



## Department of Development

Ted Strickland, Governor  
Lee Fisher, Lt. Governor

Lisa Patt-McDaniel, Director

July 16, 2010

Mr. Chris Korleski, Director  
Ohio Environmental Protection Agency  
Director's Office  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Dear Director Korleski:

The Ohio Department of Development is pleased to present to you and the Ohio Environmental Protection Agency (Ohio EPA) with the 2009 Voluntary Action Program Annual Report. The information contained within this report is based on reports 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 2009 Voluntary Action Program Annual Report complies 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 of these programs and hope that the report provides useful information to you about the effectiveness and use of these tax exemptions.

Sincerely,

Lisa Patt-McDaniel  
Director

## **2009 Brownfield Tax Exemptions Program Report**

### **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 2009 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 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.

#### ***2009 Report Requirement & 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 March 2010, 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 valuation of the property that was exempted from real property taxation under ORC Section 5709.87;
- (c) The dollar amount of taxes exempted in 2009 (for 2008 tax year); and
- (d) A cover letter signed by the Auditor certifying the information provided in (a) and (b).

Development then followed up in April with an e-mail and May with a phone call requesting again the required information outlined in the statute from each county auditor who did not report. The results below reflect all information received.

The Director of Development compiled the information submitted by the county auditors for 2009. In total, 38 counties were identified, 34 of which reported to Development. Seventeen of these counties reported that no valuation of property was exempted from real property taxation under ORC Section 5709.87. Four county auditors did not respond to the Department's requests for information about applicable exemptions. Table I summarizes the information received for 2009. The total reported estimated value of property value exempted under ORC Section 5709.87 is \$111,609,909.

### **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 2009 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).

#### ***2009 Report Requirement & 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 2009, a review of the records received by Development's Office of Grants & 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 2009.

**Table I:  
2009 Compiled Information: County Auditor Reports as required by ORC Section  
3746.35(B)(1)**

<b>County</b>	<b>2009 Number of Abatements listed</b>	<b>Taxes exempted in 2009 (\$)</b>
Adams	1	\$0.00
Allen	4	\$0.00
Ashland	1	\$0.00
Auglaize	1	\$868.97
Butler	5	\$156,642.37
Clark	7	\$0.00
Clinton	2	\$0.00
Columbiana	1	\$84.77
Cuyahoga	48	\$65,220,781.00
Delaware		DNR
Erie	1	\$406,588.25
Fairfield		DNR
Franklin	27	\$1,076,062.44
Hamilton	21	\$44,517,480.00
Hancock	1	\$35,963.00
Hocking	1	\$595.16
Huron	1	\$0.00
Lake	2	\$1,898.27
Licking	3	\$7,157.33
Lucas	14	\$2,382.24
Mahoning	5	\$2,897.86
Mercer	1	\$0.00
Miami	3	\$0.00
Montgomery	8	\$0.00
Muskingum	1	\$0.00
Richland	3	\$4,308.32
Ross	2	\$0.00
Sandusky	1	\$0.00
Scioto	3	\$17,764.55
Seneca	1	\$0.00
Stark	4	\$3,183.00
Summit		DNR
Trumbull		DNR
Tuscarawas	4	\$0.00
Vinton	1	\$0.00
Warren	4	\$155,251.59
Wayne	1	\$0.00
Williams	1	\$0.00
<b>TOTAL</b>	<b>184</b>	<b>\$111,609,909.12</b>

DNR – County Auditor did not report amount exempted.