Department of Taxation and Finance

Instructions for Form CT-613

Claim for Environmental Remediation Insurance Credit

For Qualified Sites Accepted into the Brownfield Cleanup Program Prior to July 1, 2015

CT-613-I

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 accepted into the Brownfield Cleanup Program (BCP) prior to July 1, 2015.

The environmental remediation insurance credit is available to taxpayers subject to tax under Tax Law Articles 9 (sections 183 and 184), 9-A, 22, 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 BCP, visit the Department of Environmental Conservation (DEC) website 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.

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, 2026.

The credit is not allowed for a qualified site for which a BCA was executed on or after July 1, 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 (section 183), or 33 or the fixed dollar minimum tax 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, 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 calculate federal taxable income, you must add back the amount of premiums deducted to the extent of credit taken on your franchise tax return when calculating 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.

Additional forms: If you have more entries than will fit on the lines provided in the Partnership information schedule, submit additional Forms CT-613, completing only the necessary schedules. Include your name and taxpayer identification number on each form. On the indicated line of the first Form CT-613, include the totals from all additional Forms CT-613. Place the extra forms behind the first Form CT-613 and submit them with your return.

Brownfield site identifying information

All taxpayers must **submit 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.

Calculation of available environmental remediation insurance credit

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). Mark an ***X*** in the box at Line A. 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. If needed, see *Additional Forms*.

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.

Calculation of environmental remediation insurance credit limitation

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-3	Part 2, line 2	Part 2, line 1c
Form CT-3-A	Part 2, line 2	Part 2, line 1c
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.

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

Calculation of environmental remediation insurance credit used, refunded, or credited as an overpayment in the next tax year

Lines 13, 15, and 16 – On line 13, enter the lesser of line 7 or line 12. Transfer the amounts from lines 13, 15, and 16 to your franchise tax return.