



Department of
Taxation and Finance

Claiming Brownfield Tax Credits

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Brownfield Credit Basics



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3 Key Dates

- Acceptance into BCP
 - Determines program “generation”
- Date BCA is executed
 - Starts the cost clock
- COC issuance
 - Allows credit claim



3 Program Generations

- Generation 1: acceptance into BCP prior to 6/23/08
 - Uncapped redevelopment credit
 - Rates same for cleanup and property components of redevelopment credit

- Generation 2: acceptance into BCP on/after 6/23/08 but before 7/1/15
 - Tangible property component cap
 - \$35m or 3x site prep and groundwater costs
 - \$45m or 6x site prep and groundwater costs for a manufacturing site
 - New rate structure for cleanup components

- Generation 3: acceptance into BCP on/after 7/1/15
 - Credit component costs more explicitly defined
 - NYC site restrictions for tangible property component
 - No real property tax credit or environmental remediation insurance credit

BCA Execution Date

- Costs incurred from this point forward are credit-eligible
- Site prep and groundwater costs preceding the COC are “banked”
 - Allowed as credit in year COC is issued
- Eligible tangible property costs depend on Generation
 - Gen 1 & 2 – if placed in service prior to COC, no credit
 - Gen 3 – pre-COC costs allowed in year COC is issued

COC Issuance

- This marks Tax Department's first involvement in a project
- Taxpayers can file for the credits starting in the tax year in which the COC is issued
- Additional credit periods after the COC
 - Site prep and groundwater costs - 5 years
 - Tangible property costs -10 years

Credit Rates

Rate Structure	Sites Prior to 6/23/08	Sites post-6/23/08	Sites 7/1/15
Tangible Property Component			
Base Rate	10%/12%	10%/12%	10%
Track 1 Remediation	+2%	+2%	+5%
50%+ in En-Zone	+8%	+8%	+5%
Brownfield Opportunity Area		+2%	+5%
Affordable Housing			+5%
Manufacturing			+5%
Site Preparation/On-Site Groundwater Remediation Components			
Unrestricted use	The rates above apply to all 3 components; there are no separate rates for these categories	50%	50%
Residential use		40%	40%
Commercial Use		33%	33%
Industrial use		27%	27%
Residential – Track 4		28%	28%
Commercial – Track 4		25%	25%
Industrial – Track 4		22%	22%



Main Tax Forms

- Credit is claimed when tax returns are filed
 - Applied against liability first with remainder refunded
 - Attach copy of COC

Tax Structure	Sites Prior to 6/23/08	Sites post-6/23/08	Sites 7/1/15
Redevelopment Credit			
C and S corporations	CT-611	CT-611.1	CT-611.2
Corporate partners	CT-611	CT-611.1	CT-611.2
Partnerships	IT-611	IT-611.1	IT-611.2
Individuals	IT-611	IT-611.1	IT-611.2
Partners	IT-611	IT-611.1	IT-611.2
S corp shareholders	IT-611	IT-611.1	IT-611.2
Estates and trusts	IT-611	IT-611.1	IT-611.2

Primary Tax Returns				
C corps: CT-3, CT-3-A, CT-33, CT-33-A, CT-33-NL	S corps: CT-3-S CT-34-SH	Partnerships: IT-204	Individuals: IT-201, IT-203	Estates and trusts: IT-205

Record Keeping



Services

News

Government

Local

Q Search

Location

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Individuals

Businesses

Property Owners

Tax Professionals

Government & Researchers

Log in | Create account

Search Tax



BUSINESSES

Online services



Forms and instructions

Sales tax



Withholding tax

Corporation tax

E-file mandate for businesses



Property taxes and
assessments

Other taxes and reporting
requirements

Recordkeeping: brownfield redevelopment tax credit

When claiming this credit, you must keep the following required documentation for your records:

- Brownfield Cleanup Agreement
- Certificate of Completion
 - If the property or Certificate of Completion was transferred, provide a copy of the purchase agreement and notifications of the transfer to the Department of Environmental Conservation (DEC). Visit DEC at [Initial Notice and Transfer of Certificate of Completion](#).
- Site Management Plan
- Remedial Work Plan
- Certificate of Occupancy, if applicable
- organizational chart that includes entity names, identification numbers, and percentage of ownership
- complete federal Forms 1120 and 1065, including, but not limited to:
 - consolidating spreadsheets, if applicable
 - all federal Forms 4562, *Depreciation and Amortization*, and attachments
 - depreciation schedules and any related supporting schedules
- all invoices, payments, contracts, or other documentation as verification of the costs you claim

Note: We may require additional information based on the specific facts of your credit claim.

Please use our spreadsheet to format your documentation: [standardized initial information request](#).



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Site Management & Remedial Work Plans

- Include only the narrative portion of reports
 - DTF doesn't require test results obtained before, during, or after remediation
- Plans help Audit Division understand the remedial/engineering controls involved with COC issuance

Certificate Of Occupancy

- Placed in service date for condos and cooperative housing projects determined when certificate of occupancy issued
- Gen 3 adds bonus rate for affordable housing
 - Units must be sold as single family homes or multiple family dwellings

Organizational Chart

- Useful when the credit flows through various partnerships/S-corporations/LLCs
- Include partnership agreement for “special allocations”
 - Credit shares are not same as ownership percentages

Copies of Federal and NYS Tax Filings

- Credit-eligible costs must be charged to a capital account for Federal tax purposes
 - Buildings and depreciable assets, other assets, land, land improvements, inventory
- Tangible property costs must be depreciable
- Amount of eligible costs based on Federal basis for depreciation
 - Reported on Federal form 4562 *Depreciation and Amortization*

Source Documentation

- Invoices, payments, and contracts
- DTF uses two different methods of reviewing source documentation
 - Reviewing all documentation which supports costs claimed
 - Selecting a sample of the source documentation
 - Review sample and apply an error percentage to the claim

Steps to Speed the Review Process

- Include as much documentation as you can when filing a credit claim
- Information in an electronic form can be submitted through the DTF secure communication portal

For more information

- <https://www.tax.ny.gov/bus/recordkeeping/brownfield-redevelopment.htm>
- https://www.tax.ny.gov/research/stats/statistics/special_interest_reports/brownfield_credit/brownfield_credit_reports_open_data.htm