



Instructions for Form CT-611

Claim for Brownfield Redevelopment Tax Credit

CT-611-I

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. 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.

General information

For tax years beginning on or after April 1, 2005, the brownfield redevelopment tax credit is available to taxpayers subject to tax under Tax Law Articles 9 (sections 183, 184, and 185), 9-A, 22, 32, and 33.

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. A person may also qualify if the person has received the COC pursuant to the transfer or sale of a qualified site. (See ECL section 27-1419 for a detailed description of the COC.) For more information about the Brownfield Cleanup Program (BCP), see ECL, Article 27, Title 14, or visit the Department of Environmental Conservation (DEC) Web site at www.dec.state.ny.us.

The brownfield redevelopment tax credit consists of the sum of **three credit components**, computed each tax year, for costs incurred in the remediation or redevelopment of a qualified site:

- the site preparation credit component,
- the tangible property credit component, and
- the on-site groundwater remediation credit component.

See the instructions for Schedules A, B, and C for more information on these components.

The costs eligible for any of these components are those costs paid or incurred by the taxpayer either on or after the effective date of the Brownfield Site Cleanup Agreement executed by the taxpayer and the DEC or on or after the COC was transferred to the taxpayer.

You must reduce the costs used to compute any of the credit components by any amount of federal, state, or municipal grants you received and used for payment of qualified costs, unless you included those grants in your federal taxable income or federal adjusted gross income.

The brownfield redevelopment tax credit is calculated by applying a percentage of the costs that qualify with respect to each credit component. The amount of the credit increases if at least 50% of the qualified site is located in an environmental zone (EN-Zone), as designated by the Commissioner of Economic Development, or if the site is remediated to the highest environmental standard track (track 1, see ECL section 27-1415).

The amount of credit allowed cannot reduce the tax due to less than the minimum tax due under Article 9 (sections 183 and 185), 32, or 33 or the greater of the tax on the minimum taxable income base or the fixed dollar minimum under Article 9-A.

Under Article 9, the credit must first be deducted from the tax imposed by section 183. Any credit remaining may then be deducted from the tax imposed by section 184.

The credit is **not** allowed against the metropolitan transportation business tax (MTA surcharge) under Article 9, 9-A, 32, or 33.

Any unused amount of credit in the current tax year will be treated as a refund or an overpayment of tax to be credited to next year's tax. Interest will not be paid on the refund or overpayment.

If the COC is revoked, you must recapture the amount of credit previously allowed in the tax year in which the determination is final. Also, if qualified property ceases to be in qualified use prior to the end of its useful life, compute a recapture of the credit on Schedule D, *Recapture of credit taken in previous tax years*.

Definitions

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

Site preparation costs are all costs properly chargeable to a capital account that are paid or incurred to:

- prepare a site to qualify for a COC; or
- prepare a site for the erection of a building or a component of a building; or
- establish a site as usable for its industrial, commercial (including the commercial development of residential housing), recreational, or conservation purposes.

Qualified tangible property is property that meets all of the conditions under **either** A or B below.

A. The property

- is depreciable under IRC section 167;
- has a useful life of four years or more;
- is acquired by purchase under IRC section 179(d);
- is located on a qualified site in this state; and
- is principally used by the taxpayer for industrial, commercial, recreational, or environmental conservation purposes (including the commercial development of residential housing).

B. Or, the property

- is, or when occupied becomes, part of a dwelling whose primary ownership structure is covered under Real Property Law Article 9-B, or meets the requirement of IRC section 216(b)(1);
- is acquired by purchase under IRC section 179(d); and
- is located on a qualified site in this state.

For purposes of this credit, property qualifying under B is deemed to be qualified tangible property and is deemed to have been placed in service when a certificate of occupancy is issued for the property.

Note: Property used to qualify for this credit may not be used as qualifying property for the investment tax credit (ITC) or the empire zone investment tax credit (EZ-ITC).

Principally used means more than 50%.

Life or useful life (of property) means the depreciable life provided by Internal Revenue Code (IRC) section 167 or 168.

Cost or other basis means the basis of the property as determined for federal income tax purposes.

On-site groundwater remediation costs include all amounts properly chargeable to a capital account that are paid or incurred in connection with a site's qualification for a COC, the remediation of on-site groundwater contamination, and the implementation of a requirement of the remedial work plan for a qualified site imposed under ECL.

An *environmental zone (EN-Zone)* is an area designated by the Commissioner of Economic Development. An EN-Zone is a census tract and block-numbering area that, as of the year 2000 census, has a poverty rate of at least 20% and an unemployment rate of at least 1.25 times the statewide rate, or that has a poverty rate at least two times the poverty rate for the county in which the area is located. However, if you qualify because the site has a poverty rate that is at least twice the poverty rate for the county, the qualified site must be the subject of a BCA executed prior to September 1, 2010. To find out if a site is located in an EN-Zone, visit the Empire State Development Web site at www.nylovesbiz.com or call 1 800 782-8369.

Line instructions

Schedule A — Site preparation credit component

The site preparation credit component for site preparation costs which were paid or incurred to prepare a site to qualify for the COC is allowed for the tax year in which the effective date the COC occurs.

The site preparation credit component for all other qualifying site preparation costs is allowed for the tax year in which the improvement to which the costs apply is placed in service. The site preparation credit component is allowed for up to five tax years after the COC has been issued.

The site preparation credit component includes the site preparation costs, properly charged to a capital account, paid or incurred by the taxpayer with respect to the qualified site.

Site preparation costs include, but are not limited to, the costs of the following:

- excavation
- temporary electric wiring
- scaffolding
- demolition
- fencing and security facilities

Site preparation costs **do not** include the cost of acquiring the site or the amounts included in the cost or other basis for federal income tax purposes for qualified tangible property and costs that are included in the groundwater remediation credit component.

Site preparation costs paid or incurred by the taxpayer with respect to a qualified site only include costs paid or incurred on or after the execution date of the BCA. Costs paid or incurred on or after the execution date of the BCA and up to the date in which the COC is issued are allowed in the tax year in which the COC is issued. However, if the date the COC was issued occurred in a tax year that began prior to April 1, 2005, the date of issuance of the COC is treated as if the date occurred in the first tax year beginning on or after April 1, 2005.

Columns A, B, and C — Describe site preparation costs paid or incurred during the tax year. List costs separately and in detail. Attach additional sheets if necessary. If the tax year is the tax year in which the effective date of the COC occurs (or is treated as having occurred), enter all costs paid or incurred to prepare the site to qualify for the COC.

Corporate partners: Describe your allocable share of the costs passed through from the partnership. Enter in the *Partnership information* area on page 2 of Form CT-611 the name and identifying number for each partnership that passed the credit component through to you.

| Percentage table (for lines 2, 5, and 8) | |
|--|-----|
| Articles 9, 9-A, 32, and 33 filers | 12% |
| Articles 9, 9-A, 32, and 33 filers: for sites at least 50% located in an EN-Zone | 20% |
| Articles 9, 9-A, 32, and 33 filers: for sites remediated to track 1 | 14% |
| Articles 9, 9-A, 32, and 33 filers: for sites at least 50% located in an EN-Zone remediated to track 1 | 22% |
| New York S corporations | 10% |
| New York S corporations: for sites at least 50% located in an EN-Zone | 18% |
| New York S corporations: for sites remediated to track 1 | 12% |
| New York S corporations: for sites at least 50% located in an EN-Zone remediated to track 1 | 20% |

Line 2 — Enter your applicable percentage from the *Percentage table (for lines 2, 5, and 8)* above.

Line 3 — New York S corporations: Transfer this amount to Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*, and provide your shareholders with their pro-rata share of line 3. The shareholder will enter that amount on Form IT-611, *Claim for Brownfield Redevelopment Tax Credit*.

Schedule B — Tangible property credit component

The tangible property credit component is allowed for the tax year in which the property is placed in service on a qualified site. However, if the property was placed in service on a qualified site in a tax year that began prior to April 1, 2005, the property will be treated as if it were placed in service in the first tax year beginning on or after April 1, 2005. The tangible property credit component is allowed for up to 10 years after the COC is issued.

The tangible property credit component includes the cost (or other basis of the property as computed for federal income tax purposes) of qualified tangible property. However, with respect to qualified tangible property as described under paragraph B on page 1 (see definition of *qualified tangible property*), the qualified tangible property credit component only includes costs incurred on or after July 26, 2006.

Qualified tangible property costs paid or incurred by the taxpayer with respect to a qualified site only includes costs paid or incurred on or after the execution date of the BCA.

Costs may include those incurred for leased property if the lessee was not the party legally responsible for the disposal of hazardous waste or the discharge of petroleum at the qualified site or if the lessee is legally responsible, but only because the lessee operated the site after the disposal of the hazardous waste or the discharge of petroleum. To qualify, the lessor must request and receive certification for the lessee from the Commissioner of Environmental Conservation.

If the property ceases to be in qualified use, you may have to recapture the credit (see Schedule D, *Recapture of credit taken in previous tax years*).

Column A — Describe qualified property placed in service during the tax year. List individual items of machinery and equipment separately and in detail. Attach additional sheets if necessary.

Corporate partners include your allocable share of the qualified property. Enter in the *Partnership information* area on page 2 of Form CT-611 the name and identifying number for each partnership that passed the credit component through to you.

Column D — Enter the useful life of each item claimed. See the definition of life or useful life on page 2. **Do not** use the recovery period for depreciation under the accelerated cost recovery system (ACRS) or the modified accelerated cost recovery system (MACRS).

Line 5 — Enter your applicable percentage rate from the *Percentage table (for lines 2, 5, and 8)* on page 2.

Line 6 — New York S corporations: Transfer this amount to Form CT-34-SH and provide your shareholders with their pro-rata share of line 6. The shareholder will enter that amount on Form IT-611.

Schedule C — On-site groundwater remediation credit component

For the tax year in which the effective date of the COC occurs, the on-site groundwater credit component is allowed for costs incurred **and** paid prior to the issuance of the COC.

For up to five tax years after the COC was issued, the on-site groundwater remediation component is allowed in the tax year the qualified costs were both incurred **and** paid.

The on-site groundwater remediation credit component includes all costs properly charged to a capital account that are paid or incurred in connection with:

- a site's qualification for a COC;
- the remediation of on-site groundwater contamination; and
- the implementation of a requirement in the remedial work plan.

On-site groundwater remediation costs paid or incurred by the taxpayer with respect to a qualified site only include costs paid or incurred on or after the execution date of the BCA. Costs incurred **and** paid on or after the execution date of the BCA and up to the date on which the COC is issued are allowed in the tax year the COC is issued. However, if the date the COC was issued occurred in a tax year that began prior to April 1, 2005, the date of issuance of the COC is treated as if the date occurred in the first tax year beginning on or after April 1, 2005.

Costs **do not** include those amounts that were included in the site preparation component or the tangible property component.

Columns A, B, and C — Describe on-site groundwater remediation costs paid or incurred during the tax year. List costs separately and in detail. Attach additional sheets if necessary. If this is the tax year in which the effective date of the COC occurs (or is treated as having occurred), enter all on-site groundwater costs incurred and paid to prepare the site to qualify for the COC.

Corporate partners: Describe your allocable share of the costs. Enter in the *Partnership information* area on page 2

of Form CT-611 the name and identifying number for each partnership that passed the credit component through to you.

Line 8 — Enter your applicable percentage rate from the *Percentage table (for lines 2, 5, and 8)* on page 2.

Line 9 — New York S corporations: Transfer this amount to Form CT-34-SH and provide your shareholders with their pro-rata share of line 9. The shareholder will enter that amount on Form IT-611.

Schedule D — Recapture of credit taken in previous tax years

Recapture of tangible property that ceases to be in qualified use

If the tangible property that was used as the basis of this credit ceases to be in qualified use prior to the end of its useful life, you must add back the difference between the original credit allowed and the credit allowed for actual use to the tax otherwise due in the year the tangible property ceases to be in qualified use.

Tax Law section 21 provides different formulas for computing the amount of recaptured credit for property depreciated under IRC sections 167 and 168 (see below).

- For property depreciated solely under IRC section 167, the formula is:

$$\frac{\text{months of useful life minus months of qualified use}}{\text{months of useful life}} \times \text{tangible property credit component previously allowed}$$

- For three-year property depreciated under IRC section 168, the formula is:

$$\frac{36 \text{ minus the number of months of qualified use}}{36} \times \text{tangible property credit component previously allowed}$$

Recapture the credit only if the property ceases to be in qualified use prior to the end of 36 months.

- For property depreciated under IRC section 168, other than three-year property or buildings or structural components of buildings, the formula is:

$$\frac{60 \text{ minus the number of months of qualified use}}{60} \times \text{tangible property credit component previously allowed}$$

Recapture the credit only if the property ceases to be in qualified use prior to the end of 60 months.

- For a building or structural component of a building that is depreciated under IRC section 168, the formula is:

$$\frac{\text{number of months allowed by the IRC and used by the taxpayer minus the months of qualified use}}{\text{number of months allowed by the IRC and used by the taxpayer}} \times \text{tangible property credit component previously allowed}$$

If qualified property has a useful life of more than 12 years and has been in qualified use for more than 12 consecutive years, recapture is not necessary.

Recapture if COC is revoked

If your COC is revoked by the DEC, the amount of all brownfield credits previously allowed under Tax Law section 21 must be added back to your tax in the tax year in which the determination is final and no longer subject to judicial review.

Line 12 — New York S corporations: Transfer this amount to the applicable line of Form CT-34-SH.

Credit summary (New York S corporations do not complete this section)

Line 18 — New York C corporations: If the amount on line 16 is greater than the amount on line 17, subtract line 17 from line 16. This is the amount of your credit. If the amount on line 17 is greater than the amount on line 16, you have a net recapture amount; subtract line 16 from line 17. Transfer the result as a negative number with a minus sign (-) to the appropriate box of the tax credits section of your franchise tax return.

Computation of brownfield redevelopment tax credit used, refunded, or credited as an overpayment in the next tax year (New York S corporations do not complete this section)

Lines 19 and 22 entries table

| If you filed | Enter on line 19 the amount from | Enter on line 22 the minimum tax below |
|-------------------------|--|---|
| Forms CT-183 and CT-184 | Line 4 of Form CT-183 plus the amount from line 3 or 4 of Form CT-184 | 75 |
| Form CT-185 | Line 6 | 10 |
| Form CT-3 | Line 78 | Line 81 amount |
| Form CT-3-A | Line 77 | Line 80 amount |
| Form CT-32 | Line 5 | 250 |
| Form CT-32-A | Line 5 | 250 |
| Form CT-33 | Line 11 | 250 |
| Form CT-33-A | Line 15 | The result of adding line 4 and line 12 |
| Form CT-33-NL | Line 5 | 250 |

Line 19 — Enter your tax due before credits using the *Lines 19 and 22 entries table* above.

Line 20 — If you are claiming more than one tax credit for this year, enter the total amount of credits claimed before applying this credit. Include any amount of brownfield redevelopment tax credit being claimed on another Form CT-611 that you

wish to apply before the credit being claimed on this form. Otherwise, enter **0**. You must apply certain credits before the brownfield redevelopment tax credit. Refer to the instructions for your franchise tax return to determine the order of credits that applies.

Article 9-A filers: Refer to Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*, for the order of credits.

If you are included in a combined return, include any amount of tax credit(s) being claimed by other members of the combined group, including the brownfield redevelopment tax credit, that you wish to apply before your brownfield redevelopment tax credit.

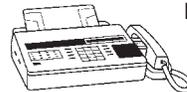
Life insurance corporations: Do not enter on this line any amount of empire zone (EZ) wage tax credit, zone equivalent area (ZEA) wage tax credit, or EZ capital tax credit you may be claiming. If you are included in a combined return, do not include any amount of these credits being claimed by other members of the combined group.

Line 22 — Enter your minimum tax using the *Lines 19 and 22 entries table* above.

Need help?



Internet access: www.nystax.gov
(for information, forms, and publications)



Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676



Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.
To order forms and publications: 1 800 462-8100
Corporation Tax Information Center: 1 888 698-2908
From areas outside the U.S. and Canada: (518) 485-6800



Hotline for the hearing and speech impaired: If you have access to a telecommunications device for the deaf (TDD), contact us at 1 800 634-2110. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.