

A Colorado income tax credit is allowed to property owners who receive a credit certificate from the Colorado Department of Public Health and Environment (“CDPHE”) for the approved remediation of their property in Colorado. The credit is based on the amount expended by the property owner for the approved remediation and is subject to certain limits. Property owners may elect to transfer all or part of the credit to another taxpayer.

This publication is designed to provide general guidance regarding the remediation of contaminated land credit and to supplement guidance provided in the [Colorado Individual Income Tax Guide](#) and [Colorado Corporate Income Tax Guide](#). Nothing in this publication modifies or is intended to modify the requirements of Colorado’s statutes and regulations. Taxpayers are encouraged to consult their tax advisors for guidance regarding specific situations.

## Qualifying property owners

The credit is allowed to property owners who incur costs for the approved environmental remediation of their contaminated land in Colorado. The property owner must be either a taxpayer or a qualified entity, as described below.

## Qualifying taxpayers

Taxpayers that can claim the credit include individuals, estates, trusts, and C corporations. In the case of a partnership or S corporation, the credit is allowed to its partners or shareholders.

## Qualified entities

Qualified entities cannot claim the credit themselves but can transfer credits they are allowed to a taxpayer for the taxpayer to claim. All of the following governmental and tax-exempt entities are qualified entities:

- cities, towns, and counties;
- school districts and charter schools;
- special districts;
- public improvement districts authorized by Article 20 of Title 30 or Article 25 of Title 31, C.R.S.;
- water conservation and irrigation districts authorized by Articles 41 to 50 of Title 37;
- state institutions of higher education;
- quasi-governmental entities;
- municipal, quasi-municipal, or public corporations organized pursuant to law; and
- private nonprofit entities that are exempt from the Colorado income tax.

## Credit certification

Property owners must apply to the CDPHE for a tax credit certificate. No credit is allowed to any property owner that has not received a credit certificate from CDPHE. Information about the CDPHE certification process can be found online at [CDPHE.Colorado.gov/hm/brownfields](https://CDPHE.Colorado.gov/hm/brownfields) and [CDPHE.Colorado.gov/hm/co-brnflds-tax-credit-notif-reqs](https://CDPHE.Colorado.gov/hm/co-brnflds-tax-credit-notif-reqs).



## Credit calculation

The credit is based on the amount expended by the property owner for the approved remediation and is subject to certain limits. The limit is higher for tax years 2022 and later for the approved remediation of sites located in a municipality or unincorporated area of any county with a population of less than 50,000 that is not located within the Denver metropolitan area (a “rural community”).

### Standard Credit Limit

In general, the allowable credit cannot exceed the limit computed as follows:

- |                                     |                    |
|-------------------------------------|--------------------|
| 1) Qualifying expenditures          | _____              |
| 2) Statutory limit                  | <u>\$1,500,000</u> |
| 3) Lesser of line 1 and line 2      | _____              |
| 4) Lesser of line 3 and \$750,000   | _____              |
| 5) Line 4 times 40%                 | _____              |
| 6) Line 3 minus line 4              | _____              |
| 7) Line 6 times 30%                 | _____              |
| 8) Credit limit, line 5 plus line 7 | _____              |

## Credit Limit in Rural Communities

For tax years 2022 and later, the allowable credit for approved remediation in a rural community cannot exceed the limit computed as follows:

- |                                     |                    |
|-------------------------------------|--------------------|
| 1) Qualifying expenditures          | _____              |
| 2) Statutory limit                  | <u>\$1,500,000</u> |
| 3) Lesser of line 1 and line 2      | _____              |
| 4) Lesser of line 3 and \$750,000   | _____              |
| 5) Line 4 times 50%                 | _____              |
| 6) Line 3 minus line 4              | _____              |
| 7) Line 6 times 40%                 | _____              |
| 8) Credit limit, line 5 plus line 7 | _____              |

## Transferring the credit

A property owner may transfer all or any part of any allowable credit that the property owner has not used to a transferee. The property owner and the transferee must jointly file a copy of the written transfer agreement with CDPHE within 30 days after the transfer to request certification of the transferred credit. The property owner may transfer a prorated portion of the credit to more than one transferee.

If the property owner is a pass-through entity (such as a partnership or S corporation), the pass-through entity can transfer the credit collectively, on behalf of its members, if all of the members consent to the transfer.

The transferee may claim the credit on their tax return and apply it toward their tax liability. The transfer must occur prior to the due date, not including any extensions, for filing the transferee’s income tax return. A transferee cannot transfer a credit to another taxpayer.



## Claiming the credit

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Any property owner claiming a credit must file a [Remediation of Contaminated Land Credit Use Schedule](#) (DR 0349) with their Colorado income tax return. Property owners that transfer all or any part of the credit must also file a [Remediation of Contaminated Land Credit Transfer Schedule](#) (DR 0348T). Partnerships and S corporations that receive a credit certificate from CDPHE for approved remediation must file a [Remediation of Contaminated Land Credit Pass-Through Schedule](#) (DR 0348P) with their return.

Qualified entities that are not otherwise required to file a Colorado income tax return must file the required forms with a [Colorado Exempt Entity Income Tax Credit Return](#) (DR 0990).

## Credit carryforward

The credit a taxpayer can use for any tax year is limited to the taxpayer's net tax liability. If the allowable credit exceeds the taxpayer's net tax liability, the taxpayer can carry forward the excess credit for application toward the tax due for subsequent tax years. Credits may be carried forward up to five tax years. Any credit that has not been used within the carryforward period expires and is no longer available to the taxpayer.

## Credits of deceased taxpayers

If the property owner or a transferee who acquired a credit from a qualified entity dies prior to using or transferring the entirety of the credit, the decedent's estate can either apply the remaining credit toward taxes owed by the estate or transfer the remaining credit to another taxpayer.

## Additional resources

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The following is a list of statutes, regulations, forms, and guidance pertaining to the remediation of contaminated land credit. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

### Statutes and regulations

- § 39-22-526. Credit for environmental remediation of contaminated land.
- Rule 39-22-526. Credit for Environmental Remediation of Contaminated Land.

### Forms and guidance

- [Tax.Colorado.gov](http://Tax.Colorado.gov)
- [CDPHE.Colorado.gov/hm/brownfields](http://CDPHE.Colorado.gov/hm/brownfields)
- [CDPHE.Colorado.gov/hm/co-brnfllds-tax-credit-notif-reqs](http://CDPHE.Colorado.gov/hm/co-brnfllds-tax-credit-notif-reqs)
- [Remediation of Contaminated Land Credit Use Schedule](#) (DR 0349)
- [Remediation of Contaminated Land Credit Transfer Schedule](#) (DR 0348T)
- [Remediation of Contaminated Land Credit Pass-Through Schedule](#) (DR 0348P)
- [Colorado Exempt Entity Income Tax Credit Return](#) (DR 0990)