

MISSISSIPPI ECONOMIC REDEVELOPMENT ACT

GUIDELINES AND APPLICATION

The Mississippi Economic Redevelopment Act, administered by the Mississippi Development Authority (MDA), is a program designed to encourage economic development on and around environmentally contaminated sites. To promote redevelopment, this act provides incentives to defray the remediation costs associated with cleaning up contaminated property.

Counties and/or municipalities that contain properties with environmental contamination may apply for approval for this incentive. Once MDA grants approval for the project, all sales, income, and franchise taxes collected from businesses located in the redevelopment project area will be deposited into a special fund that will be used to reimburse developers for approved cleanup costs.

Reimbursement to developers will be made semi-annually for a period of up to 10 years, with a maximum distribution to the developer of two and a half times the allowable remediation costs.

This program is available through December 31, 2009.

Eligible Projects

A redevelopment project is an undertaking that combines remediation of a contaminated site that has been abandoned from a bankruptcy estate, along with development of that site. This development may be any type of permanent business, with the exception of gaming establishments. Examples of approved business enterprises are:

- Manufacturing, processing, assembling, storing, warehousing, servicing, distributing, or selling any goods or products, including agricultural products;
- Retail sales of goods and services;
- Recreation and hospitality establishments, including hotels, restaurants, and sports facilities; or
- Other businesses as approved by MDA.

The redevelopment project area is a geographic location that is defined by resolution of the county or municipality. The project area should contain the contaminated site, along with any additional surrounding and adjacent land and/or waterfront to be included in the development. The project area cannot exceed 650 acres.

Eligible Counties and Municipalities

To qualify, counties and/or municipalities must meet all of the following conditions:

- The contaminated site must be located within a Mississippi county and/or municipality.
- The redevelopment project area must be established by resolution of the county or municipality. If a development project area falls wholly within a municipality, only the municipality must apply to the Mississippi Development Authority for designation as a redevelopment county. If a redevelopment project is located in a municipality with a portion of the redevelopment area extending outside the municipality's jurisdiction, the area must be established by resolution by both the county and municipality, but the two may jointly apply to MDA for project approval.
- Application to MDA must be made, containing the following:

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1. Mississippi Department of Environmental Quality (DEQ) agreement that contamination exists, along with concurrence and involvement in the assessment and remediation plan.
2. A copy of the bankruptcy court order in which the property has been abandoned from the bankruptcy estate due to the presence or potential presence of a hazardous substance, pollutant, or contaminant.
3. Resolutions from the county and/or municipality setting forth the boundaries of the redevelopment area.
4. The developer's agreement.
5. The estimated cost of remediation of the contaminated site.
6. Any other information requested by MDA.

Upon approval, MDA will issue the county and/or municipality a certificate of public convenience and necessity.

State Tax Incentives

The Mississippi Economic Redevelopment Act provides for sales, income, and franchise taxes paid by the business entities operating on the redeveloped property to be distributed to the developer to defray remediation costs.

By statute, state taxes and fees are defined as:

- Any sales tax imposed on the sales or certain purchases by a business enterprise pursuant to law within a redevelopment project area;
- All Mississippi income tax pursuant to law on income earned by the approved business enterprise within a redevelopment project area; and
- All Mississippi franchise tax imposed pursuant to law on the value of capital used, invested, or employed by the approved business enterprise in a redevelopment project area.

In instances where the business enterprise does business in Mississippi both inside and outside the redevelopment area, the income and franchise tax will be prorated based on a formula determined by the Mississippi State Tax Commission.

Incentive Payments

MDA, with the assistance of the State Tax Commission, will determine the amount of state taxes and fees collected from the business enterprises located and operating within a redevelopment project area. These amounts, which are deposited in the Redevelopment Project Incentive Fund, will be used to reimburse the developer. Reimbursement payments will be made semiannually, in January and July of each year.

To receive any benefit, the developer must request payment of the incentive. These payments shall be made as follows:

- For the first six years in which payments are made, the developer will receive 100% of the funds deposited in the Redevelopment Project Incentive Fund;

- For the seventh year in which payments are made, the developer will receive 80% of the funds deposited in the Redevelopment Project Incentive Fund;
- For the eighth year in which payments are made, the developer will receive 70% of the funds deposited in the Redevelopment Project Incentive Fund;
- For the ninth year in which payments are made, the developer will receive 60% of the funds deposited in the Redevelopment Project Incentive Fund;
- For the tenth year in which payments are made, the developer will receive 50% of the funds deposited in the Redevelopment Project Incentive Fund;
- In no event shall the total reimbursement amount paid to a developer exceed two and one-half times the amount of the approved cost of remediation of the contaminated site. MDA and Mississippi Department of Environmental Quality will jointly determine the allowable remediation cost.
- Payments will be made for a maximum period of ten years from the date that is two years after the date that the redevelopment project is approved by MDA.
- The developer shall not distribute the proceeds of any incentive payment to a business enterprise.

Application Process

To receive this incentive, a county and/or municipality must apply to MDA for project certification. The application must contain the MDEQ assessment, the county and/or municipality's resolution(s) setting the project boundaries, a copy of the bankruptcy court order that abandons the site from the bankruptcy estate, the developer's agreement, and an estimate of the cost of remediation. Three copies of the application information must be submitted to begin the review process.

Application Approval

Upon approval, a Mississippi Economic Redevelopment Act Certificate will be issued to the county and/or municipality. The certificate will include:

1. The maximum reimbursement amount. This value will be set at two and one-half times the approved remediation costs.
2. The boundaries of the redevelopment project area.
3. The date which MDA will cease making payments.
4. The developer that is eligible to receive the incentive.

Administration of Benefits

The Mississippi Development Authority will notify the Mississippi State Tax Commission of the approved project through the issuance of the Mississippi Redevelopment Act Certificate.

Within three (3) months after the completion of the remediation, the developer must document the actual cost of clean-up activities through a certification (Completion Certificate) of

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such costs by an independent certified public accountant acceptable to the MDA. The completion date of the remediation must be within 24 months following the Mississippi Redevelopment Act certificate date, unless an extension is granted.

Once redevelopment business entities begin remitting taxes, the developer must provide the Mississippi Development Authority with the Federal Employer Identification Number (FEIN) and Sales Tax Number of each business in the redevelopment area. Upon notification by the Mississippi Development Authority, the State Tax Commission will deposit eligible state taxes and fees collected from these business enterprises into a special fund known as the Mississippi Redevelopment Act Fund.

The developer must request payment of the incentive. The MDA will make incentive payments to an approved participant on a semiannual basis, with payments being made in January and July. Payments will be made to the developer until the maximum payout is made, or the ten-year time limit is reached.

Program Guideline and Amendments and Waivers

These guidelines may be amended by MDA at any time. MDA, at its discretion, may temporarily waive any requirement of these guidelines to the extent that the result of such waiver is to promote the public purpose of the act and is not prohibited by State laws.

Additional Information

Additional information with respect to the program and these program guidelines and application may be obtained by contacting:

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Mississippi Economic Redevelopment Act
Financial Resources Division
Post Office Box 849
Jackson, Mississippi 39205
(601) 359-3552

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