 91 percent of the projects that used the historic rehabilitation tax credit also took advantage of at least one additional incentive or form of publicly supported financing.

Since historic rehabilitation tax credits focus on older buildings, they are an ideal brownfields financing tool. Their use at brownfields properties is rapidly accelerating across the country. The tax credits help attract redevelopment capital to many projects in blighted and ignored areas not ordinarily considered for investment. These projects encompass a wide range of properties and project types, including offices, hotels, retail stores, warehouses, factories, and rental housing.

How the Program Works: This incentive offers private investors a tax credit that can be claimed for the year in which the renovated building is put into service. There are two separate tax credits: one for the restoration of certified historic properties and one for the rehabilitation of older but non-certified properties.

A certified historic structure is defined as a building that is listed in the National Register of Historic Places, either individually, as a contributing building in a National Register historic district, or as a contributing building within a local historic district that is certified by the U.S. Department of the Interior. Rehabilitation of income-producing, certified historic structures qualifies for a credit equal to 20 percent of the cost of the work. Rehabilitation work on older, non-certified structures built before 1936 qualifies for a credit equal to 10 percent of the cost of the work. Most reconstruction work is eligible for the credit. All restored buildings and properties must be income-producing and rehabilitated according to standards set by the Department of the Interior and enforced by the SHPOs.

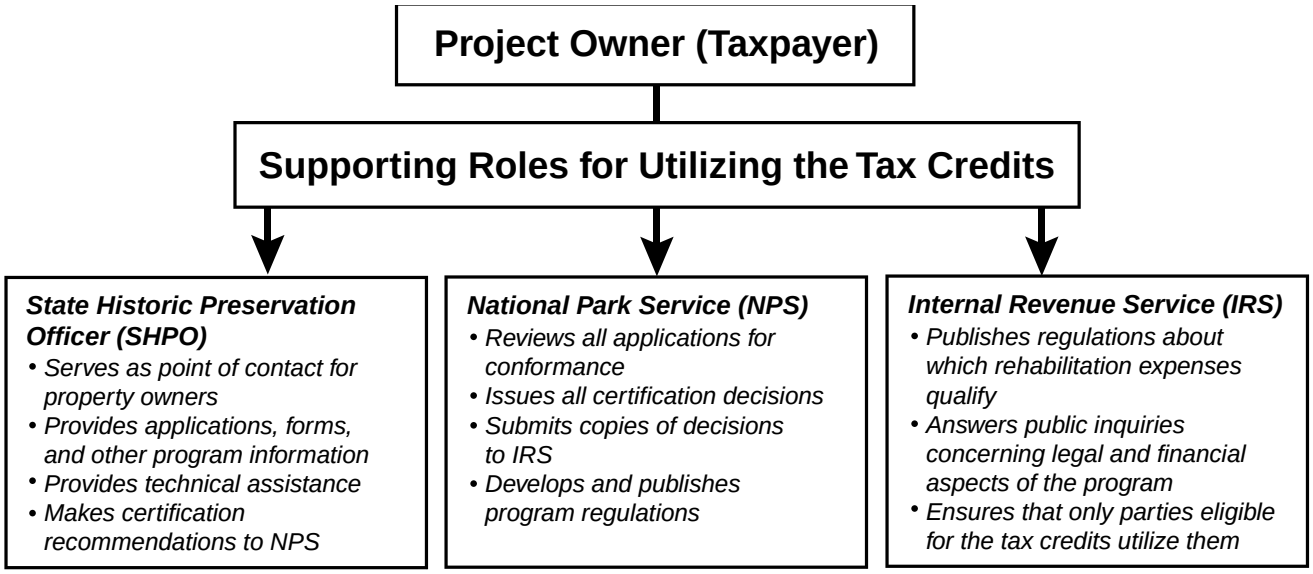
The 20 percent tax credit is available for historic properties rehabilitated for commercial, industrial, agricultural, or rental residential purposes, but not for properties used exclusively as an owner's private residence. Working in conjunction with state historic preservation agencies, the NPS must approve all rehabilitation projects seeking to use the 20 percent tax credit. The rehabilitation must be consistent with the historic character of the property. Owners seeking to claim the 20 percent tax credit must complete a detailed application process and maintain certification throughout the rehabilitation work. Generally, the tax credit is claimed in the year in which the rehabilitated building is placed back into service. The owner of the building must maintain ownership of the building for five years after completing rehabilitation or be subject to a staggered recapture of the tax credit.

In addition, a rehabilitation project must meet several IRS criteria to qualify for the tax credit:

- The structure must be depreciable.
- The rehabilitation must be "substantial," defined as expenditures greater than $5,000.
- The property must be returned to an income-producing use.
- The building must be maintained as a certified historic structure when returned to service.

The 10 percent tax credit is available for the rehabilitation of non-certified, non-residential buildings built before 1936. Former manufacturing facilities, office buildings, and hotels located on a brownfield site easily qualify for this tax credit. Projects that plan to claim the 10 percent rehabilitation tax credit must meet several physical structure tests:

- At least 50 percent of the building's external walls existing at the time that rehabilitation begins must remain in place as external walls upon completion.
- At least 75 percent of the building's existing external walls must remain in place as either external or internal walls.



- At least 75 percent of the buildings internal structural framework must remain in place at the time the building is returned to service.

Rehabilitation tax credits can be especially attractive for cleanup and restoration of certified historic or pre-1936 properties. An increasing number of states are adopting their own rehabilitation tax incentive programs and are encouraging developers to participate in both the state and the federal program to maximize benefits.

This creates a powerful incentive and provides developers with increased cash flow that can make brownfields redevelopment projects financially viable. State programs often offer tax credits that range between 10 and 30 percent.

According to the NPS, an estimated $4.7 billion in structural rehabilitation work was carried out in 2009 at 1,044 project sites. This represents a significant amount of activity during a tight real estate development market. Many of these properties, including old mills, vacant industrial buildings, and abandoned production facilities, meet the criteria to be classified as brownfields. This investment in rehabilitation led to the creation of nearly 71,000 jobs and the development of more than 13,700 housing units in 2009. Over 6,700 of the housing units were for low- and moderate-income individuals, which created a link between low-income housing tax credits and rehabilitation tax credits.

Advantages for Brownfields Site Redevelopers: Brownfields redevelopers can choose to sell or syndicate rehabilitation tax credits in exchange for an upfront cash investment in the project. This can translate into more upfront project funding if a developer prefers having a larger cash flow infusion before cleanup and redevelopment work is carried out rather than a tax credit at the end of the project or tax year.

In addition, rehabilitation tax credits offer significant leveraging possibilities with:

- Low-income housing tax credits;
- Industrial development bonds;
- A variety of federal development programs including the Small Business Administration's (SBA) programs, Department of Housing and Urban Development's (HUD) Community Development Block Grants (CDBG) program, and USDA's rural development programs; and
- Numerous state and local financing, tax incentive, and bond programs.

Limitations: While historic rehabilitation tax credits can be beneficial and flexible sources of funding, taking advantage of these credits can sometimes be difficult. Brownfields developers contemplating old or historic sites for new uses need to consider the following:

- Once a building is placed into service, tax credits are not officially awarded until the project is reviewed and approved by the SHPO. This can take time and affect project cash flow.

- Complying with the Americans with Disabilities Act, pursuing LEED certification, installing energy efficient windows, and addressing environmental considerations such as lead paint and asbestos may impact a building's historic nature and complicate project certification. Fortunately, more SHPOs are gaining an understanding of the brownfields process and what needs to be done to achieve appropriate cleanups. In addition, some of the new remediation and reconstruction techniques are proving to be less disruptive to a structure's historic integrity.
- Nonrefundable credits, such as the rehabilitation tax credit, may not be used to reduce the alternative minimum tax. If a taxpayer is not eligible for the rehabilitation tax credit because of the alternative minimum tax, the credit can be carried back or forward.
- To claim any credit, the investment must exceed the greater of $5,000 or the adjusted basis of the building and its structural components. This can require a large rehabilitation expenditure for a big project.

In addition, tax credit recapture scenarios need to be avoided if the full value of the credit is to be realized. The tax credits can be subject to recapture (at 20 percent per year) if the property is disposed of before five years have passed since the credit was granted or if the building is converted to tax-exempt use within five years of being put back into service.

ADDITIONAL INFORMATION

National Park Service
Heritage Preservation Services
1201 Eye St., NW (2255)
Washington, DC 20005
202-513-7270
http://www.cr.nps.gov/hps/tps/tax

The National Park Service's Web site provides access to detailed tax incentive information, regulations, applications, and rehabilitation standards. A general overview of the Federal Historic Preservation Tax Incentives can be found at http://www.nps.gov/history/hps/tps/tax/download/HPTI_brochure.pdf.

BALTIMORE, MARYLAND

Federal and state historic tax credits were important incentives that allowed developers of the HF Miller Tin Can and Box Company site in Baltimore to transform a decaying 80,000 square foot manufacturing facility next to a disadvantaged neighborhood into Miller Court, a structure that now supports non-profits and provides affordable housing for Baltimore teachers. The property's designation as a historic site allowed the developers to obtain $5.5 million in federal and state historic preservation tax benefits and a $6 million New Market Tax Credit, all of which helped make the $20 million project possible.

Energy Efficiency and Renewable Energy

As communities become more concerned about the economic and environmental impacts of the use of fossil fuels, renewable energy technologies are expected to play a greater role in meeting future electricity demand. Americans used renewable energy sources, including water (hydroelectric), wood, biofuels, wind, organic waste, geothermal, and solar, to meet about eight percent of total energy needs and 10 percent of electricity generation needs in 2009. The U.S. Energy Information Administration projects that renewable-generated electricity will account for 17 percent of total U.S. electricity generation in 2035. This growth will be driven mainly by the extension of federal tax credits, new loan and grant programs, and state requirements.

Identifying and using land located in areas that are amenable to high-quality renewable energy alternatives will be an essential component to developing new renewable energy sources. EPA estimates that there are approximately 490,000 sites and almost 15 million acres of potentially contaminated properties across the United States that are tracked by EPA. This estimate includes Superfund sites, Resource Conservation and Recovery Act (RCRA) sites, abandoned mine lands, and some brownfields. Cleanup goals are achieved and controls put in place to ensure long-term protection for more than 917,000 acres of formerly contaminated lands. Through coordination and partnerships among federal, state, tribal and other government agencies, utilities, communities, and the private sector, many new renewable energy facilities may be developed on many remaining potentially contaminated properties.

Combining energy incentives with contaminated land cleanup incentives can allow investors and communities to create economically viable, non-polluting, renewable-energy redevelopment projects on brownfields, particularly sites where local economic conditions prohibit traditional reuse of the site. Recently enacted statutes, including the Energy Policy Act of 2005, the Energy Improvement and Extension Act of 2008 (EIEA), and the American Recovery and Reinvestment Act of 2009 (ARRA), created, expanded, or extended incentive programs such as tax incentives, loans, grants, and loan guarantees to encourage renewable energy generation and energy efficiency projects. This section contains information about the federal tax incentives that are available to potential developers considering the siting of renewable energy generation and energy efficiency projects on brownfields.

HOW THE PROGRAMS WORK:

Energy-Efficient Commercial Buildings Tax Deduction

The Energy Policy Act of 2005 established a tax deduction for energy-efficient commercial buildings placed in service through the end of 2007. This deduction was subsequently extended through 2008, and then again through 2013. A tax deduction of $1.80 per square foot is available to owners of new or existing buildings who install lighting, heating, cooling, ventilation, or other systems that reduce the building's total energy and power cost by 50 percent or more in comparison to a building meeting certain minimum requirements. Deductions of $0.60 per square foot are available to owners of buildings for which energy-efficiency measures are installed but total energy and power cost savings from these improvements do not meet the 50 percent threshold.

The deductions are available primarily to building owners. Deductions are taken in the year when construction is completed. Energy savings must be calculated using qualified computer software approved by the IRS. The IRS released interim guidance in June 2006 to enable taxpayers to obtain a certification that a property satisfies the energy efficiency requirements contained in the statute. IRS Notice 2008-14 (*http://www.irs.gov/irb/2008-14_IRB/ar12.html*) was issued in March of 2008 to further clarify the rules. DOE's National Renewable Energy Laboratory published a report (*http://www.nrel.gov/docs/fy07osti/40467.pdf*) that provides guidelines for the modeling and inspection of energy savings required by the statute. DOE also compiled a list of qualified computer software for calculating commercial building energy and power cost savings (*http://www1.eere.energy.gov/buildings/qualified_software.html*).

Business Energy Investment Tax Credit

The business energy federal investment tax credit provides incentives for the development and deployment of renewable energy technologies. Prior to 2005, a 10 percent federal investment tax credit was available to businesses to

offset capital expenditures for solar or geothermal energy property. The federal Energy Policy Act of 2005 expanded the tax credit to include fuel cells, microturbines, and hybrid solar lighting systems and raised the tax credit for solar to 30 percent. The tax credits were expanded significantly by EIEA and ARRA. Current tax credits are briefly summarized below for eligible technologies placed in service before the end of 2016.

- **Solar.** In general, the tax credit is equal to 30 percent of expenditures, with no maximum credit, for eligible systems. Eligible solar energy property includes equipment that uses solar energy to generate electricity, heat or cool a structure, heat water for use in a structure, provide solar process heat, and illuminate the inside of a structure using fiber-optic distributed sunlight. Passive solar systems and solar pool-heating systems are not eligible.
- **Fuel Cells.** The tax credit is equal to 30 percent of expenditures, with no maximum credit. However, the credit for fuel cells is capped at $1,500 per 0.5 kilowatt of capacity. Eligible property includes fuel cells with a minimum capacity of 0.5 kilowatts that have an electricity-only generation efficiency of 30 percent or higher.
- **Small Wind Turbines.** The tax credit is equal to 30 percent of expenditures, with no maximum credit. Eligible small wind property includes wind turbines up to 100 kilowatts in capacity.
- **Geothermal Systems.** The tax credit is equal to 10 percent of expenditures, with no maximum credit limit stated. Eligible geothermal energy property includes geothermal heat pumps and equipment used to produce power from a geothermal deposit. The credit for geothermal energy property, excluding geothermal heat pumps, has no stated expiration date.
- **Microturbines.** The tax credit is equal to 10 percent of expenditures, with no maximum credit limit stated. The credit for microturbines is capped at $200 per kilowatt of capacity. Eligible property includes microturbines up to two megawatts in capacity that have an electricity-only generation efficiency of 26 percent or higher.
- **Combined Heat and Power (CHP).** CHP systems, also known as cogeneration, recover heat from waste to generate electrical and/or mechanical power for heating, cooling, dehumidification, and other uses. The credit is equal to 10 percent of expenditures, with no maximum limit stated. Eligible CHP property generally includes systems up to 50 megawatts in capacity that exceed 60 percent energy efficiency. The efficiency requirement does not apply to CHP systems that use biomass for at least 90 percent of the system's energy source.

In general, the taxpayer receiving the tax credit must be the original user or constructor of the building. The energy property must be operational in the year in which the credit is first taken. EIEA allows utilities to use the credits and allows taxpayers to take the credit against the alternative minimum tax (AMT), subject to certain limitations. ARRA repealed a previous restriction on the use of the credit for eligible projects also supported by "subsidized energy financing."

ARRA allows taxpayers eligible for the business energy investment tax credit to apply for and receive a non-competitive grant from the U.S. Treasury Department in lieu of taking the tax credit for new installations. The maximum amount of the grant is limited to 30 percent or 10 percent of the eligible costs, depending on the type of project. The grant is only available to systems where construction begins prior to the end of 2011. Applications for the grant are available on the U.S. Department of Treasury's website (*http://www.treas.gov/recovery/1603.shtml*).

Renewable Electricity Production Tax Credit

The renewable electricity production tax credit reduces the federal income taxes of qualified tax-paying owners of renewable energy projects based on the electrical output, measured in kilowatt-hours, of grid-connected renewable energy facilities. This type of credit differs from an investment tax credit, which reduces federal income taxes based on capital investment in renewable energy projects. Originally enacted in 1992, the production tax credit was renewed and expanded numerous times, most recently in October 2008 and in February 2009.

The tax credit amount is 1.5 cents per kilowatt-hour in 1993 dollars (now equal to 2.2 cents per kilowatt-hour indexed for inflation) for some technologies, and half of that amount for others. The rules governing the production tax credit vary by resource and facility type. Renewable technologies that qualify for the production tax credit include wind energy, closed-loop biomass, open-loop biomass, geothermal energy, landfill gas production, municipal solid waste combustion, qualified hydroelectric energy, and marine and hydrokinetic (150 kilowatt or larger) energy. The deadline for placing systems in service and qualifying for the tax credit is the end of 2013, except for wind proj-

ects, which must be placed in service by at the end of 2012. The duration of the credit is generally 10 years after the date the facility is placed in service, with some exceptions. The tax credit is reduced for projects that receive other federal tax credits, grants, tax-exempt financing, or subsidized energy financing.

ARRA allows taxpayers eligible for the production tax credit the alternatives of taking the business energy investment tax credit (described above) or receiving a grant from the U.S. Treasury Department for new installations. The grant is only available to systems where construction begins prior to the end of 2011. Applications for the grant are available on the U.S. Department of Treasury's website (*http://www.treas.gov/recovery/1603.shtml*).

Renewable Energy Bonus Depreciation Deduction

Businesses typically are allowed to deduct the costs of capital expenditures over time according to various depreciation schedules. Under the IRS's modified accelerated cost recovery system (MACRS), certain renewable energy technologies are classified as five-year property, which means that the cost of the equipment can be depreciated for federal income tax purposes over a period of five years, as determined by the IRS's depreciation schedule. The Emergency Economic Stabilization Act of 2008 included a 50 percent "bonus" depreciation provision for eligible renewable energy systems that allows taxpayers to deduct 50 percent of the cost of the property in the year in which it was placed in service, with the remaining 50 percent depreciated over the remaining MACRS depreciation schedule.

Various statutes enacted over the past few years amended the bonus depreciation. Eligible property currently includes a variety of solar-electric and solar-thermal technologies, fuel cells and microturbines, geothermal electric, direct-use geothermal and geothermal heat pumps, wind energy, and CHP. The first-year 50 percent deduction is extended through 2012. A first-year 100 percent deduction may be taken for certain property placed in service after September 8, 2010, and before January 1, 2012.

The bonus depreciation rules do not override the depreciation limit applicable to projects qualifying for the business energy investment tax credit. If a taxpayer takes advantage of the business energy investment tax credit, the amount of the bonus depreciation will be reduced. For more information on the federal MACRS, see IRS Publication 946 (*http://www.irs.gov/publications/p946/index.html*).

Renewable Energy Production Incentive

Established by the federal Energy Policy Act of 1992, the federal Renewable Energy Production Incentive (REPI) provides incentive payments for electricity generated and sold by new qualifying renewable energy facilities owned and operated by government and non-profit entities. Qualifying systems are eligible for annual incentive payments of 1.5 cents per kilowatt-hour in 1993 dollars (now 2.2 cents per kilowatt-hour indexed for inflation) for the first 10-year period of their operation, subject to the availability of annual appropriations in each federal fiscal year of operation. REPI is designed to complement the federal renewable electricity production tax credit, which is available only to businesses that pay federal corporate taxes.

Qualifying systems must generate electricity using solar, wind, certain geothermal, certain biomass, landfill gas, livestock methane, or ocean resources (including tidal, wave, current, and thermal). An eligible facility must be operational before October 1, 2016. The production payment applies only to the electricity sold to another entity. Eligible electric production facilities include not-for-profit electrical cooperatives, public utilities, state governments and their political subdivisions, U.S. territories, the District of Columbia, and Indian tribal governments. Appropriations are authorized through fiscal year 2026. Program funding is determined each year as part of DOE's budget process, therefore, the full amount of incentive payments may not be available. Funds will be awarded on a pro rata basis, if necessary. More information, and details about the application procedures, are provided on DOE's REPI website (*http://apps1.eere.energy.gov/repi/*).

Residential Energy Conservation Subsidy Exclusion

Public utilities may offer energy conservation subsidies to corporations and homeowners to encourage installation of "energy conservation measures" that reduce consumption of electricity or natural gas or improve the management of energy demand. The subsidies may be a direct payment of cash or an indirect payment in the form of credits

or reduced rates. According to Section 136 of the U.S. Code, energy conservation subsidies provided to customers by public utilities, either directly or indirectly, are non-taxable. Eligible dwelling units include houses, apartments, condominiums, mobile homes, and similar properties. This exclusion may not apply to electricity-generating systems if a taxpayer claims federal tax credits or deductions for the energy conservation property (a taxpayer may not claim a tax credit for an expense that the taxpayer ultimately did not pay). The exclusion also may not apply for residential solar-thermal projects and solar-electric systems. Taxpayers considering using this provision for a renewable energy system should discuss the details of the project with a tax professional.

Energy-Efficient New Homes Tax Credit for Home Builders

The federal Energy Policy Act of 2005 established tax credits of up to $2,000 for builders of all new energy-efficient homes, including manufactured homes. Initially scheduled to expire at the end of 2007, the tax credit was extended several times and is now effective through the end of 2011. Site-built homes qualify for a $2,000 credit if they are certified to reduce heating and cooling energy consumption by 50 percent relative to the International Energy Conservation Code standard, meet minimum efficiency standards established by DOE, and building envelope improvements account for at least one-fifth of the reduction in energy consumption. IRS Notice 2006-27 (*http://www.irs.gov/irb/2006-11_IRB/ar12.html*) provides guidance for this credit. Manufactured homes must also conform to Federal Manufactured Home Construction and Safety Standards to qualify for a $2,000 credit. Manufactured homes qualify for a $1,000 credit if they reduce energy consumption by 30 percent and building envelope component improvements account for at least one-third of the reduction in energy consumption. Alternatively, manufactured homes qualify if they meet Energy Star Labeled Homes requirements. IRS Notice 2006-28 (*http://www.irs.gov/pub/irs-drop/n-06-28.pdf*) provides guidance for the credit for building energy-efficient manufactured homes.

Advantages for Brownfields Site Redevelopers:

As with the tax credits described in earlier sections, integrating energy tax incentives into a project's financing strategy can enhance project cash flow by offsetting cleanup and construction costs. Using the tax incentives can provide brownfields developers an added income boost. Energy projects can be ideal at brownfields for which there is insufficient market interest to support more traditional economic redevelopment projects. These properties may have been idle for years and can be purchased relatively inexpensively.

Limitations:

The descriptions of these incentives are simplified versions of those contained in the tax code, which often contains additional caveats, restrictions, and modifications. Those interested in these incentives should review the relevant sections of the tax code in detail and consult with a tax professional prior to making business decisions.

ADDITIONAL INFORMATION

There are many sources of additional information on renewable energy and energy efficiency. Some of the more comprehensive sources include:

- EPA's website on RE-Powering America's Land, *http://www.epa.gov/oswercpa/*, which includes maps of the renewable energy potential of current and formerly contaminated land and mine sites and fact sheets describing state incentives for renewable energy development.
- DOE's DSIRE website, *http://www.dsireusa.org/*, is a comprehensive source of information on state, local, utility, and federal incentives that promote renewable energy and energy efficiency. Established in 1995 and funded by DOE, DSIRE is an ongoing project of the N.C. Solar Center and the Interstate Renewable Energy Council and is updated frequently.
- EPA established the Combined Heat and Power Partnership in 2001 to encourage cost-effective CHP projects by fostering cooperative relationships with the CHP industry, state and local governments, and other stakeholders. The CHP Partnership website is at *http://www.epa.gov/chp/*.

EUGENE, OREGON

SeQuential Biofuels is the first all-biofuels filling station in Oregon. The station and adjacent natural foods convenience store were built on a 0.7-acre petroleum brownfield in Eugene. The design for the service station and retail center incorporated many sustainable development elements, such as solar power, passive solar heating, bioswales, and a green roof. The project team assembled a creative financing package that included $250,000 in business energy tax credits that helped make the energy efficiency and alternative fuel components of the project possible. The project was recognized for energy innovation with a special Phoenix Award in 2007.

State Finance Support

Many states adopted their own financing programs and approaches to enable integration of traditional state development programs into the brownfields financing mix. Such programs include tax incentives and credits, targeted financial assistance, as well as direct brownfields financing.

Although many states are facing difficult budget choices that may reduce funding or suspend some programs due to the recent economic downturn, all states have ongoing economic development, environmental, transportation, infrastructure, and other programs and incentives that can contribute to brownfields revitalization. States can help communities channel resources and incentives toward community development, job creation, and similar activities to address brownfields cleanup and redevelopment. Increasingly, effective approaches involve linking federal and state development programs to provide the continuum of financing needed to address brownfields challenges, from assessment and cleanup to redevelopment and reuse. (For more information on financing brownfields redevelopment projects, see Financing Brownfields: State Program Highlights, at *http://epa.gov/brownfields/partners/finan_brownfields_epa_print.pdf*).

Key types of state programs are described below.

State Tax Credits, Abatements, and Other Incentives

Tax-based programs help a brownfield project's cash flow by allowing resources normally spent to pay taxes to be used for site assessment or cleanup. This can help site redevelopers find financing to address contaminated properties. The extra cash flow resulting from a tax break also can improve a project's appeal to lenders. State and federal tax incentives historically are used to channel investment capital into economic development of distressed areas, such as "enterprise zones," and to promote job creation, housing development, or other desired community and social outcomes. Targeting brownfields is a natural extension of this economic incentive. Most brownfield-related tax incentives aim to offset cleanup costs or provide a buffer against increases in property values that would raise tax assessments before the site preparation costs are paid off. About half of the states offer some type of tax incentive, including:

- Deferral of increased property taxes (North Carolina, Texas, and Connecticut);
- Remediation tax credits (Illinois, Ohio, and Wisconsin);
- Property tax abatements for prospective purchasers taking sites through a state voluntary cleanup program (Kentucky);
- Cancellation of back taxes (Wisconsin);
- Rebates of sales taxes to offset cleanup costs (New Jersey);
- Tax incentive "menu" to enhance reuser financial flexibility (Missouri);
- Job creation and affordable housing tax incentive "bonuses" (Florida); and
- Business tax offset (Michigan).

Targeted Financial Assistance Programs

Gaps in the availability of capital, especially for financing site cleanup and preparation, remain the biggest barrier to brownfields reuse. Many states address this by establishing financing incentives—either through direct financing tools, such as loans or grants, or indirect financing assistance, such as project subsidies. These programs are intended to meet one of several objectives. They can be targeted to help finance specific parts of the project, such as site preparation; to increase the lender's comfort by offering guarantees to limit the risk of potential losses; or to ease the borrower's cash flow by filling certain capital needs or offsetting the upfront costs of site cleanup. Twenty-three states offer some sort of targeted brownfields financial assistance, including:

- Tax increment financing (TIF) guarantee program, which brings additional comfort to TIF-backed efforts at brownfield sites (Pennsylvania);
- Forgivable remediation loans, recently expanded to petroleum sites (Indiana);
- Low-interest loans and loan guarantees for a range of site activities including contractor/tax lien purchases (Florida);
- Insurance subsidies (Massachusetts and Wisconsin);
- Brownfield redevelopment authorities (Michigan);
- Focus on agricultural-related contaminants (Kansas); and
- Brownfield redevelopment loan program (Illinois).

Direct Brownfields Financing

About 15 states have programs to provide direct brownfields financing, usually in locations or situations where the private sector may be reluctant to provide funds. Although several of these programs have been significantly cut or placed on hold as states grapple with budget shortfalls, they are illustrative of the types of support that states deem vital to trigger brownfield revitalization:

- Rural loan fund for small cities backed by Community Development Block Grants (Washington);
- Targeted bond issue proceeds (Ohio, through the Clean Ohio Revitalization Fund);
- Low-interest cleanup loans (Delaware, Indiana, and Wisconsin);
- Remediation grant funds (New Jersey and Minnesota);
- State revolving loan or redevelopment funds (Indiana, Michigan, Wisconsin, and Massachusetts);
- Capital grants for "green" components of redevelopment projects (Pennsylvania); and
- Matching grants to leverage federal programs with matching requirements (Indiana).

Facilitating Brownfield Financing

As revenues decline, more states explore initiatives that expedite the financing process, attract other program resources, and save money in the long run. At least a dozen states have some type of "low-cost/no-cost" initiative in place to facilitate financing with minimal cash outlays, using tools such as cancellation of delinquent taxes for new purchasers as part of an agreement to clean up contaminated property. State budget crises have increased the focus on these approaches:

- Linking site owners to state voluntary cleanup programs (VCPs) and brownfields programs that can clarify or provide relief from liability and facilitate the use of environmental insurance.
- Educating site owners about ways in which state VCPs and brownfields programs can facilitate access to other financing tools, such as use of the federal brownfields tax expensing incentive.
- Helping site owners implement institutional controls, engineering controls, or innovative technologies in ways that allow cleanup and redevelopment to take place concurrently rather than sequentially, saving time and money.

Adapting Traditional Development Programs to Meet Needs of Brownfield Redevelopment

As with federal programs, many state programs were designed, and their rules defined, long before brownfields concerns surfaced. Many states are exploring ways to adapt traditional community and economic development financing programs to meet brownfield reuse needs by expanding eligibility criteria and program goals to include environmental assessment, cleanup, and site preparation. In many states, these involve a combination of incentives that may include loan programs; loan guarantees; tax credits, abatements, and other incentives; state enterprise zones; state clean water revolving loan funds; state transportation funding allocations; and financing enhancements linked to state VCPs.

Loan Programs: Nearly every state offers economic development loans that can provide excellent leverage if properly coordinated with, and targeted to, the special financing needs of brownfields. Loans are made directly to or through development agencies, authorities, or corporations. These programs are capitalized from a variety of sources, including general appropriations, fee collections, or repayments from previous federal or state project loans.

Illinois offers a Brownfield Redevelopment Loan Program that provides low-interest loans to local governments and private parties for site assessment, remediation, and demolition costs. This is intended to complement the state's existing grant program, which gives cities fixed-rate loans to pay for site assessments and the preparation of cleanup plans. The Mississippi River town of Rock Island used these programs, in conjunction with federal transportation funds, to transform a derelict riverfront manufacturing site into a new mixed-use commercial and residential development. The state programs helped with site preparation and construction of the infrastructure needed to serve the new uses. Kansas City tapped into Missouri state business development programs to clean up and transform the former Kansas City Terminal Railway yard into unique office space, creating 600 new jobs.

Loan Guarantees: Many states offer loan guarantees to minimize the risks that make financial institutions hesitant to lend to projects on brownfield properties. Small businesses, start-ups, and new technology ventures typically are viewed by traditional lenders as especially risky and often are provided for in state loan guarantee programs. While relatively few loan guarantees are provided specifically to address environmental risks, loan guarantees for this purpose fall within the scope of many states' existing programs. In particular, loan guarantees can help attract private investments at sites where federal infrastructure or site improvement programs are involved. To this end, Florida has added a loan guarantee program to its brownfields toolbox. Florida's program provides five years of guarantees or loan-loss reserves for primary-lender loans made to redevelopment projects in defined brownfield areas.

Tax Credits, Abatements, and Other Incentives: State incentives can help a project's cash flow, and many states link their incentives programs to federal program incentives. The incentives can attract investment capital and promote economic development in economically distressed areas, including those with brownfields.

Some states, such as Wisconsin, successfully linked state tax incentives (such as forgiveness of back taxes) with federal tax credits. At the Sherman Park project in Milwaukee, forgiveness of nine years of back taxes attracted a small community developer to an abandoned but historically significant gas station dating back to the 1930s. The developer also used federal historic rehabilitation tax credits and city business development loan funds to redevelop the site.

In Rhode Island, state historic preservation tax credits are linked with federal incentives to create a powerful inducement to renovate historic, and often abandoned, brownfield sites. A considerable number of residential rental units were developed using this combined incentive package, which can recover as much as 40 percent of renovation costs.

In Colorado, tax credits were established to encourage smaller site cleanups. The state program provides a 50 percent tax credit against the first $100,000 of cleanup costs, 30 percent of the second $100,000, and 20 percent of the next $100,000.

State Enterprise Zones: More than 30 states currently administer their own enterprise zone programs that offer tax, training, and other development incentives to encourage investment and job creation in economically distressed areas. Nationwide, states have designated more than 1,400 areas as enterprise zones. Most state enterprise zone programs provide some blend of fiscal incentives, such as tax credits, tax abatements, and access to low-cost development capital, and these could be targeted to brownfield projects. A brownfields developer working to create a shopping complex in Elizabeth, New Jersey, for example, was able to market a former dump site because of the reduced sales tax incentive (only three percent) available to commercial operations located within the state-designated enterprise zone.

State Clean Water Revolving Loan Funds: The U.S. EPA provides annual funding to each state to capitalize its Clean Water State Revolving Loan Funds (CWSRLFs). This funding has considerable potential at brownfields where water quality is an issue. In particular, a brownfield cleanup to correct or prevent water quality problems can be considered eligible for CWSRIF funds if it focuses on abatement of polluted runoff, control of storm water runoff, correction of groundwater contamination, or remediation of petroleum contamination. States can use their CWSRLFs to make low-interest or no-interest loans for up to 20 years to cover the costs of brownfields-related activities such as excavation and disposal of underground storage tanks; capping of wells; excavation, removal, and disposal of contaminated soil or sediment; or environmental site assessments.

EPA allows communities, municipalities, individuals, citizen groups, and nonprofit organizations to apply for loans from the CWSRIFs. Each state determines which entities may use its revolving loan fund resources. Usually, loans are repaid through developer fees; recreational fees; dedicated portions of state, county, or local government taxes; storm water management fees; or wastewater user charges. Only a few states, notably New York, New Mexico, and Ohio, encourage the use of these resources for brownfields-related projects. Ohio is recognized as the national leader in this regard. In Cleveland, the Grant Realty Company used a clean water revolving loan from Cuyahoga County to clean contaminated groundwater and soil at a 20-acre industrial site and prepare the site for commercial use. Repayment is coming from the income stream of a tank-cleaning operation located on the site, with a personal loan guarantee and second mortgage as collateral.

State Transportation Funding Allocations: Many states are encouraging communities to use transportation funds for brownfields. As a growing list of examples shows, redevelopment projects often can be conducted in conjunction with transportation-related projects. Some brownfields are old transportation facilities in need of upgrading. The City of Portland, Oregon, reused brownfields as part of its Macadam District and Union Station area neighborhood redevelopments. In some cases, brownfields redevelopment projects may need transportation infrastructure improvements to make the project more marketable, typically by expanding access for vehicles, freight, or passengers. Buffalo, New York, did this with its William Gaiter Parkway project, as has Old Town, Maine, with its waterfront redevelopment initiative. Brownfield cleanups increasingly are incorporating transportation projects as part of the site cleanup by using roads, parking lots, and other transportation structures as caps to limit exposures to subsurface contamination. Towns from Emeryville, California, to Bridgeport, Connecticut, used transportation funding for these purposes.

Financing Enhancements Linked to State VCPs: Every state now has a voluntary cleanup program (VCP). Some VCPs significantly expanded and improved since passage of the Brownfields Law, which provided funding for states to develop and enhance such programs. State VCPs make the cleanup process more predictable and bring more certainty to brownfields reuse by offering some liability relief. This increased level of certainty in brownfields transactions is recognized in the private financing and real estate markets. State VCPs are continuing to evolve and are expediting the financing process by attracting seed resources or offering incentives to leverage private investment in brownfields projects. Milwaukee, Cincinnati, and other cities link local incentives to redevelopment at sites that complete the state VCP process. In addition, the federal brownfields expensing tax incentive is available only to site owners whose properties are certified as a brownfield by a state VCP or designated state agency.

State Incentives for Renewable Energy Development: EPA encourages renewable energy development on current and formerly contaminated land and mine sites. In addition to federal tax incentives for energy efficiency and renewable energy development (which are described in the previous section), individual states offer a variety of incentives for renewable energy generation and contaminated land redevelopment.

EPA's website on RE-Powering America's Land, *http://www.epa.gov/oswercpa/* includes maps of the renewable energy potential of current and formerly contaminated land and mine sites and fact sheets that provide information for each state on available funding (grants, loans, bonds, etc.), tax incentives (abatements, deductions, credits, etc.), technical assistance, and other incentives offered at the state level. There also is information on renewable portfolio standards, net metering, public benefits funds, electricity generation by energy source, limitations on liability, estimated number of contaminated properties, and points of contact for each state.

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