

Brownfield Redevelopment Credit Beginning Calendar Year 2005

Overview

General Description

The goal of the Brownfield Cleanup Program (BCP) is to enhance private-sector cleanups of brownfields and to reduce development pressure on "greenfields". A brownfield site is real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant. Contaminants include hazardous waste and/or petroleum. A taxpayer who has entered into a Brownfield Cleanup Agreement (BCA) with DEC may be eligible for tax credits relating to the cleanup and redevelopment of a brownfield site.

The Department of Taxation and Finance annually produces a mandated report of taxpayers claiming brownfield credits to help analyze the effects of the Brownfield Cleanup Program, which is administered by the Department of Environmental Conservation.

Chapter 390 of the Laws of 2008 created Section 171-r of the Tax Law that requires the Tax Department to produce a *Brownfield Credit Report* by January 31st of each year. Additionally, Part BB of Chapter 56 of the Laws of 2015 amends Section 171-r to require the Tax Department to produce a supplemental *Brownfield Credit Report* by January 31, 2016 containing the credits claimed for the years 2005, 2006, and 2007. The mandates require the Department to include the name of each taxpayer claiming the brownfield redevelopment tax credit, the remediated brownfield credit for real property taxes, or the environmental remediation credit, the amount of credit earned, and information identifying the brownfield project generating the credit. The Tax Department is also authorized to include any other information that it deems useful in analyzing the effects of the program. In cases where a project is undertaken by a flow-through entity, data for the partnership, LLC, or S corporation is reported instead of data for individual partners, members, or shareholders.

Data Collection Methodology

The annual dataset includes taxpayer-specific data from all brownfield redevelopment credit claims filed with the New York State Department of Taxation and Finance in the preceding calendar year. Typically, taxpayers file a return for a given tax year in the subsequent calendar year. However, taxpayers may choose to extend their filing due date, which in some instances has leads to brownfield claims for a tax year being filed two calendar years later.

Credit claims are extracted directly from the Tax Department's processing system. To the extent possible, programming utilizes data from the return to screen out flow-through credit recipients. Remaining results are reviewed by analysts to ensure that only data for the credit-earning entity are included in the report.

Statistical and Analytic Issues

Taxpayers may file an amended claim in a year subsequent to the year in which the initial claim was reported. This report replaces the initial data with the amended values.

Limitations of Data Use

Data for the report come directly from returns filed in the previous calendar year. Therefore, several caveats are in order:

1. The data appear exactly as reported by the taxpayer. No validations or error corrections were performed by the Department.
2. Likewise, the information represents the taxpayer's position on the return as filed and does not reflect any adjustments made either during return processing or in the course of an audit.
3. Reporting is limited to the entity earning credit as determined by the credit forms filed with the tax return.
4. The actual amount of credit claimed during the period covered by this report may exceed what is reported here. This can occur if recipients of credit from pass-through entities file returns claiming credit, but the entity has not yet filed a return.
5. Amounts do not necessarily represent finished projects. Some of these projects may be works-in-progress. The clean-up components are available for 5 years and the property component is available for 10 years.
6. In the 2010, 2011, and 2012 tax years, taxpayers are required to defer amounts of credits used and refunded that in the aggregate exceed \$2 million. Excess brownfield credits deferred will be available as follows: 50% of total deferred allowed in 2013; 75% of remaining credit allowed in 2014; all remaining credit allowed in 2015. Data in the report are amounts computed prior to deferral.
7. No brownfield redevelopment credit submissions were received for calendar years 2005 and 2006.