



**Department of  
Taxation and Finance**

**Important:**

As a result of recent law changes, the **Site preparation credit component** section of the following TSB-M should read as follows:

The period to claim the site preparation credit component has been extended to seven taxable years after the certificate of completion was issued for qualified sites issued a certificate of completion on or after July 1, 2015, but on or before June 24, 2021.

[See Subpart B of Part J of Chapter 59 of the Laws of 2023]

**The TSB-M begins on page 2 below**



## Amendments to the Brownfield Redevelopment Tax Credit

The brownfield redevelopment tax credit is now allowed for sites accepted into the Brownfield Cleanup Program prior to January 1, 2033, if they receive a certificate of completion prior to January 1, 2037. Additional extensions and amendments to individual credit components were also made.<sup>1</sup>

### Site preparation credit component

The period to claim the site preparation credit component has been extended to seven taxable years after the certificate of completion was issued for qualified sites issued a certificate of completion on or after July 1, 2015, but on or before June 24, 2021. Site preparation costs for a site issued a notice of acceptance on or after July 1, 2015, but on or before June 24, 2021, can include all costs paid or incurred within 84 months after the last day of the tax year in which the certificate of completion is issued.

Therefore, only sites that are **both** accepted into the Brownfield Cleanup Program **and** that received a certificate of completion within the exception period (on or after July 1, 2015, but prior to June 25, 2021) can include costs paid or incurred within 84 months after the last day of the tax year which the certificate of completion is issued and claim credit for seven taxable years after the issuance of a certificate of completion.

### On-site groundwater remediation credit component

The period to claim the on-site groundwater remediation credit component has been extended to seven taxable years after the certificate of completion was issued for qualified sites issued a certificate of completion on or after July 1, 2015, but on or before June 24, 2021.

### Tangible property credit component

The period to claim the tangible property credit component has been extended to 180 months after the certificate of completion was issued for qualified sites issued a certificate of completion on or after March 20, 2010, but before December 31, 2015.

Starting with taxable year 2022, for sites complying with track one remediation standards, *athletic facilities* and their components will be considered buildings and structural components under the Internal Revenue Code for the purposes of this credit.

<sup>1</sup> Chapter 58 of the Laws of 2022, Part LL

*Athletic facilities* include stadiums, baseball parks, basketball courts, and other athletic facilities. Their components include sports field turf, site lighting, sidewalks, access and entry ways, and other improvements added to land.

Generally, the tangible property credit component is claimed at the time the property is placed in service. In the case of eligible affordable housing projects, condominiums, and cooperative housing corporations, tangible property is considered placed in service when a certificate of occupancy (CO) is issued which can be a CO other than the final CO. However, the costs used when calculating the credit:

- may only be claimed once (placed property in service once),
- cannot include costs for repairs, replacements, and improvements to property previously placed in service, and
- may not include costs incurred after the issuance of the final CO.

Note that the credit must be claimed in the year that the CO is issued, or the year the certificate of completion is issued, whichever is later. This rule is applicable to all taxpayers regardless of their chosen method of accounting.

### **New and amended tangible property component project categories**

New enhanced credit project categories have been added for sites accepted into the Brownfield Cleanup Program on or after January 1, 2023, that have submitted sufficient information to demonstrate their eligibility. Each project category permits a 5% increase to the credit component rate, not to exceed a combined credit component rate of 24%. For sites located in a city having a population of one million or more, the redevelopment use limits for tangible property credit eligibility have been expanded to include these additional project categories. The new categories, as defined in Environmental Conservation Law § 27-1405, are:

- *Disadvantaged community*, and
- *Renewable energy facility*.

In addition, for sites located in a city having a population of one million or more that have submitted sufficient information to demonstrate their eligibility, two existing project categories have been amended:

- Sites located in a designated eligible brownfield opportunity area must meet the conformance determinations pursuant to General Municipal Law § 970-r(10).
- The Department of Environmental Conservation's definition of affordable housing now includes a project situated on a brownfield site that demonstrates it will qualify for benefits or be eligible under an affordable housing program. A project must provide a certificate of compliance or other

evidence of eligibility issued by a federal, state, or local government affordable housing agency to qualify for the 5% affordable housing rate bonus.

**Note:** A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.