

Brownfield Redevelopment Tax Credit Rule Changes by Date of Acceptance into the Brownfield Cleanup Program (BCP)

Brownfield Redevelopment Tax Credit Component	Sites Accepted into BCP prior to 6/23/08	Sites Accepted on or after 6/23/08 but before 7/1/15	Sites Accepted into BCP on or after 7/1/15
Site Preparation Component	<ul style="list-style-type: none"> • Costs paid or incurred to prepare site to qualify for COC allowed in tax year in which COC is issued • For other qualified site prep costs, component allowed for tax year in which improvement to which the costs apply is placed in service • Allowed up to 5 tax years after the COC has been issued • No credit allowed for costs paid or incurred before execution of BCA • Costs include excavation, temporary electric wiring, scaffolding, demolition, fencing and services related to security • Does not include cost of acquiring site or amounts included in basis of tangible property or on-site groundwater remediation components 	<i>No changes</i>	<ul style="list-style-type: none"> • Eligible costs are limited to those necessary to obtain a COC (i.e. those needed for effective cleanup) <ol style="list-style-type: none"> 1. Costs for remediation and disposal of asbestos, lead, or PCBs are added in the site preparation credit component costs 2. Costs for foundations in excess of costs for protective site cover requirements are disallowed for the site preparation component and are instead allowed in the tangible property component • Site preparation includes all costs paid or incurred within 60 months after the last day of the tax year in which the COC is issued
On-Site Groundwater Remediation Component	<ul style="list-style-type: none"> • Costs paid or incurred after execution date of BCA and up to date on which COC is issued are allowed in tax year in which COC issued • For costs paid or incurred in tax years occurring after COC issued, credit is allowed in tax year in which costs are paid or incurred, up to 5 years after COC is issued • 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. • Costs do not include amounts included in site preparation credit component or tangible property credit component 	<i>No changes</i>	<ul style="list-style-type: none"> • Eligible costs are limited to those necessary to obtain a COC, including costs of: <ul style="list-style-type: none"> - environmental consulting; engineering; legal costs; transportation, disposal, treatment or containment of contaminated groundwater; sheeting, shoring, and other engineering controls required to prevent off-site migration of groundwater contamination from the qualified site or migrating onto the qualified site; and the costs of fencing, temporary electric wiring and security facilities until such time as the COC is issued. • On-site groundwater remediation costs include all costs paid or incurred within 60 months after the last day of the tax year in which the COC is issued

Brownfield Redevelopment Tax Credit Rule Changes by Date of Acceptance into the Brownfield Cleanup Program (BCP)

Brownfield Redevelopment Tax Credit Component	Sites Accepted into BCP prior to 6/23/08	Sites Accepted on or after 6/23/08 but before 7/1/15	Sites Accepted into BCP on or after 7/1/15
<p>Tangible Property Component</p>	<ul style="list-style-type: none"> • Is allowed for qualified tangible property in the tax year the qualified tangible property is placed in service on a qualified site • May be claimed for qualified tangible property placed in service for up to 10 years after year COC is issued • No credit is allowed for any costs paid or incurred before the execution of the BCA • Includes the cost of qualified tangible property that includes buildings and structural components of buildings • Taxpayer may transfer benefits/burdens of COC, however: <ul style="list-style-type: none"> ○ The tangible property component does not include costs of acquiring an interest in the site and any amounts included in cost of qualified tangible property already claimed by previous taxpayer • Costs may include those incurred for leased property: <ol style="list-style-type: none"> 1. If lessee was not the party legally responsible for disposal of hazardous waste or the discharge of petroleum at qualified site; or 2. 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 	<ul style="list-style-type: none"> • Component for a qualified site limited to lesser of \$35 million or 3x costs included in the calculation of site preparation and on-site groundwater components. • Qualified sites used primarily for manufacturing activities credit is limited to lesser of \$45 million or 6x the costs included in calculation of site preparation and on-site groundwater components. 	<ul style="list-style-type: none"> • Sites located in NYC must meet one of three standards to be eligible for the TP component: <ol style="list-style-type: none"> 1. At least half the site is located in an En-Zone; 2. The property is upside down (property value is less than cleanup costs) or underutilized; or 3. The project is an affordable housing project • Related party service fees are added to costs allowed, however they are restricted to the TP component and are only allowed in the TY in which the property to which the fee is attributable is placed in service and the fee is actually paid • Other costs for the TP component are limited to: <ol style="list-style-type: none"> 1. Property with a 15 year or longer depreciable life; 2. Demolition, excavation, and foundation costs not included in the SP component; and 3. Costs for non-portable equipment and machinery used exclusively on the site, notwithstanding the depreciable life requirement • To figure appropriate credit base attributable to an affordable housing project where the project may be mixed used, total costs for TP component are multiplied by square footage of affordable housing units dedicated to residential occupancy/total square footage of building • There are three timing changes for tangible property component: <ol style="list-style-type: none"> 1. The tangible property component is only allowed for the tax year in which the property is first placed in service 2. Property placed in service prior to the issuance of a COC by DEC is allowed to generate credit in the tax year in which COC is issued 3. The post-COC window for additional tangible property component is changed to 120 months from date of COC issuance • The calculation of TP component cap, which is a multiple of the amount of SP and GW remediation component costs, is amended to include costs that were expensed at the federal level and thus not part of those component bases • Sites used primarily for activities of QETCs will be subject to lower tangible property component cap unless those companies can themselves qualify as manufacturers • The tangible property component rate for new applicants is up to a maximum of 24 percent