



Instructions for Form CT-613

Claim for Environmental Remediation Insurance Credit

CT-613-I

Temporary deferral of certain tax credits

For tax years beginning on or after January 1, 2010, and before January 1, 2013, if the total amount of certain credits that you may use to reduce your tax or have refunded to you is greater than \$2 million, the excess over \$2 million must be deferred to, and used or refunded in, tax years beginning on or after January 1, 2013. For more information about the credit deferral, see Form CT-500, *Corporation Tax Credit Deferral*.

If you are subject to the credit deferral, you must complete all credit forms without regard to the deferral. However, the credit amount that is transferred to your tax return to be applied against your tax due or to be refunded to you may be reduced. Follow the instructions for Form CT-500 to determine the amounts to enter on your tax return.

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.

The environmental remediation insurance 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. 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 (BCP), visit the Department of Environmental Conservation (DEC) Web site at www.dec.ny.gov.

The amount of the credit is the lesser of:

- 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, or
- \$30,000.

A relocated vendor track may not receive more than \$25 million in brownfield tax credits (including the brownfield redevelopment tax credit, remediated brownfield credit for real property taxes, and environmental remediation insurance credit) and other benefits of the brownfield program.

The credit is allowed for the tax year in which the COC is issued. Complete a separate Form CT-613 for each COC for which credit is being claimed.

Note: If the COC is issued in a tax year that began prior to April 1, 2005, the issue date of the COC is treated as if that date occurred in the taxpayer's first tax year beginning on or after April 1, 2005.

The credit is allowed only once with the particular COC, and the credit is not allowed for a qualified site for which a COC is issued after March 31, 2015.

If the COC is revoked, the amount of the credit previously allowed must be recaptured in the tax year in which the determination is final. Complete a separate Form CT-613 for each COC for which recapture is required.

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.

Note: If you deducted insurance premiums paid for environmental remediation insurance to compute federal taxable income, you must add back the amount of premiums deducted to the extent of credit taken on your franchise tax return when computing entire net income.

Definitions

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

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

Eligible premiums are insurance premiums paid for environmental remediation insurance.

Environmental remediation insurance, as described in Insurance Law section 3447, must be written pursuant to the provisions of section 1113(a)(13) (personal injury liability insurance) or section 1113(a)(14) (property damage liability insurance). 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 reopeners 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

Line instructions

Line A – If you are claiming a credit passed through to you from a partnership, mark an **X** in the box.

Brownfield site identifying information

All taxpayers must **attach a copy** of the COC and the certification form for the environmental remediation insurance tax credit completed by the insurer.

Complete the brownfield site identifying information relating to the qualified site from the COC issued by the DEC. Partners, shareholders, and beneficiaries should obtain this information, as well as copies of the COC and insurance certification form, from their partnership, New York S corporation, estate or trust.

Failure to provide accurate identifying information may delay processing or result in denial of your claim.

New York S corporations: Complete only lines 1 through 6.

New York C corporations: Complete lines 1 through 16, as applicable.

Line 4 – If you are a corporate partner receiving an environmental remediation insurance credit from a partnership, include on line 4 your share of the credit passed through to you from the partnership(s). Enter in the *Partnership information* area on Form CT-613 the name, identifying number, and credit amount for each partnership that passed the credit through to you. Attach additional sheet(s) as necessary.

Lines 5 and 6 – New York S corporations: Transfer the amount on line 5 and the amount on line 6 to the applicable lines of Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*.

Line 6 – 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, you must recapture all environmental remediation insurance credit previously allowed. Enter the amount of credit previously allowed. Include any amount of recapture from a flow-through entity.

Line 7 – New York C corporations: If the amount on line 5 is greater than the amount on line 6, subtract line 6 from line 5. This is your credit available for use.

If the amount on line 6 is greater than the amount on line 5, you have a net recapture amount; subtract line 5 from line 6. Enter the result as a negative number with a minus sign (-), and transfer the negative number to the appropriate box in the tax credits section of your franchise tax return.

If line 7 is a net recapture, do not complete the rest of this form.

Lines 8 and 11 entries table

| If you filed | Enter on line 8 any net recapture of other tax credits plus the amount from | Enter on line 11 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 | Line 4 plus line 12 |
| Form CT-33-NL | Line 5 | 250 |

Line 8 – Enter your tax before credits using the *Lines 8 and 11 entries table*.

Line 9 – If you are claiming more than one tax credit for this tax year, enter the amount of credits claimed before applying this credit. Include any amount of environmental remediation insurance credit being claimed on another Form CT-613 that you wish to apply before the credit being claimed on this form. If you are not claiming other credits, enter **0**.

Note: You must apply certain credits before the environmental remediation insurance credit. See 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 environmental remediation insurance credit, that you wish to apply before your environmental remediation insurance credit.

CT-33 and CT-33-A filers, including unauthorized 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 11 – Enter your minimum tax using the *Lines 8 and 11 entries table*.

Lines 13, 15, and 16 – On line 13, enter the lesser of line 7 or line 12.

If your total credits from all sources are **\$2 million or less**, enter the amounts from lines 13, 15, and 16 on your franchise tax return.

If your total credits from all sources are **more than \$2 million**, you may be subject to the temporary credit deferral. Complete lines 13, 15, and 16 but do not enter the amounts from lines 13, 15, and 16 on your franchise tax return. See Form CT-500 to determine the proper amounts to enter on your franchise tax return.

Need help? and Privacy notification

See Form CT-1, *Supplement to Corporation Tax Instructions*.