



# Instructions for Form IT-613

## Claim for Environmental Remediation Insurance Credit

Tax Law — Sections 23 and 606(ff)



For 2005, this form is not eligible for e-file. If you are attaching this form to your return, you must file on paper.

### General information

For tax years beginning on or after April 1, 2005, an environmental remediation insurance credit is allowed to taxpayers for premiums paid for environmental remediation insurance with respect to a qualified brownfield site. Individuals (including sole proprietors), estates and trusts, shareholders of an S corporation, partners in a partnership (including members of a limited liability company (LLC) treated as a partnership for federal income tax purposes), and beneficiaries of an estate or trust may claim the credit. For calendar year taxpayers, the first year for which the credit may be claimed is 2006.

### Eligibility

To qualify for the credit, you must execute a Brownfield Cleanup Agreement (BCA) under the Environmental Conservation Law (ECL), and have a *Certificate of Completion* (CoC) issued by the Commissioner of Environmental Conservation for the qualified site for which the eligible premiums are paid. You must also have a certification form issued by your insurer, certifying that the insurance coverages qualify for the credit.

For more information about the Brownfield Cleanup Program, contact the Department of Environmental Conservation (DEC) at (518) 402-9711, or visit their Web site at [www.dec.state.ny.us](http://www.dec.state.ny.us).

The amount of the credit is the lesser of:

1. \$30,000; **or**
2. 50% of the eligible premiums paid by the taxpayer on or after the date of execution of the BCA executed by the taxpayer and DEC.

The credit is allowed for the tax year in which the CoC is issued. However, if the CoC is issued in a tax year that begins prior to April 1, 2005, the issue date of the certificate is treated as if that date occurred in the taxpayer's first tax year beginning on or after April 1, 2005. The credit may be taken only once with respect to each CoC issued. The credit is not allowed for a qualified site for which a CoC is issued after March 31, 2015.

If the amount of the credit exceeds the taxpayer's tax for the year, the excess will be treated as an overpayment of tax to be credited or refunded (without interest).

If the CoC is revoked, the credit must be added back in the tax year in which the determination is final and no longer subject to judicial review.

If you deducted insurance premiums paid for environmental insurance in computing federal taxable income, you must add back the amount of credit on the appropriate form.

### Who must file

File Form IT-613 if you are an individual, a beneficiary or fiduciary of an estate or trust, a member of a partnership, or a shareholder of an S corporation, and:

- you are claiming the environmental remediation insurance credit; **or**
- you are required to recapture any previous environmental remediation insurance credit due to a certificate of completion being revoked.

An estate or trust that divides the credit or addback of credit among itself and its beneficiaries must attach Form IT-613 to Form IT-205, showing each beneficiary's share of the credit or recapture of credit.

A partnership must file Form IT-613 with Form IT-204 showing the total of the credit from the partnership and any recapture of credit.

An S corporation does not file Form IT-613. It must file Form CT-613. If you are a shareholder in an S corporation that has made the election under Tax Law section 660, obtain your share of the S corporation's credit or recapture of credit from the S corporation.

### Definitions

A *qualified site* means a site for which the taxpayer has been issued a CoC by the Commissioner of Environmental Conservation.

*Certificate of Completion (CoC)* is a certificate issued by the Commissioner of Environmental Conservation.

*Environmental remediation insurance*, as described in the Insurance Law section 3447, must be written pursuant to the provisions of section 1113(a)(13) (personal injury liability insurance) or 1113(a)(14) (property damage liability insurance) of the Insurance Law. It must also contain any of the following (or substantially similar or combined) coverages:

- coverage for the costs of on-site cleanup of pre-existing pollution conditions from the insured property that are outside the scope of the remedial work plan pursuant to ECL section 27-1411 for the insured property
- coverage for third party claims for on-site bodily injury and property damage resulting from pre-existing pollution conditions outside the scope of the remedial work plan for the insured property
- coverage that caps cleanup costs relating to the remedial work plan
- coverage for the costs of state re-openers pursuant to ECL section 27-1421 or modifications to the remedial work plan to fill any gap in any liability limitation provided pursuant to ECL section 27-1421 for environmental conditions

### Important reminder to file a complete return

You must complete all required schedules and forms that make up your return, and include all pages of those forms and schedules when you file. Attach **only** those forms and schedules that apply to your return, and be sure that you have made all required entries. Returns that are missing required pages or that have pages with missing entries are considered incomplete and cannot be processed, and may subject taxpayers to penalty and interest.

### Filling in your tax forms

For complete information on how to fill in New York State scannable income tax forms, see the instructions for:

- resident return (Form IT-201),
- nonresident and part-year resident return (Form IT-203),
- partnership return (Form IT-204), **or**
- fiduciary return (Form IT-205).

Also see the instructions for the above returns for the *Privacy notification* or if you *Need help* in contacting the Tax Department.

## Specific instructions

### **Individuals (including sole proprietors), and partnerships**

Complete Schedule A, Schedule E, and if applicable, Schedule F.

### **Partners in a partnership, shareholders of a New York S corporation and beneficiaries of an estate or trust**

Complete Schedules B, C, E, and if applicable, Schedule F.

**Fiduciaries** — Complete Schedules A through F, as applicable. An estate or trust that divides the credit among itself and its beneficiaries must attach Form IT-613 to Form IT-205 showing each beneficiary's share of credit or recapture of credit.

### **Schedule A — Individuals (including sole proprietors), partnerships, and fiduciaries**

**Line 1** — Enter the amount of qualified environmental remediation insurance premiums paid on or after the date of the BCA executed pursuant to ECL section 27-1409. See the definition of *environmental remediation insurance* on the front page.

### **Schedule B — Partnership, S corporation, estate, and trust information**

Enter the appropriate information for each partnership, New York S corporation, or estate or trust for which you received a share of the environmental remediation insurance credit. If you need more space attach a separate schedule.

### **Schedule C — Partner's, shareholder's, or beneficiary's share of credit**

Enter your share of the credit received from a partnership, New York S corporation, or an estate or trust on the appropriate

line. Obtain this information from the partnership, New York S corporation, or the estate or trust. If you belong to more than one partnership, New York S corporation or estate or trust, enter the total of all your shares of the credit on the appropriate line.

**Fiduciaries** — Include on line 6 only your share of the credit from another estate or trust.

### **Schedule D — Beneficiary's and fiduciary's share of credit and recapture of credit**

An estate or trust must complete Schedule D. If an estate or trust allocates or assigns the credits to its beneficiaries, base the division on each beneficiary's proportionate share of the income of the estate or trust.

### **Schedule F — Summary of recapture of environmental remediation insurance credit**

**Line 12** — If your CoC is revoked by a determination issued under ECL section 27-1419, and the determination is final and no longer subject to judicial review, enter the amount of credit claimed in a previous tax year on line 12.

**Line 13** — Enter your share of the recapture of credit from a partnership, New York S corporation or an estate or trust. This information can be obtained from the partnership, New York S corporation, or the estate or trust. If you belong to more than one partnership, New York S corporation or estate or trust, enter the total of all your shares of the recapture of credit on line 13.

**Line 15 Partnerships** — Attach a statement to Form IT-204 indicating the amount of recapture shown on line 15. The partnership must provide this information to its partners.

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