

STATE OF NEW YORK

8930

IN SENATE

January 16, 2026

Introduced by Sen. COONEY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to the brownfield redevelopment tax credit

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph 2 of subdivision (b) of section 21 of the tax
2 law, as amended by section 1 of subpart B of part J of chapter 59 of the
3 laws of 2023, is amended to read as follows:

4 (2) Site preparation costs. The term "site preparation costs" shall
5 mean all amounts properly chargeable to a capital account, which are
6 paid or incurred which are necessary to implement a site's investi-
7 gation, remediation, or qualification for a certificate of completion,
8 and shall include costs of: excavation; demolition; activities undertak-
9 en under the oversight of the department of labor or in accordance with
10 standards established by the department of health to remediate and
11 dispose of regulated materials including asbestos, lead or polychlori-
12 nated biphenyls; environmental consulting; engineering; legal costs;
13 transportation, disposal, treatment or containment of contaminated soil;
14 remediation measures taken to address contaminated soil vapor; cover
15 systems consistent with applicable regulations; physical support of
16 excavation; dewatering and other work to facilitate or enable remedi-
17 ation activities; sheeting, shoring, and other engineering controls
18 required to prevent off-site migration of contamination from the quali-
19 fied site or migrating onto the qualified site; and the costs of fenc-
20 ing, temporary electric wiring, scaffolding, and security facilities
21 until such time as the certificate of completion has been issued. Site
22 preparation shall include all costs paid or incurred within sixty months
23 after the last day of the tax year in which the certificate of
24 completion is issued that are necessary for compliance with the certif-
25 icate of completion or subsequent modifications thereof, or the remedial
26 program defined in such certificate of completion including but not
27 limited to institutional controls, engineering controls, an approved

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 site management plan, and an environmental easement with respect to the
2 qualified site; provided, however, with respect to any qualified site
3 for which a certificate of completion was issued on or after July first,
4 two thousand fifteen but on or before June twenty-fourth, two thousand
5 twenty-one, site preparation shall include all costs paid or incurred
6 within eighty-four months after the last day of the tax year in which
7 the certificate of completion is issued that are necessary for compli-
8 ance with the certificate of completion or subsequent modifications
9 thereof, or the remedial program defined in such certificate of
10 completion including but not limited to institutional controls, engi-
11 neering controls, an approved site management plan, and an environmental
12 easement with respect to the qualified site, provided, however, with
13 respect to any qualified site located in cities with a population great-
14 er than [~~two hundred five thousand~~] one hundred seventy-five thousand
15 and less than two hundred fifteen thousand in counties with a population
16 greater than [~~one million~~] seven hundred thousand but less than one
17 million ten thousand based on the latest federal decennial census for
18 which the department of environmental conservation has issued a certif-
19 icate of completion to the taxpayer on or after January first, two thou-
20 sand seventeen and before December thirty-first, two thousand seventeen,
21 this credit component shall be allowed for up to one hundred eighty
22 months after the date of the issuance of such certificate of completion.
23 Site preparation cost shall not include the costs of foundation systems
24 that exceed the cover system requirements in the regulations applicable
25 to the qualified site.

26 § 2. Subparagraph (i) of paragraph 3 of subdivision (a) of section 21
27 of the tax law, as amended by section 2 of subpart B of part J of chap-
28 ter 59 of the laws of 2023, is amended to read as follows:

29 (i) The tangible property credit component shall be equal to the
30 applicable percentage of the cost or other basis for federal income tax
31 purposes of tangible personal property and other tangible property,
32 including buildings and structural components of buildings, which
33 constitute qualified tangible property and may include any related party
34 service fee paid; provided that in determining the cost or other basis
35 of such property, the taxpayer shall exclude the acquisition cost of any
36 item of property with respect to which a credit under this section was
37 allowable to another taxpayer; and provided further that for the
38 purposes of this section, starting with taxable year two thousand twen-
39 ty-two, on sites that comply with the track one remediation standards
40 promulgated pursuant to subdivision four of section 27-1415 of the envi-
41 ronmental conservation law, stadiums, baseball parks, basketball courts
42 and other athletic facilities shall be considered buildings, and that
43 components of stadiums, baseball parks, basketball courts, and other
44 athletic facilities constructed on such sites, including sports field
45 turf, site lighting, sidewalks, access and entry ways, and other
46 improvements added to land, shall be considered structural components of
47 buildings under the internal revenue code, and shall be included in the
48 definition of tangible property for the purposes of this section. A
49 related party service fee shall be allowed only in the calculation of
50 the tangible property credit component and shall not be allowed in the
51 calculation of the site preparation credit component or the on-site
52 groundwater remediation credit component. The portion of the tangible
53 property credit component which is attributable to related party service
54 fees shall be allowed only as follows: (A) in the taxable year in which
55 the qualified tangible property described in subparagraph (iii) of this
56 paragraph is placed in service, for that portion of the related party

1 service fees which have been earned and actually paid to the related
2 party on or before the last day of such taxable year; and (B) with
3 respect to any other taxable year for which the tangible property credit
4 component may be claimed under this subparagraph and in which the amount
5 of any additional related party service fees are actually paid by the
6 taxpayer to the related party, the tangible property credit component
7 for such amount shall be allowed in such taxable year. The credit compo-
8 nent amount so determined shall be allowed for the taxable year in which
9 such qualified tangible property is first placed in service on a quali-
10 fied site with respect to which a certificate of completion has been
11 issued to the taxpayer, or for the taxable year in which the certificate
12 of completion is issued if the qualified tangible property is placed in
13 service prior to the issuance of the certificate of completion. This
14 credit component shall only be allowed for up to one hundred twenty
15 months after the date of the issuance of such certificate of completion,
16 provided, however, that for qualified sites to which a certificate of
17 completion is issued on or after March twentieth, two thousand ten, but
18 prior to January first, two thousand twelve, the commissioner may extend
19 the credit component for up to one hundred forty-four months after the
20 date of such issuance, if the commissioner, in consultation with the
21 commissioner of environmental conservation, determines that the require-
22 ments for the credit would have been met if not for the restrictions
23 related to the state disaster emergency declared pursuant to executive
24 order 202 of 2020 or any extension thereof or subsequent executive order
25 issued in response to the novel coronavirus (COVID-19) pandemic;
26 provided, however, with respect to any qualified site for which the
27 department of environmental conservation has issued a certificate of
28 completion to the taxpayer on or after March twentieth, two thousand ten
29 and before December thirty-first, two thousand fifteen, this credit
30 component shall be allowed for up to one hundred eighty months after the
31 date of the issuance of such certificate of completion; and provided
32 further, with respect to any qualified site located in cities with a
33 population greater than [~~two hundred five thousand~~] one hundred seven-
34 ty-five thousand and less than two hundred fifteen thousand in counties
35 with a population greater than [~~one million~~] seven hundred thousand but
36 less than one million ten thousand based on the latest federal decennial
37 census for which the department of environmental conservation has issued
38 a certificate of completion to the taxpayer on or after January first,
39 two thousand seventeen and before December thirty-first, two thousand
40 seventeen, this credit component shall be allowed for up to one hundred
41 eighty months after the date of the issuance of such certificate of
42 completion.

43 § 3. Paragraph 2 of subdivision (a) of section 21 of the tax law, as
44 amended by section 3 of subpart B of part J of chapter 59 of the laws of
45 2023, is amended to read as follows:

46 (2) Site preparation credit component. The site preparation credit
47 component shall be equal to the applicable percentage of the site prepa-
48 ration costs paid or incurred by the taxpayer with respect to a quali-
49 fied site. The credit component amount so determined with respect to a
50 site's qualification for a certificate of completion shall be allowed
51 for the taxable year in which the effective date of the certificate of
52 completion occurs. The credit component amount determined other than
53 with respect to such qualification shall be allowed for the taxable year
54 in which the improvement to which the applicable costs apply is placed
55 in service for up to five taxable years after the issuance of such
56 certificate of completion; provided, however, that for any qualified

1 site to which a certificate of completion is issued on or after July
2 first, two thousand fifteen but on or before June twenty-fourth, two
3 thousand twenty-one, the site preparation credit component for such
4 costs shall be allowed for up to seven taxable years after the issuance
5 of such certificate of completion; and provided further, however, that
6 for any qualified site located in cities with a population greater than
7 [~~two hundred five thousand~~] one hundred seventy-five thousand and less
8 than two hundred fifteen thousand in counties with a population greater
9 than [~~one million~~] seven hundred thousand but less than one million ten
10 thousand based on the latest federal decennial census for which the
11 department of environmental conservation has issued a certificate of
12 completion to the taxpayer on or after January first, two thousand
13 seventeen and before December thirty-first, two thousand seventeen, the
14 site preparation credit component for such costs shall be allowed for up
15 to fifteen taxable years after the issuance of such certificate of
16 completion.

17 § 4. This act shall take effect immediately.