

ALERTS:

Property Tax Relief for Owners of Contaminated Property in Minnesota

To encourage property owners to clean up contaminated property, Minnesota law provides an opportunity to reduce property taxes on those properties for the duration of the clean-up. This is accomplished through the application of a contamination tax. At last, a tax that you may want to pay!

Property owners who have a cleanup plan approved by the State of Minnesota benefit through a reduction in the assessed market value of the property. The assessed market value is the value used to determine the applicable taxes payable each year. If the assessed market value of the property is reduced due to contamination, the amount of the reduction becomes the “contamination valuation.” The property owner’s tax bill is lower because the assessed market value is decreased by the amount of the contamination valuation. The amount of the contamination valuation remains subject to taxation, but the applicable tax rate is substantially less than the standard commercial/industrial tax rate.

If a property owner has an approved cleanup plan and the property owner is the responsible party, the tax rate on the contamination valuation is 50% of the standard rate. A property owner who has an approved cleanup plan but is not responsible for the contamination pays at a tax rate of 12.5% of the standard rate. For large, highly valued properties, the tax savings may be significant.

Thousands of properties across the state have been affected by contamination and have been cleaned up. The Minnesota Department of Revenue, however, acknowledges that only a few eligible property owners have actually sought property tax relief afforded by the contamination tax.

The contamination valuation cannot exceed the market value of the property, and the costs of the approved cleanup plan are considered in the contamination valuation. A formal appraisal may be required to determine the impact of the contamination on the value of the property. Any refund created by the decrease in assessed market value is set off by any contamination tax. As long as cleanup measures are in place, a party may be eligible for tax relief.

Red Flag Program Clarification Act of 2010

In several issues of this newsletter, we have told you about the impending and then delayed enforcement of the Red Flag Rules, which would require “creditors” to implement a program to detect and prevent identity theft involving credit accounts. As initially drafted, the Rules could have been interpreted to include businesses that extend credit to other businesses or individuals. Congress responded to the concerns of the business community, and President Obama signed the Red Flag Program Clarification Act of 2010, on December 18, 2010. The term “creditor” now has been limited to a creditor that obtains or uses consumer reports in relation to a credit transaction, furnishes information to consumer reporting agencies in connection with a credit transaction, or advances funds based on an obligation of repayment. Service providers who advance funds to cover expenses associated with the service are not considered “creditors.”

If you would like assistance in assuring best practices in any of these areas, please contact your attorney at Moss & Barnett.

