

# Can the Federal Brownfields Tax Incentive Be Restored?

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**Brownfield**

Communities Network

## What is IRS Section 198?

- Federal tax deduction that allows expensing of site cleanup costs
- Established in 1997; lapsed in December 31, 2011
- Developers took deduction at 630 sites in 40 states
- Bipartisan Congressional majorities approved it six times
- Can Federal Brownfield Incentive deduction be renewed?

# How IRS Section 198 Works

- Developer performs cleanup
- Cleanup at any site with hazardous substances or petroleum is eligible; NPL sites excluded
- State environmental agencies certify eligibility of sites
- With state letter, taxpayer deducts entire cost of remediation in year incurred against income on federal tax return.
- Expensing, not capitalizing remediation costs
- Losses (from remediation costs) can be carried forward to future years till project earns income
- Tax savings (cash flow) from \$1M cleanup:  
\$350,000 to \$520,000 (f) of taxpayer's tax bracket

# IRS 198 as Economic Stimulus

Deduction is powerful economic development tool:

- spurs investment in formerly idle properties;
- creates jobs;
- boosts tax revenues;
- alternate source of capital to finance remediation in markets where lenders are wary of funding cleanups
- renews communities through new housing, community facilities, retail, office space, schools

# Impact of Federal Brownfield Tax Incentive

- Study of 17 sites (in 13 states): Costs vs. Benefits:
  - \$30 million in lost federal revenue (one time)
  - 9,300 permanent jobs;
  - 14,000 construction jobs
  - \$1.4 billion in new capital investment
- 198 : an even more efficient use of public funds
  - New capital investment:
    - \$1 in foregone revenue (198) yields \$47 in new investment
    - \$1 in EPA grants yields \$18 in new investment
  - Creating one permanent job:
    - Costs \$3,200 in foregone revenue (198)
    - \$14,000 in EPA grant funds

# AT&T Park, San Francisco

- 13-acre site, formerly landfill and industrial warehouses near downtown
- Brownfield Tax Incentive worth ~\$2.8 million in \$357 million project
- Giants ballpark served as catalyst for the Rincon Point-South Beach redevelopment area, which has attracted \$1 billion in private investment to San Francisco Bay waterfront area.



Cleanup - the landfill contained waste from a coal gasification plant and other former waterfront industries.

# Triangle Court, Brooklyn



## New Development Plan

Triangle Court, LLC is building a 63,000 square foot, six-story mixed use residential and commercial development with valet parking below ground. The ground floor will include 8,000 square feet of retail space split between five store fronts including a diner, a pharmacy and other small businesses. The remaining floors of the building will be developed into 50 rental apartments.

## Property Remediation in the NYC Voluntary Cleanup Program

Triangle Court, LLC enrolled this 18,250 square foot property in the NYC Voluntary Cleanup Program (VCP) in March 2011. The property is located in the Williamsburg section of Brooklyn. Historically, the property was occupied by commercial and residential buildings as far back as 1905, theaters during much of the 1900's, and a gas station from 1978 to 2007. Prior to enrollment in the NYC VCP, the site was an unpaved vacant lot.

The remediation of this site was completed in March 2012 and achieved unrestricted use cleanup level, meaning that the property is now safe for any use with no restrictions.

## Facts and Figures

**Years Vacant Before Cleanup: 4**  
**Development Costs: \$2,000,000**  
**Permanent Jobs: 102 ; Construction Jobs: 150**  
**Estimated Federal Tax Benefit: \$105,000**  
**Projected 30-year Revenue - New York State: \$2,813,466**  
**Projected 30-year Revenue - New York City: \$4,679,269**  
**Increase in Property Tax Collected from predevelopment: \$470,723.81**



before cleanup



during cleanup



rendering

## How to Renew 198

- NBC committee: produced a report on 198 with case studies in 13 states whose representatives serve on tax writing committees
- Vehicle: tax extender's bill – 2-year renewal
- Need broader coalition of advocates:
  - Enlist local government, brownfield practitioners, community developers to lobby Congress in key states
  - Rebuild bipartisan coalition?
- Educate Senate Finance & House Ways and Means Committee Members



# Cost to US Treasury of 198 Renewal: Peanuts!

- If 100 projects took deduction/year;  
average cleanup = \$1M; and  
average taxpayer tax rate = 35%:  
**annual cost of 198 is \$35 million**
- If average cleanup is \$2M...\$70 million
- If average cleanup is \$3M...\$105 million
- If average cleanup is \$5M...**\$175 million**

# Senate Finance Committee

- OR-Wyden
  - NY- Schumer
  - OH-Brown
  - WA-Cantwell
- UT-Hatch
  - TX-Cornyn
  - OH-Portman
  - GA-Isakson
  - PA-Twomey
  - OK-Inhofe\*