



2010
Voluntary Action Program
Annual Report

June 24, 2011



**Department of
Development**

John R. Kasich, Governor

James A. Leftwich, Director



June 24, 2011

Mr. Scott J. Nally, Director
Ohio Environmental Protection Agency
Director's Office
P.O. Box 1049
Columbus, Ohio 43216-1049

Dear Director Nally:

The Ohio Department of Development is pleased to present to you and the Ohio Environmental Protection Agency (Ohio EPA) the 2010 Voluntary Action Program Annual Report. The information contained within this report is based on information the Department has received from municipal corporations and counties regarding properties that received or are receiving tax exemptions under Ohio Revised Code Sections 5709.87 and 5709.88.


According to Ohio Revised Code 5709.87, parcels that are issued a No Further Action (NFA) letter from Certified Professionals are exempt from increases in assessed value. NFA letters are issued upon successful completion of "voluntary actions;" a series of measures established by Ohio EPA's Voluntary Action Program that may be undertaken to identify and address sources of property contamination by hazardous substances or petroleum. NFA letters also confirm that the property complies with the applicable use standard, *i.e.*, residential, commercial, or industrial. Ohio Revised Code Section 3746.35(B) requires county auditors to report properties within the auditor's jurisdiction which have received exemption from real property taxation under Section 5709.87 to the Department.

Ohio Revised Code Section 5709.88 similarly allows the exemption of a negotiated portion of the increase in the assessed value of parcels related to new buildings and improvements that are issued NFA letters from Certified Professionals and enter into agreements with a municipal corporation or county. Ohio Revised Code Section 3746.35(C) requires the Department to report projects listed by the Ohio EPA as having completed environmental remediation activities under the Voluntary Action Program that have received an additional tax exemption contained in Section 5709.88, covering new construction and improvements to the remediated real estate.

The 2010 Voluntary Action Program Annual Report compiles and reports information to the Ohio EPA as required by Ohio Revised Code Sections 3746.35(B) and (C).

We thank you for your leadership on these programs and hope the report provides useful information to you about the effectiveness of these tax exemptions.

Sincerely,


James A. Leftwich
Director

ORC Section 5709.87

Each year, the Ohio Department of Development (Development) is required to provide the information received from county auditors regarding properties that received or are receiving tax exemption under Ohio Revised Code (ORC) Section 5709.87. This report fulfills the annual compilation and reporting requirement to the Director of the Ohio Environmental Protection Agency (EPA) for the 2010 calendar year.

Section 5709.87 exempts real property taxation to properties that are issued No Further Action (NFA) letters from Certified Professionals. The NFA letters are issued upon successful completion of "voluntary actions"; a series of measures established by the EPA's Voluntary Action Program that may be undertaken to identify and address potential sources of property contamination by hazardous substances or petroleum. The NFA letters also confirm that the property complies with applicable use standards, i.e. residential, commercial, or industrial. The EPA is required to notify the Ohio Department of Taxation (Taxation) when NFA letters are issued, and Taxation is required to notify the appropriate county auditor of the issuance.

ORC Section 5709.87(C)(1)(a) states that "upon receipt by the tax commissioner of a certification for property under division (B) of this section, the commissioner shall issue an order granting an exemption from real property taxation of the increase in the assessed value of land constituting property that is described in the certification, and of the increase in the assessed value of improvements, buildings, fixtures, and structures situated on that land at the time the order is issued as indicated on the current tax lists."

The terms of ORC Section 3746.35(B)(1) designate that each affected county auditor is required to report to the Director of Development requested information about applicable properties. Properties are applicable if they are within the auditor's county and receive exemption from real property taxation under ORC Section 5709.87.

2010 Report Requirement and Compilation Process:

As required by ORC Section 3746.35(B)(2), "the Director of Development shall compile the information provided to the Director under division (B)(1) of this section applicable to the preceding tax year into a report covering all of the counties in the state in which are located properties receiving a tax abatement under section 5709.87 of the Revised Code for the preceding tax year and shall forward the report to the Director of Environmental Protection. The sole responsibility of the Director of Development in preparing the report is to compile the information submitted to the Director by the county auditors under division (B)(1) of this section."

In April 2011, Development sent a notice to all auditors of counties identified as having NFA letters issued under the VAP requesting the following information:

- (a) The owner and address of the property as stated in the records of the county auditor;
- (b) The amount of taxes exempted for the stated year under ORC Section 5709.87; and
- (c) A cover letter signed by the auditor certifying the information provided in (a) and (b).

Development then followed up in May with a phone call requesting again the required information outlined in the statute from each county auditor who did not report. The results on Page 4 reflect all information received.

The Director of Development compiled the information submitted by the county auditors for 2010. In total, 50 counties were identified, 44 of which reported to Development. There were 23 counties that reported that no valuation of property was exempted from real property taxation under ORC Section 5709.87. Six county auditors did not respond to the Department's requests for information about applicable exemptions. Table I summarizes the information received for 2010. The total reported estimated dollar amount of taxes exempted under ORC Section 5709.87 in 2010 is \$9,064,329.48.

ORC Section 5709.88

Each year, Development is also required to provide the information received from municipal corporations and counties regarding properties that received a tax exemption under ORC Section 5709.88. This report is provided in compliance with the annual compilation and reporting requirement to the Director of the EPA for the 2010 calendar year.

ORC Section 5709.88 allows the negotiated exemption of a portion of the value of new buildings and improvements to the properties, including personal property investments, which are issued No Further Action (NFA) letters by Certified Professionals and enter into agreements with a municipal corporation or county under ORC Section 5709.88 of the Revised Code. ORC Section 5709.882 requires that each affected municipal corporation or county report to the Director of Development annually information about applicable properties. The Director of Development must then compile this information for the Director of the Ohio Environmental Protection Agency pursuant to ORC Section 3746.35(C).

2010 Report Requirement and Compilation Process:

As required by ORC Section 3746.35 (C), "the Director of Development shall compile the information provided to the Director by municipal corporations and counties under division (A) of section 5709.882 of the Revised Code applicable to the preceding calendar year into a report covering, by county, all of the municipal corporations and counties in this state in which are located properties receiving a tax abatement pursuant to an agreement entered into under section 5709.88 of the Revised Code and shall forward the report to the Director of Environmental Protection. The sole responsibility of the Director of Development in preparing the report is to compile the information submitted to him by municipal corporations and counties under division (A) of section 5709.882 of the Revised Code."

Development relies upon the municipal corporations and counties that enter into tax incentive agreements to comply with applicable statutes and provide copies of such agreements to Development. For 2010, a review of the records received by Development's Office of Grants and Tax Incentives from municipal corporations and counties indicate that there were no reported agreements providing tax exemptions pursuant to ORC Section 5709.88 related to the projects listed by the EPA as having completed environmental remediation activities.

Accordingly, Development reports no such agreements for 2010.

Table I:
2010 Compiled Information: County Auditor Reports as required by ORC Section 3746.35(B)(1)

County	2010 Number of Abatements listed	\$ Amount of Taxes exempted in tax year 2010
Adams	1	0.00
Allen	4	\$4,593.92
Ashland	2	\$0.00
Ashtabula		DNR
Athens	1	\$0.00
Auglaize	1	\$2,498.29
Butler	6	\$190,929.08
Carroll	1	\$0.00
Champaign	1	\$0.00
Clark	7	\$0.00
Clinton	0	\$0.00
Columbiana	1	\$88.50
Coshocton	1	\$0.00
Cuyahoga	56	\$351,353.84
Darke	1	\$0.00
Delaware		DNR
Erie	2	\$77,881.36
Fairfield		DNR
Franklin	36	\$882,023.87
Greene	1	\$17,041.84
Hamilton	25	\$2,485,995.27
Hancock	1	\$51,611.00
Henry		DNR
Hocking	1	\$0.00
Huron	1	\$0.00
Knox	1	\$9,769.17
Lake	2	\$0.00
Lawrence	1	\$2,196.42
Licking	3	\$4,540.93
Lorain	1	\$0.00
Lucas	15	\$2,440.42
Mahoning	5	\$3,016.75
Mercer	1	\$0.00
Miami		DNR
Montgomery	9	0*
Muskingum	1	\$0.00
Perry	1	\$2,990.43
Richland	4	\$170,131.00
Ross	2	\$0.00
Sandusky	1	\$0.00
Scioto	4	\$72,008.39
Seneca	2	\$0.00
Stark	5	\$0.00
Summit	13	\$4,577,080.00
Trumbull		DNR
Tuscarawas	4	\$0.00
Vinton	1	\$0.00
Warren	4	\$156,139.00
Wayne	1	\$0.00
Williams	1	\$0.00
TOTAL	232	\$9,064,329.48

DNR – County Auditor did not report amount exempted
 *Received information for a different tax year