

104TH CONGRESS
2D SESSION

H. R. 2846

To amend the Internal Revenue Code of 1986 to allow a credit for the cleanup of certain contaminated industrial sites and to allow the use of tax-exempt redevelopment bonds for such cleanup.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1996

Mr. COYNE introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow a credit for the cleanup of certain contaminated industrial sites and to allow the use of tax-exempt redevelopment bonds for such cleanup.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Brownfields Redevelop-
5 ment Act of 1996”.

6 **SEC. 2. ENVIRONMENTAL REMEDIATION TAX CREDIT.**

7 (a) GENERAL RULE.—Part IV of subchapter A of
8 chapter 1 of the Internal Revenue Code of 1986 (relating

1 to credits allowable) is amended by adding at the end
2 thereof the following new subpart:

3 **“Subpart H—Environmental Remediation Credit**

“Sec. 54. Amount of environmental remediation credit.

“Sec. 54A. Definitions and special rules.

4 **“SEC. 54. AMOUNT OF ENVIRONMENTAL REMEDIATION**
5 **CREDIT.**

6 “(a) GENERAL RULE.—For purposes of section 38,
7 the environmental remediation credit determined under
8 this section is 50 percent of the costs—

9 “(1) which are paid or incurred by the taxpayer
10 for environmental remediation with respect to any
11 qualified contaminated site which is owned by the
12 taxpayer, and

13 “(2) which are incurred by the taxpayer pursu-
14 ant to an environmental remediation plan for such
15 site which was approved by the Administrator of the
16 Environmental Protection Agency or by the head of
17 any State or local government agency designated by
18 the Administrator to carry out the Administrator’s
19 functions under this subpart with respect to such
20 site.

21 “(b) REMEDIATION PLAN MUST BE COMPLETED.—

22 “(1) IN GENERAL.—Except as otherwise pro-
23 vided in paragraph (2)—

1 “(A) no environmental remediation credit
2 shall be determined under this section with re-
3 spect to any qualified contaminated site unless
4 the Administrator of the Environmental Protec-
5 tion Agency (or such Administrator’s designee
6 under subsection (a)(2)) certifies the environ-
7 mental remediation plan for such site has been
8 completed, and

9 “(B) if such Administrator (or designee)
10 certifies that such plan has been completed,
11 such credit shall be taken into account under
12 subsection (a) ratably over the 5 taxable year
13 period beginning with the taxable year in which
14 such plan was completed.

15 “(2) SPECIAL RULE WHERE EXTRAORDINARY
16 COST INCREASES.—If—

17 “(A) the taxpayer determines that due to
18 unforeseen circumstances the cost of completing
19 the remediation plan for any qualified contami-
20 nated site exceeds 200 percent of the estimated
21 costs of completing such plan, and

22 “(B) the State or local official administer-
23 ing the remediation credit program agrees with
24 such determination,

1 the taxpayer may cease the implementation of such
2 plan and shall be entitled to an environmental reme-
3 diation credit with respect to costs incurred before
4 such cessation. Such credit shall be taken into ac-
5 count under subsection (a) ratably over the 5-tax-
6 able-year period beginning with the taxable year in
7 which such cessation occurs.

8 “(c) CERTAIN PARTIES NOT ELIGIBLE.—A taxpayer
9 shall not be eligible for any credit determined under this
10 section with respect to any qualified contaminated site if—

11 “(1) at any time on or before the date of the
12 enactment of this subpart, such taxpayer was the
13 owner or operator of any business on such site,

14 “(2) at any time before, on, or after such date
15 of enactment such taxpayer—

16 “(A) had (by contract, agreement, or oth-
17 erwise) arranged for the disposal or treatment
18 of any hazardous materials at such site or ar-
19 ranged with a transporter for transport for dis-
20 posal or treatment of any hazardous materials
21 at such site, or

22 “(B) had accepted any hazardous mate-
23 rials for transport to such site, or

24 “(3) the taxpayer is related to any taxpayer re-
25 ferred to in paragraph (1) or (2).

1 The preceding sentence shall not apply to a taxpayer who
2 became described therein by reason of the acquisition of
3 the business or site through foreclosure (or the equivalent)
4 of a security interest held by the taxpayer or a related
5 party if the taxpayer undertakes to sell or otherwise dis-
6 pose of such business or site in a reasonably expeditious
7 manner on commercially reasonable terms.

8 “(d) QUALIFIED CONTAMINATED SITE.—For pur-
9 poses of this subpart, the term ‘qualified contaminated
10 site’ means any contaminated site if—

11 “(1) the condition of the contaminated site is
12 such that without participation in the environmental
13 remediation credit program redevelopment is un-
14 likely,

15 “(2) the contaminated site has not been in pro-
16 ductive use for at least 1 year before participation
17 in the program,

18 “(3) there is a strong likelihood of redevel-
19 opment of the site for industrial or commercial use
20 that will result in creation of jobs and expansion of
21 the tax base, and

22 “(4) environmental remediation and redevel-
23 opment are likely to be completed within a reasonable
24 period of time.

1 **“SEC. 54A. DEFINITIONS AND SPECIAL RULES.**

2 “(a) CONTAMINATED SITE.—For purposes of this
3 subpart—

4 “(1) IN GENERAL.—The term ‘contaminated
5 site’ means any site if at least 1 of the following en-
6 vironmental conditions are present on such site:

7 “(A) A release or threatened release of any
8 hazardous, toxic, or dangerous substance.

9 “(B) Any storage tanks which contain any
10 hazardous, toxic, or dangerous substance.

11 “(C) Any illegal disposal of solid waste.

12 “(2) HAZARDOUS, TOXIC, OR DANGEROUS SUB-
13 STANCE.—Any substance, waste, or material shall be
14 treated as a hazardous, toxic, or dangerous sub-
15 stance if it is so treated under—

16 “(A) the Comprehensive Environmental
17 Response, Compensation, and Liability Act (42
18 U.S.C. 9601 et seq.) as in effect on the date of
19 the enactment of this section, or

20 “(B) the Resource Conservation and Re-
21 covery Act (42 U.S.C. 6901 et seq.) as so in ef-
22 fect.

23 The following materials shall in any event be treated
24 as such a substance: petroleum or crude oil or any
25 derivative thereof, friable asbestos or any asbestos

1 containing material, polychlorinated biphenyls, and
2 lead paint.

3 “(b) ENVIRONMENTAL REMEDIATION.—For pur-
4 poses of this subpart, the term ‘environmental remedi-
5 ation’ means—

6 “(1) removal or remediation activity in accord-
7 ance with the plan approved under section 54(a)(2),

8 “(2) restoration of natural, historic or cultural
9 resources at the site, or the mitigation of unavail-
10 able losses of such resources incurred in connection
11 with the remediation or response activity,

12 “(3) health assessments or health effects stud-
13 ies related to the site,

14 “(4) remediation of off-site contamination
15 caused by activity on the site (other than remedi-
16 ation activities of a type not permitted for the site),
17 and

18 “(5) any other costs specified in the plan ap-
19 proved under section 54(a)(2), including demolition
20 of existing contaminated structures, site security,
21 permit fees necessary for remediation, and environ-
22 mental audits.

23 “(c) RELATED PERSON.—For purposes of this sub-
24 part, persons shall be treated as related to each other if
25 such persons are treated as a single employer under the

1 regulations prescribed under section 52(b) or such persons
2 bear a relationship to each other specified in section
3 267(b) or 707(b).”

4 (b) CREDIT MADE PART OF GENERAL BUSINESS
5 CREDIT.—Subsection (b) of section 38 of such Code is
6 amended by striking “plus” at the end of paragraph (10),
7 by striking the period at the end of paragraph (11) and
8 inserting “, plus”, and by adding at the end thereof the
9 following new paragraph:

10 “(12) the environmental remediation credit
11 under section 54(a).”

12 (c) LIMITATION ON CARRYBACK.—Subsection (d) of
13 section 39 of such Code is amended by adding at the end
14 thereof the following new paragraph:

15 “(7) NO CARRYBACK OF ENVIRONMENTAL RE-
16 MEDIATION CREDIT BEFORE EFFECTIVE DATE.—No
17 portion of the unused business credit for any taxable
18 year which is attributable to the credit under section
19 54 may be carried back to a taxable year beginning
20 on or before the date of the enactment of section
21 54.”

22 (d) DEDUCTION FOR UNUSED CREDIT.—Subsection
23 (c) of section 196 of such Code is amended by striking
24 “and” at the end of paragraph (6), by striking the period

1 at the end of paragraph (7) and inserting “, and”, and
2 by adding at the end thereof the following new paragraph:

3 “(8) the environmental remediation credit de-
4 termined under section 54.”

5 (e) CLERICAL AMENDMENT.—The table of subparts
6 for part IV of subchapter A of chapter 1 of such Code
7 is amended by adding at the end thereof the following new
8 item:

“Subpart H. Environmental remediation credit.”

9 (f) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 the date of the enactment of this Act.

12 **SEC. 3. USE OF REDEVELOPMENT BONDS FOR ENVIRON-**
13 **MENTAL REMEDIATION.**

14 (a) ENVIRONMENTAL REMEDIATION INCLUDED AS
15 REDEVELOPMENT PURPOSE.—Subparagraph (A) of sec-
16 tion 144(c)(3) of the Internal Revenue Code of 1986 (re-
17 lating to redevelopment purposes) is amended by striking
18 “and” at the end of clause (iii), by striking the period
19 at the end of clause (iv) and inserting “, and”, and by
20 adding at the end the following new clause:

21 “(v) the costs of environmental reme-
22 diation (as defined in section 54A(b)) with
23 respect to a qualified contaminated site (as
24 defined in section 54(d)) if such costs are
25 incurred pursuant to an environmental re-

1 mediation plan which was approved by the
2 Administrator of the Environmental Pro-
3 tection Agency or by the head of any State
4 or local government agency designated by
5 the Administrator to carry out the Admin-
6 istrator’s functions under this clause.”

7 (b) CERTAIN REQUIREMENTS NOT TO APPLY TO
8 REDEVELOPMENT BONDS FOR ENVIRONMENTAL REME-
9 DIATION.—Subsection (c) of section 144 of such Code is
10 amended by adding at the end the following new para-
11 graph:

12 “(9) CERTAIN REQUIREMENTS NOT TO APPLY
13 TO REDEVELOPMENT BONDS FOR ENVIRONMENTAL
14 REMEDIATION.—In the case of any bond issued as
15 part of an issue 95 percent or more of the proceeds
16 of which are to finance costs referred to in para-
17 graph (3)(A)(v)—

18 “(A) paragraph (2)(A)(i) shall not apply,

19 “(B) paragraph (2)(A)(ii) shall not apply
20 to any issue issued by the governing body de-
21 scribed in paragraph (4)(A) with respect to the
22 area which includes the site,

23 “(C) the requirement of paragraph
24 (2)(B)(ii) shall be treated as met if—

1 “(i) the payment of the principal and
2 interest on such issue is secured by taxes
3 imposed by a governmental unit, or

4 “(ii) such issue is approved by the ap-
5 plicable elected representative (as defined
6 in section 147(f)(2)(E)) of the govern-
7 mental unit which issued such issue (or on
8 behalf of which such issue was issued),

9 “(D) subparagraphs (C) and (D) of para-
10 graph (2) shall not apply,

11 “(E) subparagraphs (C) and (D) of para-
12 graph (4) shall not apply, and

13 “(F) if the real property referred to in
14 clause (iii) of paragraph (3)(A) is 1 or more
15 dwelling units, such clause shall apply only if
16 the requirements of section 142(d) or 143 (as
17 the case may be) are met with respect to such
18 units.”

19 (c) PENALTY FOR FAILURE TO SATISFACTORILY
20 COMPLETE REMEDIATION PLAN.—Subsection (b) of sec-
21 tion 150 of such Code is amended by adding at the end
22 thereof the following new paragraph:

23 “(7) QUALIFIED CONTAMINATED SITE REMEDI-
24 ATION BONDS.—In the case of financing provided for
25 costs described in section 144(c)(3)(A)(v), no deduc-

1 tion shall be allowed under this chapter for interest
2 on such financing during any period during which
3 there is a determination by the Administrator of the
4 Environmental Protection Agency (or by the head of
5 any State or local government agency designated by
6 the Administrator to carry out the Administrator's
7 functions under this paragraph) that the remedi-
8 ation plan under which such costs were incurred was
9 not satisfactorily completed."

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to bonds issued after the date of
12 the enactment of this Act.

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