

Tax Relief Available for Owners of Contaminated Property in Minnesota

To encourage property owners to clean up contaminated property, Minnesota law provides those property owners with an opportunity to reduce property taxes on those properties for the duration of the clean-up. This is accomplished through the determination and application of a contamination tax. Finally, a tax that qualifying property owners may want to pay! Essentially, there are two parts to the contamination tax – one which benefits the property owner/taxpayer and the other which benefits the local government unit, the county and state, that is assessing and collecting the tax.

Property owners benefit through a reduction in the assessed market value of the property. The assessed market value of the property is the value used to determine the applicable taxes payable by that property each year. If the market value of the property is reduced due to contamination, the amount of the reduction becomes the "contamination valuation." In other words, the contamination valuation is the difference between the market value of the contaminated property and the market value of the same property free of contamination. The property owner's tax bill is lower because the market value is decreased by the amount of the contamination valuation.

The contamination tax law allows counties to recapture part of the taxes lost through the reduced market valuation caused by the contamination. Even though the contamination value remains subject to taxation, the tax rate applied to the contamination valuation may be substantially less than the standard commercial/industrial tax rates. There are four categories of tax that can be reapplied:

- a. Default rate of 100% (standard rate) if (1) there is no cleanup plan, and (2) the owner is the responsible party, or the owner does not supply the required documents to the county assessor to qualify for a lower rate.
- b. Tax rate of 50% of the standard rate if (1) there is an approved cleanup plan, and (2) the property owner is the responsible party. The owner must provide a copy of the plan approved by the Pollution Control Agency (MPCA) or Department of Agriculture (MDA) to the assessor and indicate progress of the cleanup.
- c. Tax rate of 25% of the standard rate if (1) there is no cleanup plan, and (2) the owner is not the responsible party. The owner must provide an MPCA's determination that it is not the responsible party.
- d. Tax rate of 12.5% of the standard rate if (1) there is an approved cleanup plan, and (2) the owner is not the responsible party. The approved plan must be provided to the assessor indicating when the work under the plan began.

To receive the greatest benefit, a property owner would qualify under option (d).

Thousands of properties across the state have been affected by contamination and are being cleaned up. The Minnesota Department of Revenue concedes that only a handful of property owners have sought property tax relief afforded by an application of the contamination tax.

The most difficult aspect of this law is determining the contamination valuation. The contamination valuation cannot exceed the market value of the property (thus the value cannot be negative). The costs of the approved clean-up plan are considered in the contamination valuation. This would likely require the a formal appraisal to determine the impact of the contamination on the value of the property as well as working with the local assessor. Any refund created by the decrease in market value is set off by any tax due under the contamination valuation. As long as cleanup measures are in place, a party may be eligible for tax relief. The information must be provided on an annual basis to the assessor to continue to qualify.

At Hessian & McKasy, our environmental law attorneys are familiar with environmental clean-ups and the liability assurances that are available from the MPCA. Our attorneys have handled appeals of the valuation of all types of properties including commercial, industrial, residential and agricultural land. For more information on how the contamination tax may apply to property that you own, please contact attorney Joseph Maternowski at maternowskij@moss-barnett.com or by calling him at (612) 746-5754.

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