

## Lead Paint Removal Credit

Massachusetts allows a credit to any owner of Massachusetts residential property who has paid for deleading (covering or removing lead paint) of such property for purposes of bringing it into either:

- full compliance with M.G.L., Chapter 111, Sections 189A - 199B; or
- interim control pending full compliance pursuant to M.G.L., Chapter 111, Sections 197(b).

**For purposes of bringing the property into full compliance, the amount of credit allowed per residential unit equals the lesser of:**

- the cost of removing or covering any paint, plaster, or other structural accessible materials containing dangerous levels of lead; or
- \$1,500.

**To qualify as full compliance deleading for purposes of claiming the deleading credit, all of the following requirements must be met:**

1. a dangerous level of lead in the accessible structural materials of the residential premises is established by a licensed inspector;
2. following deleading by an authorized person, the owner obtains a letter of compliance from a licensed inspector; and
3. the owner completes Massachusetts Schedule LP and retains it for his or her records along with the letter of compliance.

**For purposes of bringing the property into interim control pending full compliance, the amount of credit allowed per residential unit equals the lesser of:**

- one-half the cost of removing or covering any paint, plaster, or other structural accessible materials containing dangerous levels of lead; or
- \$500.

**To qualify as interim control for the purpose of claiming the deleading credit, all of the following requirements must be met:**

1. a dangerous level of lead in the accessible structural materials of the residential premises is established by a licensed risk assessor;
2. the premises are deleading using interim control measures performed by an authorized person, and the owner obtains a letter of interim control from a licensed risk assessor which certifies that the costs of instituting interim control measures are costs necessary to achieving full compliance; and
3. the owner completes Massachusetts Schedule LP and retains it for his or her records along with the letter of interim control.

### **Carryover of the Credit:**

If the credit exceeds the tax due, the excess credit may be carried forward for up to seven succeeding tax years.

### **Deleading Common Areas in a Condominium Unit:**

A condominium owner can claim the lead paint removal credit for the amount the owner pays to delead common areas as well as the amount paid to delead the individual unit. Condominium ownership involves real property in which each owner has an exclusive interest in his or her unit in addition to an undivided interest with all other unit owners in the condominium's common areas and facilities. Condominium common areas and facilities include party walls, common walls, halls, lobbies, public stairs, the land on which the building is located, the basement, yard, recreational facilities, and other areas normally in common use.

Because a condominium owner's interest extends both to the owner's individual unit and to common areas, a condominium owner may claim the lead removal credit for the amount the owner pays to delead common areas as well as the amount paid to delead the individual unit.

**Massachusetts Schedule E must be adjusted** by the amount of the Massachusetts allowable credit if the expense for deleading is claimed as a deduction on U.S. Schedule E. Massachusetts income will exceed U.S. income by the allowable credit amount.

**Nonresidents and part-year residents** qualify for this credit only if the property is residential and located in Massachusetts.

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## **Repair or Replacement of Failed Cesspool or Septic System Credit (Title V)**

Any owner of residential property located in Massachusetts who is not a dependent of another taxpayer and who occupies the property as his or her principal residence is allowed a credit for the expenses incurred to:

- repair or replace a failed cesspool or septic system in compliance with the sewer system requirements of the State Environmental Code Title V as promulgated in 310 CMR 15.000 et seq., by the Department of Environmental Protection in 1995; or
- connect to a municipal sewer systems pursuant to a federal court order, administrative consent order, state court order, consent decree, or similar mandate.

**Qualified expenses incurred to bring a failed system into full compliance may include one or more of the following:**

- an upgraded system;
- an alternative system;
- a shared system; or
- a connector to a sewer system.

**In order to qualify for the credit:**

1. the amount of credit cannot exceed \$6,000. The computation of the credit is 40 percent (.40) of available actual costs, not to exceed \$15,000 ( $\$15,000 \times .40 = \$6,000$ );
2. the maximum amount of the computed credit claimed in any tax year cannot exceed \$1,500;
3. in the computation of the credit, any interest subsidy received from the Commonwealth must be subtracted;
4. the credit may be claimed beginning in the tax year in which the repair or replacement work is completed; and
5. the owner completes Massachusetts Schedule SC and retains it for his or her records along with the Certificate of Compliance.

**Carryover of the Credit:**

If the credit exceeds the tax due, the excess credit may be carried forward for up to five succeeding tax years.

**If a taxpayer voluntarily repairs or replaces** a cesspool or septic tank, this credit is **not** available since it is not considered a "failed" system under Title V.

**Nonresidents** do not qualify for this credit since the property must be an owner occupied principal residence located in Massachusetts. However, former Massachusetts residents who are required to file Massachusetts nonresident returns may claim their unused prior year credit carryovers.

**Part-year residents** qualify for the full credit if the property is an owner occupied principal residence.

**Interest Subsidy:**

For tax years beginning on or after January 1, 1999, there is a new rule for computing the interest subsidy to be subtracted from the expenditure amount for arriving at the proper Title 5 credit.

If a taxpayer has received a below market interest rate loan from the Commonwealth or another source, or a below market interest rate betterment from a municipality, the amount of credit that may be claimed is reduced by the amount of the interest subsidy the taxpayer has received at the time the credit is claimed.

**New Method for Determining the Interest Subsidy to Be Deducted from the Septic Credit:**

The interest subsidy to be deducted from the septic credit is the difference between the amount of interest the taxpayer would have paid at the time the credit is claimed using the non-subsidized state interest rate and the amount of interest the taxpayer has actually paid using the below market interest rate (the subsidized rate.) A below market interest rate loan is a low interest rate loan or betterment offered by the Department of Environmental Protection, the Massachusetts Housing Finance Authority, any city or town, or any other source, used for the repair and replacement of a failed septic system. The non-subsidized state interest rate, which is the state interest rate determined under G.L. c. 62C, s. 32(a).

The new rule for determining the interest subsidy requires that the non-subsidized state tax rate to be used in the interest subsidy calculation be an annual rather than a quarterly rate. This annual rate will be the average of the four quarterly rates for the calendar year. Schedule SC and the instructions to Schedule SC have been revised to use the annualized non-subsidized state tax rate.

**Special Rules for Massachusetts and Federal Court Mandated Hookups:**

**Federal Court Mandated Hookup:**

Any taxpayer who is required to connect his/her septic system to the city or town sewer system, pursuant to a federal court order, consent decree or similar mandate from a federal court of competent jurisdiction, may claim the Title V credit, notwithstanding that the taxpayer's septic system was not inspected and determined to be a "failed system" and no Certificate of Compliance was issued to the taxpayer. See TIR 99-5 below.

In order to claim the credit, a taxpayer must obtain a verification letter from the city or town in lieu of the Certificate of Compliance.

**Massachusetts Court or Consent Mandated Hookup:**

Any taxpayer who is required to connect his/her septic system to the city or town sewer system, pursuant to an Administrative Consent Order from the Massachusetts Department of Environmental Protection, a Massachusetts state court order, consent decree, or similar mandate from a state court of competent jurisdiction, may claim the Title V credit, notwithstanding that the taxpayer's septic system was not inspected and determined to be a "failed system" and no Certificate of Compliance was issued to the taxpayer. See DD 01-6 below.

In order to claim the credit, a taxpayer must obtain a verification letter from the city or town in lieu of the Certificate of Compliance.