

## Environmental clean-up expenses

If your company faces the need to “remediate” (i.e., clean up) environmental contamination, you will want to make sure that you get the maximum immediate income tax benefit possible for the expenses you incur. These expenses can include not only the actual cleanup costs, but the costs of associated environmental studies, surveys and investigations, consulting and environmental engineering fees, legal and professional fees, environmental “audit” and monitoring costs, as well as other categories of expenses.

Unfortunately, there's no current deduction for every type of environmental cleanup cost. Some cleanup costs must be capitalized. But, generally, cleanup costs are deductible to the extent they're for:

- “incidental repairs” (for example, encapsulating exposed asbestos insulation); or
- cleaning up contamination that you caused on your own property (for example, removing soil contaminated by dumping wastes from your own manufacturing processes, and replacing it with clean soil)—if you acquired that property in an uncontaminated state.

On the other hand, remediation costs generally have to be capitalized if the remediation adds significantly to the value of the cleaned up property, or prolongs its useful life, or adapts it to a new or different use, or makes up for depreciation, amortization or depletion that's been claimed for tax purposes, or creates a separate capital asset that's useful beyond the current tax year. However, parts of these types of remediation costs may qualify for a current deduction. (For example, in one situation, IRS required a taxpayer to capitalize the costs of surveying for contamination various sites that proved to be contaminated, but allowed a deduction for the costs of surveying the sites that proved to be uncontaminated.)

Also, for expenses paid or incurred before Jan. 1, 2008, an election is available to treat certain environmental remediation expenditures that would otherwise have to be capitalized as deductible in the year paid or incurred for both regular and alternative minimum tax (AMT) purposes. The expenditures must be paid or incurred in connection with the abatement or control of hazardous substances (which include petroleum products) at a qualified contaminated site.

The election to expense qualified environmental remediation expenses must be made on or before the due date (including extensions) for filing the income tax return for which the remediation expenditures were paid or incurred.