**IRM PROCEDURAL UPDATE**

**DATE: 12/04/2025**

**NUMBER: ts-21-1225-3696**

**SUBJECT: Legislative Updates Based on the One Big Beautiful Bill Act Impacting Energy Credits, Login.gov AS a New Credentialing Service Provider, Routing Update Form 8752, Computing Credit Interest on Elective Payment Elections, Form 1099-K Reporting Changes Due to OBBBA, NOL Carryforward Resource Information Updated**

**AFFECTED IRM(s)/SUBSECTION(s): 21.7.4**

**CHANGE(s):**

**IRM 21.7.4.2(2) Updated the IRM Reference from IRM 13.1.1.2, Evolution of the Office of the Taxpayer Advocate to IRM 13.10.1.2, Evolution of the Office of the Taxpayer Advocate.**

(2) Per the TBOR, taxpayers have the right to expect a fair and just tax system which provides taxpayers with the opportunity to have their facts and circumstances considered when it might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service (TAS) if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through normal channels. See IRM 13.10.1.2, *Evolution of the Office of Taxpayer Advocate* and Pub 1, *Your Rights as a Taxpayer*, for more information.

**IRM 21.7.4.4.1.12.2 Updated examples throughout that are representative of current tax years for transferring estimated tax payments from Form 1041 to beneficiary tax accounts listed on Form 1041-T.**

(1) Since the estimated tax payments are claimed as ES credits by the beneficiaries (BMF and IMF), the credits must be transferred on an expedited basis. The Form 1041-T may be filed without the Form 1041 and so a TC 150 does not have to post before transferring these credits. In addition, a TC 150 does not have to post to the beneficiaries account before transferring to the individuals IMF account. Once the election is made and the credits transferred to the beneficiaries, it cannot be revoked. Treas. Reg. section 301.9100–8(a)(4)(i).

(2) Form 1041-T is considered correspondence and must meet **"Policy Statement P-21-3"** time frames.

(3) Follow the instructions below when making credit transfers. Use CFOL command codes to research the accounts of all the beneficiaries listed on Form 1041-T. Use CC INOLE with definer "T" or "S" and determine if the beneficiary is the primary taxpayer.

- Only transfer credit to the primary taxpayer's SSN.
- Transfer credit to the income tax return for individuals and businesses.
- If an account is not present on master-file, input TC 000 to establish the account. See IRM 3.13.5.117, *Establishing a New Account (TC 000)*, for guidance on establishing an account.

(4) Verify the total amount of estimated taxes shown as being allocated to the beneficiaries on lines 1 and 4 (these two amounts must be equal) on Form 1041-T, is posted to the Form 1041 account. If the amount is not posted, research IDRS for any missing payments. If unable to locate, adjust the allocation for each beneficiary by the percentage shown on Form 1041–T.

(5) When additional information is needed to complete the credit transfers, make two attempts by phone to obtain the needed information.

(6) Advise the trust or estate of any action taken which changes the information originally submitted.

(7) Handle **Trusts** that file a calendar year return and a Form 1041-T in the following manner. Input CC ADD/ADC24 (when transferring between master file (e.g., BMF and IMF) or when transferring with a TC 820) to transfer the estimated tax payments for the calendar year (including any credit elect applied from the tax prior year and) with the last installment of estimated tax being due on January 15 of the following year. For example, a trust filing a Form 1041-T for the tax period 202412 and allocating to individual taxpayers:

- Transfer the credits received by January 15 using the January 15 date of the year following the tax period ending date of the trust (including TC 716 credit elects) by debiting the MFT 05/202412 account with a TC 820 for the amount being transferred to an individual beneficiaries' account with a date of 01/15/2025.
- Credit each individual beneficiaries' MFT 30/202412 account with a TC 700 for the amount being transferred and a date of 01/15/2025 and a designated payment code of "00" on the credit side of the credit transfer.
- Insert a "1" in the Bypass Indicator Field on the credit side to bypass the unpostable check or input TC 570 as appropriate.
- Transfer ES payments posted after 01/15/2025 using the payment date with TC 820 and TC 660. While posting of the TC 150 is not needed, the transferred credit cannot exceed the sum of the posted TC 66X and 71X credits. See UPC 325, RC 2.
- Input TC 672 to reverse payments posted with a TC 670.
- Send the necessary closing letter to the trust of the credits transferred.

(8) **Trusts** must file on a calendar basis except for trusts exempt under IRC 501(a) or trusts described in IRC 4947. See IRC 644 for more information. If a trust files a short period final return, allocate the estimated tax payments made on Form 1041 among the beneficiaries as if the taxpayer filed a full 12-month Form 1041 return. For example, a trust filing a Form 1041-T for the tax period 202408: In this case the payments and any credit elect is likely on the 05/202412 module. Input CC ADD/ADC24 when transferring between master files (e.g., BMF and IMF or when transferring with a TC 820):

- Transfer the credits that are received by January 15 using the January 15 date of the year following the tax period ending date of the trust (including TC 716 credit elects) by debiting the MFT 05/202412 account with a TC 820 for the amount being transfer to an individual beneficiaries' account with a date of 01/15/2025.
- Credit each individual beneficiaries' MFT 30/202412 account with a TC 700 for the amount being transferred and the same 01/15/20257 date.
- Send the proper closing letter to the trust of the credits transferred.

(9) An **estate** may file on a fiscal year basis. No matter what month the estate's final tax year ends in, credit payments to the beneficiary account using January 15 of the year following the end of that tax year. Therefore, any estate with a tax period ending in 2024 (202401 - 202412) is credited to the MFT 30/202412 account with a 01/15/2025 date. See the examples in the following 2 paragraphs.

(10) Example A: An estate with a tax year ending on January 31, 2024, files a Form 1041-T on April 5, 2024. Transfer the estimated tax credits to an individual beneficiary's Form 1040 for 202412 effective January 15, 2025 which is the January 15th following the January 31 year end. Note that for the fiscal year estate, the ES payments are due on the 15th day of May 2023, July 2023 and October 2023 and February 2024. See IRC 6654(k)(1). Input CC ADD/ADC24 and:

- Transfer the credits through the 4th installment by debiting the MFT 05/202401 account with TC 820 for the amount being transfer to an individual beneficiaries' accounts with a 01/15/2025 date.
- Credit each individual beneficiaries' MFT 30/202412 account with TC 700 for the amount being transferred using the same 01/15/2025 date.
- Input an override indicator of "2" on both sides of the credit transfer.
- Send the proper closing letter to the trust of the credits transferred.

(11) Example B: An estate with a tax year ending on October 31, 2024, files Form 1041-T on January 4, 2025. For an estate with a fiscal year ending in October, the ES payments are due on the 15th day of February 2024, April 15, 2024, July 15, 2024, and November 15, 2024. Input CC ADD/ADC24 and:

- Transfer the credits through the 4th installment by debiting the MFT 05/202410 account with TC 820 for the amount being transfer to an individual beneficiaries' account with a 01/15/2025 date.

- Credit each individual beneficiaries' MFT 30/202412 account with TC 700 for the amount being transferred using the same 01/15/2025 date.
- Input a designated payment code of "00" on the credit side of the credit transfer.
- Input an override indicator of "2" on both sides of the credit transfer.
- Send the proper closing letter to the trust of the credits transferred.

(12) If the return is received late **#** [redacted] **#**

- Suspend the case and send Letter 2305C explaining the reason for the rejection and request information for the disposition of the credit on the trust's account.
- The overpayment is applied to the trust or estate's account and may be refunded or applied as a credit elect to the trust's account for the next year.
- If no reply is received, refund the money and send Letter 2305C.
- To refund the credit and release the -P freeze, input an ADD24 credit transfer with a TC 820 debit and TC 700 credit to the same tax period using the due date of the return. This releases the freeze and allows the credit to refund.
- **EXCEPTION:** If the Form 1041 has not posted after the normal processing timeframe, send Letter 2305C explaining the reason for the rejection request and advise the taxpayer to file Form 1041 requesting a refund or credit elect. Close the case.

(13) The CII image is the source document on Form 1041-T cases and remains on CII for further recall if needed. If the TC 150 has posted to master file, the CII case is part of the electronic file.

(14) If TC 150 has not posted to master file and you are working a paper Form 1041-T case (non-CII), input TC 930 to have Form 1041-T attached to Form 1041 after action is completed.

**IRM 21.7.4.4.2.8(7) Added Login.gov as a Credentialing Service Provider (CSP) when registering for e-Services.**

(7) IRS e-file providers and applicants must submit their IRS e-file applications online. To register for e-Services, users navigate to the e-Services page Become an Authorized e-file Provider. New users must also register by creating a profile with an IRS Credential Service Provider. The IRS uses ID.me, or Login.gov, to provide identity verification and sign-in services, which allow access to e-Services. More information is available on IRS.gov at Register for IRS Online Self Help Tools.

**IRM 21.7.4.4.2.8.1.1(3) Updated table for 2025 Failure to File Correct Information Return Penalties adjusted for inflation per Rev. Proc 2024-40 under IRC 6721(a)(2)(A).**

(3) For returns due in 2016 and subsequent years, the table below reflects the inflation adjusted penalty per partner over 100, the lower maximum penalty, and the higher maximum penalty amount. See IRM 20.1.2.5, *Failure to File Partnership Return Using Electronic Media*, for more information.

| For returns due in | The penalty per partner in excess of 100 is | With a lower maximum penalty of | With an upper maximum penalty of |
|---|---|---|---|
| 2016 | $260 | $1,059,500 | $3,178,500 |
| 2017 | $260 | $1,064,000 | $3,193,000 |
| 2018 | $260 | $1,072,500 | $3,218,500 |
| 2019 | $270 | $1,091,500 | $3,275,500 |
| 2020 | $270 | $1,113,000 | $3,339,000 |
| 2021 | $280 | $1,142,000 | $3,426,000 |
| 2022 | $280 | $1,142,000 | $3,426,000 |
| 2023 | $290 | $1,777,500 | $3,523,500 |
| 2024 | $310 | $1,261.000 | $3,783,000 |
| 2025 | $340 | $1,366,000 | $4,098,500 |

**IRM 21.7.4.4.2.9.3 Added new paragraph (3) to reference prior versions of the IRM for information regarding Rev. Proc. 2020-23. Paragraphs 4-10 deleted, as processing information for BBA partnerships is included in IRM 21.7.4.4.2.9.**

(1) The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136, 134 Stat. 281 (March 27, 2020), provides retroactive tax relief that affects partnerships, including relief for the taxable years ending in 2018, 2019, and in some cases 2020. Without the option to file amended returns, as granted in the revenue procedure, Bipartisan Budget Act (BBA) partnerships might not be able to take advantage of CARES Act benefits.

(2) Rev. Proc. 2020-23 allows eligible partnerships to file amended partnership returns for taxable years beginning in 2018 and 2019 using a Form 1065, *U.S. Return of Partnership Income (Form 1065)*, with the “Amended Return” box checked, and issue an amended Schedule K-1, *Partner’s Share of Income, Deductions, Credits, etc. (Schedule K-1)*, to each of its partners. Eligible partners must file amended returns pursuant to the Revenue Procedure before September 30, 2020.

(3) For additional information on Rev. Proc. 2020-23, see prior revisions of this IRM.

**IRM 21.7.4.4.4.6.1(1) Clarified example in paragraph (1) of when Form 1128 is needed to adopt a change in tax year.**

(1) Form 1128, *Application To Adopt, Change, or Retain a Tax Year*, is used by taxpayers in determining their tax accounting periods. Ordinarily a taxpayer adopts a tax year simply by filing the taxpayer's first tax return on that year, without also filing Form 1128. However, if the taxpayer either needs permission to adopt its first year, or a taxpayer is changing its tax year, the taxpayer must file both the relevant tax return (normally a short-period return) and a Form 1128.

**Example:** To illustrate, assume a newly formed C corporation purchases a ski club that operates between September and March. Under 1.441-1(c)(1) of the Income Tax Regulations , the corporation could adopt a tax year simply by filing its first tax return. However, to change its tax year (for example, a tax year ending in March), the corporation that does not meet the scope requirements of section 4 of Rev. Proc. 2006-45 must submit a ruling request to the National Office in Washington D.C., along with a user fee, and a Form 1128. See Rev. Proc. 2002-39, IRB 2002-22 1046, section 5.03(b)(2)(b) (c) and the instructions for Form 1128 for additional information.

**IRM 21.7.4.4.4.7.3(4) Updated IDRS number for routing Form 1120-X AMT-Exempt cases to 0446689024 per SERP Feedback #[redacted]**

(4) If it is determined (by the taxpayer) they are exempt from the AMT, they should prepare a Form 1120-X to delete the AMT reported on their original return. They should mark Form 1120-X **"AMT - EXEMPT "**at the top of the form and mail it to the campus where the original Form 1120 was filed. See the Instructions for Form 1120, for the address for the taxpayer to send to the Kansas City or Ogden campus. Reassign Correspondence Imaging Inventory (CII) cases with the original return filed in Ogden to employee number 0446689024.

**IRM 21.7.4.4.4.15(7) Added Login.gov as a Credentialing Service Provider (CSP) when registering for e-Services.**

(7) IRS e-file providers and applicants are required to submit their IRS e-file applications online. To register for e-Services, users navigate to the e-Services page Become an Authorized e-file Provider New users must also register by creating a profile with an IRS Credential Service Provider. The IRS uses ID.me, or Login.gov, to provide identity verification and sign-in services, which allow access to e-Services. More information is available on IRS.gov at Register for IRS Online Self Help Tools.

**IRM 21.7.4.4.7(6) Updated OAMC routing information for Form 8752 and IRC 7519 Form 4442 referrals per SERP Feedback #35250.**

(6) Form 8752 accounts can be very complex. Although these accounts have some of the same characteristics as other tax modules, **extreme caution must be used when adjusting the accounts and performing credit transfers**. The TC 150 amount is not a tax, it is considered a deposit and is referred to as the "required payment." The moving of payments, and the abatements and additions to the required payment have a rolling effect on multiple modules. Payments roll forward from one tax period to the next as a TC 766 credit. Adjustments to one tax period can affect the TC 766 on multiple periods. Specialists in the Cincinnati and Ogden Accounts Management teams work these cases. See below for referral information:

- Ogden AM - If a call or correspondence is received concerning Form 8752, or IRC 7519, **Do Not** take any action on the account. Complete Form 4442, *Inquiry Referral,* and fax or route regardless of the notice status to ATTN: Form 8752, M/S 6904, EEFAX (855) 299-3036. Reassign correspondence CII cases to 0442159370.
- Cincinnati AM - If a call or correspondence is received concerning Form 8752, or IRC 7519, **Do Not** take any action on the account. Complete Form 4442, *Inquiry Referral*, or Form e-4442, *Electronic Inquiry Referral*, and route to M/S B504, or EEFAX to (855)-737-6644. Reassign correspondence cases in CII to 0231092337.

**IRM 21.7.4.4.7.5.2(2) Clarified information on preparing a dummy return for reprocessing Form 8752 when unable to secure the return, per SERP Feedback #34548.**

(2) If unable to secure the return, take the following action:

a. Prepare a “dummy” return following guidance in IRM 21.5.2.4.23.11 , **Reprocessing “Dummy” Returns**. Complete Form 13596, *Reprocessing Returns*, and attach it to the “dummy” return.
b. Input TC 291 for the amount of the TC 150, HC 4, and blocking series 17.
c. Transfer any credits received with the return or identified by the taxpayer to be applied to this liability.

   **Caution: Never** move TC 766 credits. The computer will automatically move the credit forward when necessary.

d. Input TC 290, HC 4, posting delay code 1, and blocking series 18 to reassess the posted liability and prevent the TC 766 from refunding.
e. Open a monitor base and wait for the TC 766 to post.
f. When the TC 766 posts, input TC 291, HC 4 to reduce the tax liability to zero. (This creates a "-K" freeze to hold the credit until the taxpayer files a return.)

**IRM 21.7.4.4.8.3.1 Replaced existing paragraph 21 with information on IRA legislation adding IRC 48E, Clean Electricity Investment Credit under IRC 46. Included updates to IRC 48E based on the One Big Beautiful Bill Act. Original paragraphs 21-24 renumbered to paragraphs 22-25.**

(1) Form 3468, *Investment Credit*, is used to claim investment credit. The investment credit consists of the rehabilitation credit, the energy credit, the qualifying advanced coal project credit, the qualifying gasification project credit, the qualifying advanced energy project credit, the advanced manufacturing investment credit, and the clean electricity investment credit.

(2) Taxpayers are allowed a credit on Form 3468 for qualified rehabilitation expenditures made for any qualified rehabilitated building. See the Instructions for Form 3468 for specific information.

(3) On December 22, 2017, the rehabilitation credit was amended by Public Law No. 115-97, 131 Stat. 2054, commonly known as Tax Cuts and Jobs Act of 2017, (TCJA), section 13402. Section 13402(a) of the TCJA repealed the 10-percent rehabilitation credit for pre-1936 buildings and changed the rules for claiming the 20-percent rehabilitation credit for certified historic structures. The rehabilitation credit provides that for purposes of the investment credit, the rehabilitation credit is claimed ratably over a 5-year credit period. The TCJA amendments apply to qualified rehabilitation expenditures paid or incurred after December 31, 2017, but some taxpayers may qualify for a transition rule. See the Instructions for Form 3468 for specific information.

(4) Section 1307(b), of the Energy Tax Incentives Act of 2005, P.L. 109-58, added the qualifying advanced coal project credit under IRC 48A, and the qualifying gasification project credit under IRC 48B, to the investment credit. See IRM 21.7.4.4.8.3.1.2 for more information on the qualifying advanced coal project credit and the qualifying gasification project credit.

(5) Section 1302(b), Div. B Title I, Credit for Investment in Advanced Energy Facilities, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, added IRC 48C, Qualifying Advanced Energy Project Credit to the Investment Tax Credit under IRC 46. See IRM 21.7.4.4.8.3.1.3, *Credit for Investment in Advanced Energy Facilities*, for more information on the qualifying advanced energy project credit.

(6) The sections listed below of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, added or extended the credits on Form 3468. The table also addresses extensions and modifications made by P.L. 116-260, Consolidated Appropriations Act, 2021, to the section 48 energy investment tax credits claimed on Form 3468:

**Note:** For changes in credit calculations based on The Inflation Reduction Act of 2022, Pub. L. 117-169, see guidance beginning in Paragraph 14 below.

| Type of Energy Property | Credit Percentage | Construction | Placed in- |
|---|---|---|---|

| | | Begun | service |
|---|---|---|---|
| Solar energy property | 30 percent | Before 01/01/2020 | Before 01/01/2026 |
| Solar energy property | 26 percent | After 12/31/2019 and before 01/01/2023 | Before 01/01/2026 |
| Solar energy property | 22 percent | After 12/31/2022 and before 01/01/2024 | Before 01/01/2026 |
| Solar energy property | 10 percent | Before 01/01/2024 | On or after 01/01/2026 |
| Fiber-Optic Solar Property | 30 percent | Before 01/01/2020 | Before 01-01-2026 |
| Fiber-Optic Solar Property as defined in IRC 48(a)(3)(A)(ii) | 26 percent | Before 01/01/2023 | Before 01/01/2026 |
| Fiber-Optic Solar Property as defined in IRC 48(a)(3)(A)(ii) | 22 percent | Before 01/01/2024 | Before 01/01/2026 |
| Fiber-Optic Solar Property as defined in IRC 48(a)(3)(A)(ii) | 0 percent | Before 01/01/2024 | Before 01/01/2026 |
| Qualified fuel cell | 30 percent | Before 01/01/2020 | Before 01/01/2026 |
| Qualified fuel cell | 26 percent | After 12/31/2019 and before 01/01/2023 | Before 01/01/2026 |
| Qualified fuel cell | 22 percent | After 12/31/2022 and before 01/01/2024 | Before 01/01/2026 |
| Qualified fuel cell | 0 percent | After 12/31/2019 and before 01/01/2024 | On or after 01/01/2026 |
| Equipment used to produce electricity from geothermal deposits | 10 percent | N/A | N/A |
| Equipment which uses ground or ground water to heat (or cool) a structure (heat pump) | 10 percent | Before 01/01/2024 | See Notice 2018-59 |
| Equipment which uses ground or ground water to heat (or cool) a structure (heat pump) | 0 percent | After 01/01/2024 | Before 01/01/2026 |
| Waste energy recovery | 26 percent | After 12/31/2020 and before 01/01/2023 | Before 01/01/2026 See Notice 2018-59 |
| Waste energy recovery | 22 percent | After 12/31/2022 and before 01/01/2024 | Before 01/01/2026 See Notice 2018-59 |

| | | | |
|---|---|---|---|
| Waste energy recovery | 0 percent | After 12/31/2020 and before 01/01/2024 | On or after 01/01/2026 |
| Qualified microturbine property | 10 percent | Before 01/01/2024 | N/A |
| Combined heat and power system property | 10 percent | Before 01/01/2024 | N/A |
| Combined heat and power system property | 0 percent | On or after 01/01/2024 | N/A |
| Qualified offshore wind facility (located in the inland navigable waters of the United States or in the coastal waters of the United States) | 30 percent reduced by phaseout percentage (0%) = 30 percent | Before 01/01/2026 | See Notice 2018-59 |
| Small wind energy property | 30 percent | On or before 12/31/2019 | Before 01/01/2026 |
| Small wind energy property | 26 percent | After 12/31/2019 and before 01/01/2024 | Before 01/01/2026 |
| Small wind energy property | 22 percent | After 12/31/2022 and before 01/01/2024 | Before 01/01/2026 |
| Small wind energy property | 0 percent | After 12/31/2019 and before 01/01/2024 | On or after 01/01/2026 |

See the phaseout table below for Investment Tax Credit (ITC) large wind facility:

| **Type of Qualified Facility for Which Election Made to Claim ITC in Lieu of PTC** | **Phaseout Reduction of Credit Percentage** | **Construction Begun** | **Placed In-Service** |
|---|---|---|---|
| Wind facility other than small wind | 0 percent | Before 01/1/2017 | N/A |
| Wind facility other than small wind | 20 percent | Construction began after 12/31/2016 and before 01/1/2018 | N/A |
| Wind facility other than small wind | 40 percent | Construction began after 12/31/2017 and before 01/1/2019 | N/A |
| Wind facility other than small wind | 60 percent | Construction began after 12/31/2018 and before 01/1/2020 | N/A |
| Wind facility other than small wind | 40 percent | Construction began after 12/31/2019 and before 01/1/2022 | N/A |
| Offshore wind facility (other | N/A | Begins before | N/A |

| | | | |
|---|---|---|---|
| than small wind) | | 01/01/2026 | |

See the table below that addresses the section 45 renewable energy production tax credits claimed on Form 8835:

| Type of Production Facility | Credit Period | Construction Began | Placed-in Service |
|---|---|---|---|
| Indian Coal | N/A | | N/A |
| Wind Facility | 10 years | Before 01/01/2022 | N/A |
| Closed Loop Biomass Facility | 10 years | Before 01/01/2022 | N/A |
| Open Loop Biomass Facility | 10 years | Before 01/01/2022 | N/A |
| Geothermal Energy Facility | 10 years | Before 01/01/2022 | N/A |
| Landfill gas Facility | 10 years | Before 01/01/2022 | N/A |
| Trash Facility | 10 years | Before 01/01/2022 | N/A |
| Qualified hydropower Facility | 10 years | Before 01/01/2022 | N/A |
| Marine and hydrokinetic Facility | 10 years | Before 01/01/2022 | N/A |

(7) Section 1102(a), Division B, Title I, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, added an Election of Investment Credit in Lieu of Production Tax Credit that allows a taxpayer to make an election on Form 3468 for renewable energy facilities placed in-service after 2008 and the construction of which begins before 2017 in lieu of the tax credit for producing electricity from renewable resources on Form 8835. Notice 2009-52, 2009-25 I.R.B. 1094, provides a description of the procedures that taxpayers are required to follow to make an irrevocable election to take the investment tax credit in lieu of the production tax credit. TD 10015 obsoleted Notice 2009-52 for tax years beginning after the date of publication of the final regulations in the Federal Register (which was December 12, 2024). These procedures are provided in the Instructions for Form 3468.

(8) Section 1103, Division B, Title I, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, Repeal of Certain Limitations on Credit for Renewable Energy Property, repeals the $4,000 limitation on the energy tax credit for qualified small wind energy property placed in-service during the taxable year. This section also repeals limitations on property financed by subsidized energy property under IRC 48, (energy tax credit), and in certain circumstances the credits under IRC 25C, (non-business energy credit property) and IRC 25D, (residential energy efficient property). The provision is effective for qualified property placed in-service after December 31, 2008.

(9) Section 302, Div. P., Title III, of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113 (PATH Act), significantly extended the election for a taxpayer that owns a wind facility to elect to claim the investment tax credit under section 48 in lieu of the production tax credit under section 45. Additionally, section 303 of the PATH Act extended the credit for solar energy facilities and provided that the credit will phase down in increments to 10 percent for facilities placed in-service after January 1, 2024.

(10) Section 40409 of the Bipartisan Budget Act of 2018 extends the credit through December 31, 2017.

(11) Section 127 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019 further extended the election to treat qualified facilities as energy property (the investment tax credit under IRC Sec. 48) as long as construction began before January 1, 2020 to January 1, 2022. The act further allows a phaseout percentage which reduces the amount of credit allowed by 40 percent for either a wind energy facility production credit under IRC Sec. 45(b)(5) or the investment credit facility under IRC Sec. 48(a)(5)(E) if the property began construction by December 31, 2019. Both the section 45 and section 48 credits were reduced by 60 percent for projects that began construction after December 31, 2018, and before January 1, 2020. After the PATH Act amendments, projects that did not begin construction before January 1, 2020, were not eligible for either the section 45, or section 48 credits. However, P. L. 116-260, Consolidated Appropriations Act, 2021, amended section 45 and section 48 by providing another extension of both credits for projects the construction of which began after December 31, 2019, and before January 1, 2022, with a 40 percent reduction of the credit amount.

(12) Section 127 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019 extends the election to treat qualified facilities as energy property under Section 48(a)(5)(C)(ii) taking effect on January 1, 2018 through January 1, 2021. This is an investment tax credit (ITC) based on the amount of qualifying basis in the facility. This is distinct from a production tax credit (PTC) which is based on the amount of electricity or other product (such as Indian coal or refined coal) produced. However, the same facility regardless of type may not be used to claim both an investment tax credit and production tax credit. See IRC Sec. 45(a)(5)(C).

(13) The Inflation Reduction Act of 2022, Pub. L. 117-169, August 16, 2022, 136 Stat 1818 (IRA) made changes to section 48. Among these changes are adding additional properties as energy property and changing the calculation of the credit.

(14) For property placed in service after December 31, 2021, the IRA modified the credit rate structure, creating a base credit rate and an increased credit rate. The base credit rate is 6 percent (2 percent in the case of microturbine property). Under section 48(a)(9), the increased credit rate is 30 percent (10 percent in the case of microturbine property). The increased credit rate is available with respect to energy projects that have a maximum output of less than one megawatt of electrical (as measure in alternating current) or thermal energy and for energy projects that meet certain prevailing wage and apprenticeship requirements (or for which construction began before January 29, 2023 which is the date that is 60 days after the Secretary published guidance with respect to the requirements of paragraphs sections 48(a)(10)(A) and (11)). Therefore, the credit is 6 percent in the case of:

- (I) Qualified fuel cell property,
- (II) Energy property described in (3)(A)(i) which is equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat, excepting property used

to generate energy for the purposes of heating a swimming pool, but only with respect to property the construction of which begins before January 1, 2025,

- (III) Energy property described in (3)(A)(iii) which is equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage, but only with respect to property the construction of which begins before January 1, 2025,
- (IV) Energy property described in (3)(A)(ii) which is equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight, or electrochromic glass which uses electricity to change its light transmittance properties in order to heat or cool a structure, but only with respect to property the construction of which begins before January 1, 2025,
- (V) Qualified small wind energy property,
- (VI) Waste energy recovery property,
- (VII) Energy storage technology,
- (VIII) Qualified biogas property,
- (IX) Microgrid controllers,
- (X) Energy property described in (3)(A)(v) which is combined heat and power system property,
- (XI) Energy property described in (3)(A)(vii) which is equipment which uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure, but only with respect to property the construction of which begins before January 1, 2035.

The credit is 2 percent in the case of microturbine property.
(15) For property placed in service after December 31, 2021, the IRA extended the energy credit and for each of the qualified energy properties, they must begin construction before January 1, 2025, except for geothermal heat pump property under 48(a)(3)(A)(vii), which is extended for property that begins construction before January 1, 2035. A 2% credit remains available for energy property described in section 48(a)(3)(A)(i) or 48(a)(3)(A)(iii) if construction began after December 31, 2024. The One Big Beautiful Bill Act (OBBBA), Pub. L. No. 119-21, (July 4, 2025) made a clarification to provide that construction that begins on or after June 16, 2025, is a zero percent credit which then eliminates the availability of this credit at the 2 percent rate.

(16) The IRA also modified the credit rate phase-down rules. In the case of qualified fuel cell property in section 48(a)(3)(A)(iv), qualified small wind property in section 48(a)(3)(A)(vi), qualified solar energy property in section 48(a)(3)(A)(i), and qualified solar fiber optic property in section 48(a)(3)(A)(ii), the credit rate is 26 percent for property the construction of which begins after December 31, 2019, that is placed in service before January 1, 2022. For certain geothermal heat pump property (described in section 48(a)(3)(A)(vii), the base credit rate phases down. The increased credit rates for this geothermal heat pump property during the phase down period are 5.2 percent for property the construction of which begins in calendar year 2033 and 4.4 percent for property the construction of which begins in calendar year 2034. See paragraph (15) on the calculation of potential increases to this amount

(17) Additionally, the IRA also added bonus credit amounts with respect to qualified energy property that meets domestic content requirements under section 48(a)(12) or energy community requirements under section 48(a)(14). The domestic content and energy communities bonus credits are effective for property placed in service after December 31, 2022. The IRA also modified the section 48 energy credit to add a bonus credit under section 48(e) for certain qualified solar and wind facilities placed in service in connection with low-income communities. This is an application program for which eligible taxpayers may apply for an allocation of capacity. If a taxpayer receives an allocation, it can later claim an increased credit (either 10 or 20 percent) when the qualified property is placed in service.

(18) The IRA added additional properties as energy property. These are energy storage technology, qualified biogas property, and microgrid controllers. Additionally, the IRA modified the eligibility requirements of certain other qualified property. Specifically, the IRA modified the definition of qualified fuel cell property in section 48(c)(1) to include linear generator assemblies. Linear generator assemblies generate electricity using an electromechanical process. Linear generator assemblies do not include any assembly which contains rotating parts. Additionally, the IRA modified the definition of fiber optic solar property in section 48(a)(3)(A)(ii) to include electrochromic glass, which uses electricity to change its light transmittance properties in order to heat or cool a structure. The IRA also provided that qualified energy property includes amounts paid or incurred by a taxpayer for qualified interconnection property in connection with the installation of certain energy property (as defined in section 48(a)(3)). Section 48(a)(8) describes definitions and rules that apply for qualified interconnection property. For the new types of qualified property (energy storage technology, qualified biogas property, microgrid controllers, linear generator assemblies, dynamic glass, and interconnection property), the provision is effective for property placed in service after December 31, 2022.

(19) The IRA also updated section 48(a)(5) to provide that it is available for facilities which are placed in service after 2008 and the construction of which begins before January 1, 2025.

(20) The Creating Helpful Incentives to Produce Semiconductors Act of 2022 (CHIPS 2022) added a new investment credit equal to 25% of the qualified investment in any advanced manufacturing facility for the primary purpose of the manufacturing of semiconductors or semiconductor manufacturing equipment under IRC 48D. This credit applies to property placed in service after 2022, and, for any property that construction of which begins prior to 2023, only to the extent of the basis attributable to the construction, reconstruction, or erection after August 9, 2022, see IRM 21.7.4.4.8.3.1.5, Form 3468, *Advanced Manufacturing Investment Credit Under IRC 48D*, for additional information.

(21) The IRA also added IRC 48E, Clean Electricity Investment Credit to the Investment Tax Credit under IRC 46. Section 70513 of OBBBA accelerated termination of the credit generally and (even more quickly) for wind and solar energy, applies foreign entity of concern restrictions, creates new restrictions for energy community and domestic content bonus amounts, creates a safe harbor for qualified

fuel cells to qualify for the credit, and denies the credit for wind and solar leasing arrangements.

(22) Under IRC 46 and the general business credit rules of IRC 39, any unused portion of these credits remaining (after the application of the limitations in IRC 38(c)), after all of the credits that can be used in the current year are used, can be carried back one year and carried forward 20 years to reduce taxes for that taxable year. “Applicable credits” as defined in IRC 6417(b) are carried back 3 years.

(23) See Form 3468 and the Instructions for Form 3468 for specific information on claiming the investment credit and see Form 4255 and the Instructions for Form 4255 for specific information on the recapture of the credit. For recapture in the case of dispositions, or of property ceasing to be investment credit property, or ceasing to qualify for progress expenditures, see IRC 50(a).

(24) Also, see Notice 2015-4, 2015 I.R.B. 407 and Notice 2015-51, 2015-31 I.R.B. 133, and section 1.48-9(c)(2)(ii) which provides performance and quality standards that small wind energy property must meet to qualify for the energy credit under section 48. Notice 2015-51 modifies Notice 2015-4 by providing a revised effective date for certain small wind energy property that meets the performance and quality standards of International Electrotechnical Commission 61400-1, 61400-12, and 61400-11.

(25) Process Form 3468 as follows:

1. Math verify Form 3468
2. Input TC 291 to increase the credit or TC 290 to reduce the credit

**IRM 21.7.4.4.8.3.1.2 Updated title of section to Form 3468, Qualifying Advanced Coal Project Credit and Qualifying Gasification Project Credit from Credit for Investment in Clean Coal Facilities. Changes throughout section to clarify information; emphasized credit titles; reorganized notices and announcements in chronological order; deleted duplicate reference to Announcement 2010-56 in paragraph 15; updated paragraph 16 as a bullet under paragraph 15.**

(1) Section 1307(b) of the Energy Policy Act of 2005, P.L.109-58, creates two new investment tax credits:

- The Qualifying Advanced Coal Project Credit, and
- The Qualifying Gasification Project Credit

(2) The first credit, the **Qualifying Advanced Coal Project Credit** under IRC 48A of the Code, established a program to allocate an investment tax credit in the amount of 20 percent of eligible basis for projects using integrated gasification combined cycle "IGCC" and 15 percent for projects using other advanced coal-based electricity

generation technology. IRS Notice 2006-24, 2006-11 I.R.B. 595, establishes the qualifying advanced coal project program.

(3) See the following announcements for more information:

- Announcement 2010-56, 2010-39 I.R.B. 398, discloses the results of the 2009-10 allocation round under IRC 48A.
- Announcement 2011-62, 2011-40 I.R.B. 483, discloses the results of the 2010-11 allocation round under the qualifying advanced coal project program of IRC 48A of the Internal Revenue Code. This announcement also serves as notice to applicants that a 2011-12 allocation round under the qualifying advanced coal project program is currently open pursuant to Notice 2009-24, 2009-16 I.R.B. 817.
- Announcement 2013-2, 2013-2 I.R.B. 271, discloses the results of the 2011–12 allocation round which is the final allocation round under phase II of the qualifying advanced coal project program of IRC 48A of the code.
- Announcement 2013-43, 2013-46 I.R.B. 524, discloses the results of the 2012-13 Phase III allocation round under the qualifying advanced coal project program of IRC 48A of the Internal Revenue Code.
- Announcement 2016-33, 2016-39 I.R.B. 422 announces the certifications resulting from the results of the 2012-2013 Phase III allocation round under the qualifying advanced coal project program of IRC 48A.

(4) In addition, see the following IRC 48A notices for more information:

- Notice 2007-52, 2007-26 I.R.B. 1456 which clarifies, modifies, amplifies and supersedes Notice 2006-24, 2006-11 I.R.B. 595
- Notice 2008-26, 2008-9 I.R.B. 487, which updates and amplifies Notice 2007-52, 2007-26 I.R.B. 1456
- Notice 2008-96, 2008-44 I.R.B. 1077, which updates and amplifies Notice 2007-45, 2007-22 I.R.B. 1456

(5) Section 111 of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, increases to 30 percent the investment tax credit under IRC 48A. It also added a requirement for projects receiving IRC 48A credits to capture and sequester at least 65 percent of such project's total carbon oxide emissions. See Notice 2006-24, 2006-11 I.R.B. 595. Additionally, section 115 of the Act creates a new tax credit for carbon oxide sequestration under IRC 45Q. See IRM 21.7.4.4.8.3.37, *Carbon Oxide Sequestration Credit, Form 8933*, for more information.

(6) Notice 2009-24, 2009-16 I.R.B. 817, updates the procedures for the allocation of credits for the qualifying advanced coal project program under IRC 48A. The notice also announces the beginning of an allocation round of credits in the amount of $1.25 billion for qualifying advanced coal-based generation technology projects under Phase II of the qualifying advanced coal project program. Notice 2009-24 clarifies, modifies, and amplifies Notice 2007-52.

(7) Notice 2011-24, 2011-14 I.R.B. 603, modifies Notice 2009-24 by updating the rules relating to the qualifying advanced coal project program under IRC 48A. Specifically, this notice updates the rules regarding the separation and sequestration of carbon dioxide emissions for Phase II of the qualifying advanced coal program and provides for the annual measurement of separated and sequestered carbon dioxide by applying the recapture rules of IRC 50(a) in the event that a taxpayer does not attain or maintain the carbon dioxide separation and sequestration requirements of IRC 48A. Except as specifically provided in this notice, the qualifying advanced coal project program will be conducted in the manner and under the procedures provided in Notice 2009-24.

(8) See Notice 2012-51, 2012-33 I.R.B. 150, which discloses the result of the review of the credits allocated under IRC 48A Phase I program and establishes an additional program. ("the IRC 48A Phase III program") to reallocate the remaining credits of IRC 48A Phase I program ("the section 48A Phase III credits"). The procedures in this notice apply only to IRC 48A Phase I credits available for reallocation under the IRC 48A Phase III program. Notice 2012-51, 2012-33 I.R.B. 150 amplifies Notice 2009-24, 2009-16 I.R.B. 817.

(9) Notice 2015-14, 2015-10 I.R.B. 722, updates and amplifies the procedures for the allocation of credits under the qualifying advanced coal project program of IRC 48A by announcing the immediate beginning of the 2015 reallocation round ("Round 2") of the IRC 48A Phase III program. This Notice updates and amplifies Notice 2012-51, 2012-33 I.R.B. 150."

(10) Notice 2020-88, 2020-53, I.R.B. 1795, updates and amplifies the procedures for the allocation of credits under the qualifying advanced coal project program of IRC 48A by announcing the immediate beginning of the 2020 reallocation round (Round 3) of the IRC 48A Phase III program. This Notice updates and amplifies Notice 2012-51, 2012-33, I.R.B. 150 and Notice 2015-14, 2015-10, I.R.B. 722.

(11) The second credit, the **Qualifying Gasification Project Credit** under IRC 48B of the Code, authorizes the allocation of an investment tax credit in the amount of 20 percent of eligible basis for certain gasification projects. Qualified gasification projects convert a solid or liquid produced from coal, petroleum residue, biomass, or other material recovered for their energy or feedstock value into a synthetic gas composed primarily of carbon monoxide and hydrogen for direct use of subsequent chemical or physical conversion. IRS Notice 2006-25, 2006-11 I.R.B. 609, establishes the qualifying gasification project program. See Notice 2006-25 for the requirements for the project.

(12) See Announcement 2010-56, 2010-39 I.R.B. 398 for the results of the 2009-10 Allocation Round of the Qualifying Advanced Coal Project Program and the Qualifying Gasification Project Program for more information.

(13) See the following IRC 48B notices

- Notice 2006-25, 2006-1 I.R.B. 609

- Notice 2007-53, 2007-1 I.R.B. 1474
- Notice 2007-53, 2007-26 I.R.B. 1474

(14) Section 112 of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, increases to 30 percent the investment tax credit for certain gasification projects. It also added a requirement for projects receiving IRC 48B credits to capture and sequester at least 75 percent of such project's total carbon dioxide emissions. See IRM 21.7.4.4.8.3.1, *Form 3468, Investment Credit*, and the Instructions for Form 3468, for more specific information.

(15) See the following IRC 48B Notices and Announcements:

- Notice 2008-97, 2008-44 I.R.B. 1080
- Notice 2009-23, 2009-16 I.R.B. 802
- Notice 2011-24, 2011-14 I.R.B. 603
- Announcement 2016-34, 2016-39 I.R.B. 422, which discloses the results of the Phase III allocation round under the qualifying gasification project program of IRC 48B. This announcement also serves as notice to applicants that no additional allocation round is conducted under Phase III of the qualifying gasification project program.
- Announcement 2017-6, 2017-24 I.R.B. 1262, which modifies and supersedes Announcement 2016-34, 2016-39 I.R.B. 422.
- Notice 2014-81, 2014-53 I.R.B. 1001, establishes the IRC 48B Phase III program of the qualifying gasification project program to reallocate the IRC 48B Phase I credits available for allocation after the conclusion of the IRC 48B Phase I program.

(16) The IRC 48A and IRC 48B credits apply to periods after August 8, 2005, the date of the enactment of the Emergency Economic Stabilization Act of 2008. Taxpayers claim both credits on Form 3468, *Investment Credit*. See IRM 21.7.4.4.8.3.1, *Form 3468, Investment Credit*, for more information.

(17) Section 111(d), Div. B., Title I, of the Energy Improvement and Extension Act of 2008, P.L. 110-343, amended IRC 48A (and by reference IRC 48B) by allowing the Competitive Certification Awards Modification Authority to allow the Secretary to change the terms of any competitive certification award and any associated closing agreement where such modification (unless the Secretary determines that the dollar amount of tax credits available to the taxpayer under such section would increase as a result of the modification or such modification would result in such project not being originally certified:

- Is consistent with the objectives of such section
- Is requested by the recipient of the competitive certification award, **and**
- Involves moving the project site to improve the potential to capture and sequester carbon dioxide emissions, reduce costs of transporting feedstock, and serve a broader customer base

(18) Action required:

- Math verify Form 3468
- Input TC 291 to increase the credit and TC 290 to decrease the credit

**IRM 21.7.4.4.8.3.22 Updates throughout based on Section 70521 of the One Big Beautiful Bill Act, which extended the Small Agri-Biodiesel Producer Credit under 40A and enacted a termination date for IRC 6426(k).**

(1) Section 302, Biodiesel Income Tax Credit, of the American Jobs Creation Act of 2004, P.L. 108-357, created IRC 40A, Biodiesel and Renewable Diesel Used as Fuel. The credit, as originally enacted, applied to certain fuels produced, and sold or used, after December 31, 2004 and on or before December 31, 2006.

(2) The following legislation extended the credit for fuels, produced, and sold or used (see prior revisions of IRM 21.7.4 for a list of legislation that extended the credit prior to Section 121 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019):

- Section 121, P.L. 116-94, Div.Q. Title I, Section 121(a)(1), Dec. 20, 2019, 133 Stat. 3230, of the Taxpayer Certainty and Disaster Tax Relief Act of 2019 extends the income tax credit for Biodiesel and Renewable Diesel fuel sold or used after December 31, 2017, through December 31, 2022.
- Public Law 117-169, (August 16, 2022), commonly known as the Inflation Reduction Act, extended the income tax credit for Biodiesel and Renewable Diesel fuel sold or used through December 31, 2024. The Act created the sustainable aviation fuel credit for certain fuel mixtures that contain sustainable aviation fuel sold or used after December 31, 2022, and before January 1, 2025. The act also removed IRC 40A(f)(4), so that renewable diesel does not qualify for aviation fuel use.
- Section 70521, One Big Beautiful Bill Act (OBBBA), Pub. L. No. 119-21 (July 4, 2025) extends the IRC 40A Small Agri-Biodiesel Producer Credit through December 31, 2026. OBBBA also added to IRC 40A(b)(4)(B) the requirement that after June 30, 2025, feedstocks used to produce the agri-biodiesel fuel eligible for the Small Agri-Biodiesel Producer Credit must be produced or grown in the U.S., Mexico, or Canada.

(3) Taxpayers use Form 8864, *Biodiesel, Renewable Diesel, or Sustainable Aviation Fuels Credit*, to claim the IRC 40A biodiesel and renewable diesel fuels credit and IRC 40B sustainable aviation fuel credit, which consist of the credits listed below. The sum of these credits is the biodiesel fuels credit and the sustainable aviation fuel credit for purposes of IRC 38, General Business Credit:

- Biodiesel credit
- Renewable diesel credit
- Biodiesel mixture credit
- Renewable diesel mixture credit
- Small agri-biodiesel producer credit
- Sustainable aviation fuel credit

(4) No biodiesel credit or a biodiesel mixture credit is allowed under IRC 40A unless the claim includes a Certificate for Biodiesel described in Notice 2005-62, section 2, paragraph (h)(2), and a statement that the claimant has no reason to believe any information in that certificate is false. See Notice 2005-62 or Publication 510 for more information on the certificate rules. In addition, see the General Instructions for Form 8864 for the definition of biodiesel, agri-biodiesel, renewable diesel, biomass, and other related terms.

(5) The biodiesel or renewable diesel reported on lines 1 through 3 must not be a mixture. The credits are for biodiesel or renewable diesel, which during the tax year taxpayers:

- Sold at retail to another person and placed in the fuel tank of that person's vehicle, **or**
- Used as a fuel in a trade or business

  **Note:** However, no credit is allowed for fuel used in a trade or business that was purchased in a retail sale described above.

(6) Taxpayers use lines 4, 5, and 6 for claiming a biodiesel mixture, agri-biodiesel mixture, and renewable diesel mixture credit. A qualified biodiesel mixture means agri-biodiesel, biodiesel other than agri-biodiesel, or renewable diesel **that is mixed** with diesel fuel, without regard to any use of kerosene. But treat the kerosene as diesel fuel when figuring the renewable diesel mixture credit for aviation fuel mixtures on or before December 31, 2022. For qualified aviation fuel mixtures beginning on January 1, 2023, see IRC 40B and sustainable aviation fuel. The credit is allowed only to the producer of the mixture (i.e., blender). The credit is allowed only for the taxable year the mixture was sold or used and the producer in its trade or business, must have:

- Sold the mixture to any person for use as a fuel, or
- Used the mixture as a fuel

(7) The biodiesel credit and the biodiesel mixture credit is $1 per gallon multiplied by the number of gallons of biodiesel sold or used.

(8) Line 7, qualified agri-biodiesel production, means up to 15 million gallons of agri-biodiesel which is produced by an eligible small agri-biodiesel producer, and which during the tax year:

- Is sold by such producer to another person: (1) for use by such person in the production of a qualified biodiesel mixture in such other person's trade or business (other than casual off-farm production); (2) for use by such person as a fuel in a trade or business; or (3) who sells such agri-biodiesel at retail to another person, and places such agri-biodiesel in the fuel tank of such other person, or
- Is used or sold by such producer for any purpose described in the bullet directly above.

(9) An eligible small agri-biodiesel producer is a person who, at all times during the tax year, has an aggregate productive capacity for agri-biodiesel not in excess of 60 million gallons.

(10) The small agri-biodiesel producer credit is $.10 per gallon multiplied by the number of gallons used or sold. OBBBA modified the rate to $.20 per gallon for the number of gallons used or sold after June 30, 2025.

(11) Line 8, sustainable aviation fuel, is used to claim a credit of sustainable aviation fuel (SAF) mixtures sold or used after December 31, 2022, and prior to January 1, 2025. The person that produces a qualified mixture by mixing SAF with kerosene is the only person eligible to make the claim. The qualified mixture was produced by the claimant in the United States, such mixture was used by the claimant (or sold by the claimant for use) in an aircraft, such sale or use was in the ordinary course of a trade or business of the claimant, and the transfer of such mixture to the fuel tank of such aircraft occurred in the United States. The SAF used to produce the qualified mixture is the portion of liquid fuel that isn't kerosene that:

- Either meets the specifications of one of the ASTM D7566 Annexes, or meets the specifications of ASTM D1655 Annex A1,
- Isn't derived from coprocessing an applicable material (or materials derived from an applicable material) with a feedstock that isn't biomass,
- Isn't derived from palm fatty acid distillates or petroleum, and
- Has been certified in accordance with IRC 40B(e) as having a lifecycle greenhouse gas emissions reduction percentage of at least 50 percent.

(12) No sustainable aviation fuel credit is allowed under IRC 40B for qualified mixtures produced with a SAF synthetic blending component (SAF that meets the qualifications of an ASTM D7566 Annex), unless the claim includes a Declaration for SAF Qualified Mixture; either, Certificate for SAF Synthetic Blending Component; Certificate for SAF Synthetic Blending Component Using the 40BSAF-GREET 2024 Model, or the Certificate for SAF Synthetic Blending Component using the 40BSAF-GREET 2024 Model and USDA CSA Pilot Program for Corn and Soybean, **and/or** the Certificate for Climate Smart Agriculture Crops; the Statement of SAF Synthetic Blending Component Reseller. Notice 2024-06, Notice 2024-37 and Notice 2024-74 provide guidance on the sustainable aviation fuel credit and claim requirements. The sustainable aviation fuel credit is $1.25 plus a supplementary amount equal to $.01 for each percentage point by which the lifecycle greenhouse gas emissions reduction percentage with respect to such fuel exceeds 50 percent. The supplementary amount shall not exceed $0.50.

(13) Blenders of sustainable aviation fuel mixtures may claim an excise tax credit under IRC 6426(k) as a payment under IRC 6427(e) or as a refundable income tax credit under IRC 34. Alternatively, a blender of a sustainable aviation fuel qualified mixture may claim a nonrefundable income tax credit under IRC 40B. Only one credit is allowed with respect to any amount of sustainable aviation fuel used in producing an eligible sustainable aviation fuel mixture.

**Note:** The IRC 40B SAF credit expired on December 31, 2024, but the IRC 6426(k) did not expire (although the related payment provision under IRC 6427(e) did). OBBBA enacted a termination date for IRC 6426(k) of September 30, 2025. It also places significant restrictions on claiming a IRC 6426(k) credit after December 31, 2024. Namely no credit can be claimed on July 4, 2025, or after, if a credit for the SAF is also allowable under IRC 45Z. No IRC 6426(k) credit can be claimed before July 4, 2025 on SAF for which a IRC 45Z credit is allowable, if the IRC 6426(k) credit has not been paid or allowed by July 4, 2025.

(14) Blenders of biodiesel (including renewable diesel) mixtures may claim an excise tax credit under IRC 6426(c), as a payment under IRC 6427(e) or as a refundable income tax credit under IRC 34. Alternatively, a blender of a biodiesel (including renewable diesel) mixture may claim a nonrefundable income tax credit under IRC 40A. Only one credit is allowed with respect to any amount of biodiesel or renewable diesel used in producing an eligible biodiesel or renewable diesel mixture.

(15) Action Required:

1. Math verify Form 8864
2. Input TC 291 to increase the credit and TC 290 to decrease the credit

**IRM 21.7.4.4.8.3.29 Updated guidance for Form 8911 Alternative Fuel Vehicle Refueling Property Credit due to termination of the section 30C credit, per One Big Beautiful Bill Act, effective date June 30, 2026.**

(1) IRC 30C, as amended by Section 13404 of the Inflation Reduction Act, P.L. 117-169, and further amended by the One Big Beautiful Bill Act (OBBBA), Pub. L. No. 119-21, (July 4, 2025) provides a credit of up to 30 percent of the cost of qualified alternative fuel vehicle refueling property placed in-service by the taxpayer before June 30, 2026. For qualified alternative fuel vehicle refueling property placed in service between January 1, 2023 and June 30, 2026, the applicable rate is 6 percent for property of a character subject to an allowance for depreciation (business/investment use property) and 30 percent for each property of a character not subject to an allowance for depreciation (personal use property) up to a maximum credit of $100,000 for property used in a trade or business, or held for the production of income or $1,000 in any other case. The 6 percent rate may be increased to 30% if the qualified alternative fuel vehicle refueling property is part of a project for which either meets the prevailing wage and apprenticeship (PWA) requirements, or began construction before January 29, 2023 (that is, prior to the date that was 60 days after the Secretary published prevailing wage and apprenticeship guidance).

(2) Form 8911, **Alternative Fuel Vehicle Refueling Property Credit**, is used to claim the credit for property placed in service during the tax year. The part of the credit attributable to business/investment use is treated as a general business credit.

Any part of the credit not attributable to business/investment use is treated as a personal credit.

(3) Partnerships and S corporations must file this form to claim the credit. All other taxpayers aren't required to complete or file this form if their only source for this credit is a partnership or S corporation. Instead, they can report this credit directly on Part III of Form 3800, General Business Credit.

(4) For tax years beginning after 2022, S Corporations or Partnerships may make a credit transfer election under IRC 6418, in conjunction with the alternative fuel vehicle refueling property credit. See IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA), Superseding and Amended Return Processing Elective Payment Elections (EPE) or Transfers, for additional information on facility registration requirements for making a credit transfer election. In addition to completing Form 8911, when making a credit transfer election, the credit amount must also be reported on the applicable line of Form 3800, Part III.

(5) Qualified alternative fuel vehicle refueling property is any property (not including a building and its structural components) where the original use begins with the taxpayer and that is for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle, or for the recharging of motor vehicles propelled by electricity, but only if the property is located at the point where the motor vehicles are recharged. Personal use property is eligible for the credit, but must be installed on property which is used as the principal residence (within meaning of section 121) of the taxpayer. Clean burning fuels include the following:

- Any fuel consisting of at least 85 percent by volume of ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, or a combination thereof, into the tank of a motor vehicle propelled by such fuel at the point where such fuel is delivered into the fuel tank of the motor vehicle,
- Any mixture made up of a combination (at least 2) of biodiesel, diesel fuel, or kerosene where at least 20 % by volume is biodiesel determined without regard to kerosene in the mixture,
- Electricity,
- Or, for years after December 31, 2024, transportation fuel as defined in IRC 45Z(d)(5).

(6) Additional rules and restrictions that apply for the IRC 30C credit include basis reduction, credit recapture, and the exclusion of property used outside the United States.

(7) Qualified alternative fuel vehicle refueling property placed in service after December 31, 2022 must be located in an eligible census tract that either is a low income community as defined in IRC 45D(e) or is not an urban area under Bureau of the Census and Department of Commerce guidance.

(8) See Form 8911 instructions for additional information.

(9) Action required:

- Math verify Form 8911
- Input TC 291 to increase the credit and TC 290 to decrease the credit

**IRM 21.7.4.4.8.3.34(3) Added a bullet regarding the One Big Beautiful Bill Act, which terminates the IRC 45L credit for any qualified new energy efficient home acquired after June 30, 2026.**

(3) The new energy efficient home credit is modified by various legislation. Below is a listing of the recent legislation that has extended or significantly modified the new energy efficient home credit. See previous revisions of this IRM for legislation that extended the credit prior to January 1, 2012:

- Section 408(a), Title IV of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years to any qualified new energy efficiency home acquired after December 31, 2011 and before January 1, 2014, and updated the energy savings requirements for a home to qualify for the credit.
- Section 156, Division A, Title I of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year to any qualified new energy efficient home acquired after December 31, 2013 and before January 1, 2015.
- Section 188, Division Q, Title I of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, extended the credit for two years to any qualified new energy efficient home acquired after December 31, 2014 and before January 1, 2017.
- Section 40410, Division D, Title 1 of the Bipartisan Budget Act of 2018, P.L. 115-123, extended the credit for one year to any qualified new energy-efficient home acquired after December 31, 2016 and before January 1, 2018.
- Section 129 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019, P.L. 116-94, extended the credit for three years to any qualified new energy-efficient home acquired after December 31, 2017 and before January 1, 2021.
- Section 146 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, P.L. 116-260, extended the credit for one year to any qualified new energy-efficient home acquired after December 31, 2020 and before January 1, 2022.
- Section 13304 of the Inflation Reduction Act (IRA), P.L. 117-169, retroactively extended the credit requirements in place prior to the enactment of the IRA for dwelling units acquired after December 31, 2021 and through December 31, 2022. For dwelling units acquired after December 31, 2022, the IRA updated the credit requirements and extended the credit through December 31, 2032.

- Section 70508 of the One Big Beautiful Bill Act (OBBBA), Pub. L. No. 119-21, 1(July 4, 2025), **terminates** the IRC 45L credit for any qualified new energy efficient home acquired after June 30, 2026.

**IRM 21.7.4.4.8.3.37(18) Added new paragraph (18) which renumbered subsequent paragraphs. New paragraph contains information on changes to IRC 45Q in relation to Form 8933 Carbon Oxide Sequestration Credit per the One Big Beautiful Bill Act.**

(18) Section 70522 of the One Big Beautiful Bill Act (OBBBA), Pub. L. No. 119-21, (July 4, 2025), amends IRC 45Q by adding restriction to the credit for taxpayers that are specified foreign entities or foreign-influenced entities. The amendments also make the value of the credit for utilization of the qualified carbon oxide or use as a tertiary injectant equal to the value of the credit for carbon capture and sequestration."

**IRM 21.7.4.4.8.3.38(21) Added new paragraph (21) which renumbered subsequent paragraphs. New paragraph contains information on the One Big Beautiful Bill Act which accelerated the termination of the clean vehicle credits under IRC 25E, 30D, and 45W.**

(21) Section 70502 of the One Big Beautiful Bill Act (OBBBA), Pub. L. No. 119-21, (July 4, 2025), accelerated termination of the credits under IRC 30D (clean vehicle credit), 25E (previously-owned clean vehicle credit), 45W (qualified commercial clean vehicles credit), and 30C (alternative fuel vehicle refueling property credit).

**IRM 21.7.4.4.8.3.38.3(1) Updated information on the One Big Beautiful Bill Act which accelerated the termination of the Clean Vehicle Credit under IRC 30D.**

(1) Section 13401 of P. L. 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act (IRA) of 2022, amended IRC 30D, and renamed the provision to *New Clean Vehicles*. The bill modified the tax credit for new clean vehicles acquired after December 31, 2022, with some exceptions. The One Big Beautiful Bill Act (OBBBA), Pub. L. No. 119-21, (July 4, 2025) terminates this credit for vehicles acquired after September 30, 2025. The credit may be in part a personal credit and in part a General Business Credit and is claimed on Part II of Form 8936 and flows through to Form 3800 except for certain entities.

**Note:** Returns that contain this credit, and meet specific criteria for further review at processing, will have a posted TC 971 AC 831 in the tax module and will contain a MISC> field with "CVC". The account will also have a TC 570 with a -R freeze. See IRM 21.5.6.4.35, -R Freeze, for additional information.

**IRM 21.7.4.4.8.3.38.4(1) Updated information on the One Big Beautiful Bill Act which accelerated the termination of the Commercial Clean Vehicle Credit under IRC 45W.**

(1) Section 13403 of P. L. 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act (IRA) of 2022, added Internal Revenue Code (IRC) 45W. Businesses and tax-exempt organizations that buy a qualified commercial clean vehicle after 2022 may qualify for a clean vehicle tax credit of up to $40,000 under IRC 45W. There is no limit on the number of credits a business can claim. For businesses, the credits are nonrefundable. The credit can be carried over as a general business credit and is claimed on Part II of Form 8936 and flows through to Form 3800, except for certain entities. The One Big Beautiful Bill Act (OBBBA), Pub. L. No. 119-21, (July 4, 2025) terminates the credit under IRC 45W, for vehicles acquired after September 30, 2025.

**Note:** A Qualified Commercial Clean Vehicle Credit (IRC 45W) is not allowed if a New Clean Vehicle credit (IRC 30D), was also allowed for the same vehicle on the taxpayers tax return.

**Note:** Returns that contain this credit, and meet specific criteria for further review at processing, will have a posted TC 971 AC 831 in the tax module and will contain a MISC> field with “CVC”. The account will also have a TC 570 with a -R freeze. See IRM 21.5.6.4.35, -R Freeze, for additional information.

**IRM 21.7.4.4.8.3.43 Updated paragraph (5) with information on the One Big Beautiful Bill Act which amended IRC 45X to phase out eligible components. Paragraph (6) amended to specify additional phase outs under IRC 45X for critical minerals, metallurgical coal, and wind energy components. Paragraph 7 added with direction to see Form 7207 instructions, subsequent paragraphs renumbered.**

(1) Pub. L. 117-169, commonly known as the Inflation Reduction Act (IRA) 2022 added IRC Sec. 45X to claim the credit for the sale and production of eligible components produced and sold after December 31, 2022. Eligible components include solar energy components, wind energy components, inverters, qualifying battery components, and applicable critical minerals. See Form 7207 instructions for additional information.

(2) To qualify for the credit, the eligible components must be produced within the United States or territories (including continental shelf area), and sold in trade or business to unrelated persons. Special rules apply to sales between related persons.

For the latest information concerning qualified sales and related person rules, see irs.gov/Form7207.

(3) Taxpayers must file a separate Form 7207 for each facility operated to produce and sell eligible components.

(4) Partnerships and S corporations must also file a Form 7207 for each facility operated to produce and sell eligible components. All other entities are generally not required to complete or file this form if their only source for this credit is from a partnership or S corporation. Instead, they can report this credit directly on Form 3800, General Business Credit.

(5) Applicable entities, as defined under IRC 6417(d)(1)(A) may make an elective payment election (EPE) under IRC 6417. Eligible taxpayers, as defined under IRC 6418 (f)(2) may make an elective payment transfer under IRC 6418. In addition to completing Form 7207 for each facility operated to produce and sell eligible components when making an EPE or transfer, the credit amount for each facility must also be reported on the applicable line of Form 3800, Part III. See IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA), Superseding and Amended Return Processing Elective Payment Elections (EPE) or Transfers.

(6) Section 70514 of The One Big Beautiful Bill Act (OBBBA), Pub. L. No. 119-21, (July 4, 2025) amended IRC 45X to begin phasing out eligible components (not applicable to critical minerals or wind energy components) sold in 2030, and will be unavailable for sales that occur after December 21, 2032. Additional IRC 45X credit phase outs are listed below:

- Credit is not available for wind energy components produced and sold after December 31, 2027.
- Credit for metallurgical coal is not available for those produced after December 31, 2029.
- Credit for applicable critical minerals (except for metallurgical coal) will begin phase out for those produced in 2031, and be unavailable if production occurs after December 31, 2033.

(7) See the Form 7207 instructions for the applicable tax year for additional information.

(8) Action Required:

a. Math Verify Form 7207
b. Review Part III of Form 3800 to determine if the taxpayer reported an elective payment election (EPE) for Form 7207, Advanced Manufacturing Production Credit. If so, see IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA) Superseding and Amended Return Processing; Elective Payment Elections (EPE) or Transfers, for processing information and to verify if adjustment is allowable.
c. If no elective payment election (EPE) has been made:
   Input TC 291 to increase the credit or TC 290 to reduce the credit.

**IRM 21.7.4.4.8.5 Updated title from Amortization of Research and Experimental Expenditures to Full Expensing or Amortization of Research and Experimental Expenditures, per new IRC 174A guidance generated from Section 70302 of the One Big Beautiful Bill Act. Also added paragraphs (4) - (11) with IRC 174A information for reporting domestic research credits and amending prior year returns. IRC 174 was also amended for Foreign Research and Experimental Expenditures with amended guidance outlined in paragraph (11).**

(1) Tax Cuts and Jobs Act of 2017 (TCJA), Section 13206, Amortization of Research and Experimental Expenditures, required that for taxable years beginning after December 31, 2021, amounts defined as specified research or experimental expenditures must be capitalized and amortized ratably over a 5-year period, that begins at the midpoint of the taxable year in which the specified research or experimental expenditures were paid or incurred for businesses within the U.S.

(2) TCJA, Section 13206, also requires that for taxable years beginning after December 31, 2021, specified research or experimental expenditures attributable to research that is conducted outside of the U.S. must be capitalized and amortized ratably over a 15-year period that begins at the midpoint of the taxable year in which such expenditures were paid or incurred.

(3) The amortization of research and experimental expenses is the result of the repeal of the Alternative Minimum Tax (AMT). For taxable years beginning after December 31, 2021, taxpayers can no longer elect to amortize those expenditures over a period of 60 months.

(4) Section 70302 of the One Big Beautiful Bill Act (OBBBA), Pub. L. No. 119-21, (July 4, 2025), adds IRC 174A, Domestic Research and Experimental Expenditures. IRC 174A provides a full deduction for amounts defined as domestic research or experimental expenditures paid or incurred in the taxable year for taxable years beginning after December 31, 2024.

(5) Small businesses may elect the “small business retroactive method” and elect a change in accounting method provided under Section 70302 to report domestic research or experimental expenditures paid or incurred in taxable years beginning after December 31, 2021, rather than December 31, 2024. Accordingly, this method of accounting is applicable only to amounts paid or incurred in taxable years beginning after December 31, 2021, and before January 1, 2025. See Rev. Proc. 2025-28, for additional information.

(6) Small business taxpayers may elect to amend their previously filed returns and apply the IRC 174A rules to domestic research and experimental expenditures incurred after December 31, 2021.

(7) The small business taxpayer retroactively applying IRC 174A methods to its previous tax years is subject to the revised IRC 280C rules for its amended returns, which require taxpayers to reduce their research and experimental expenditures by

the amount of Credit for Increasing Research Activities reported on Form 6765. Alternatively, the taxpayer can elect under IRC 280C to claim a reduced credit.

**Note**: A taxpayer is not required to elect the retroactive method for all impacted years (i.e., it can choose specific years, but not others), as long as the original return was filed on or before September 15, 2025.

(8) The above deadline for filing amended returns also applies to making a retroactive IRC 280C election. Taxpayers that use the retroactive method to apply IRC 174A rules should consider the impact of the IRC 280C rules in its amended calculations.

(9) Alternatively, small business taxpayers may elect to deduct any remaining unamortized amounts incurred in taxable years beginning after December 31, 2021, and before January 1, 2025 either in the first taxable year beginning after December 31, 2024, or ratably over the first two taxable years beginning after December 31, 2024.

(10) Taxpayers may elect to capitalize and amortize domestic research or experimental expenditures incurred in taxable years beginning after December 31, 2024, over a period of not less than 60 months.

(11) IRC 174 was amended by OBBBA to apply to foreign research or experimental expenditures. The amendments require taxpayers to charge these expenditures to capital account and amortize them ratably over a 15-year period.

**IRM 21.7.4.4.9.5(6) Caution statement added on determining the credit availability date of Elective Payment Elections for purposes of computing interest.**

(6) Taxpayers can claim the IRA Elective Payment Elections (EPE) (formerly called Deemed Payment Elections (DPE)) on their original or superseding return.

**Note:** Returns that contain EPE will not post to master file before the return due date. This prevents a refund from releasing prior to the return due date, and applies to the entire refund, even the portion not associated with EPE.

**Note:** Returns that are selected for further review of the EPE after processing and pre-refund, will have a posted TC 971 AC 831 on the tax module with a MISC> field that will contain the literal “EPE”. This will create a -R freeze condition that will prevent the refund from releasing until TEGE/LB&I have taken action to release the refund. This applies to the entire refund, even the portion not associated with the EPE. See IRM 21.5.6.4.35 , -R Freeze, for additional information.

**Caution:** EPE credits are deemed available on the later of the normal (un-extended) due date of the return or the date the return was received, per IRC 6417(d)(4).

Appropriately, EPE credits post with a transaction (23C) date of the later of these dates. However, for purposes of computing interest on an EPE overpayment, use the later of the transaction (23C) date of the credit, or the date the original return was received in processible form (provided the processible date is after the due date), including any extension of time for filing. See IRC 6611(g) and IRM 20.2.4.6(3), Unprocessible Returns.

**IRM 21.7.4.4.17(2) Added new paragraph (2) regarding Section 70307 from the One Big Beautiful Bill Act which amended IRC 168 and added IRC 168(n) for Special Depreciation Allowance for Qualified Production Property.**

(2) Section 70307 of the One Big Beautiful Bill Act (OBBBA), Pub. L. No. 119-21, (July 4, 2025) amended IRC 168 to add IRC 168(n), Special Depreciation Allowance for Qualified Production Property. Section 70307 allows taxpayers to elect to deduct 100 percent of the adjusted basis of qualified production property for which construction begins after January 19, 2025 and before January 1, 2029. The property must be placed in service prior to January 1, 2031.

**IRM 21.7.4.4.17.6.10 Updated title of this section to Tax Cuts and Jobs Act of 2017, Temporary 100-Percent Expensing and Phase Down Beginning in 2023 from "Temporary 100-Percent Expensing".**

(1) *Tax Cuts and Jobs Act of 2017 (TCJA) Section 13201, Temporary 100-Percent Expensing*, extends and modifies the additional first-year depreciation deduction for certain business assets through 2026 (and through 2027 for longer production period property and certain aircraft).

(2) TCJA Section 13201, increases the 50 percent depreciation allowance to 100 percent for property acquired after September 27, 2017, and placed in service before January 1, 2023 (January 1, 2024, for longer production period property and certain aircraft), as well as for specified plants planted or grafted after September 27, 2017, and before January 1, 2023.

(3) TCJA Section 13201 removes the requirement that the original use of qualified property must commence with the taxpayer (i.e., it allows the additional first-year depreciation deduction for new and certain used property).

(4) Generally, TCJA Section 13201 applies to property acquired and placed in-service after September 27, 2017, and to specified plants planted or grafted after such date. A transition rule provides that, for a taxpayer’s taxable year that includes September 27, 2017, the taxpayer may elect to apply a 50 percent allowance instead of the 100 percent allowance. See Section 13201 of the Tax Cuts and Jobs Act of 2017 (TCJA), and Treas. Reg. 1.168(k)-2, for more information.

**IRM 21.7.4.4.17.6.11 New subsection added entitled Permanent 100-Percent Expensing Under the One Big Beautiful Bill Act (OBBBA) based on Section 70301 of OBBBA.**

(1) Section 70301 of the One Big Beautiful Bill Act (OBBBA), Pub. L. No. 119-21, (July 4, 2025) makes permanent the 100 percent additional first-year depreciation deduction for eligible business assets.

(2) OBBBA Section 70301 increases the first year additional depreciation deduction to 100 percent for qualified property, and specified plants, planted or grafted, after January 19, 2025.

(3) Generally, OBBBA Section 70301 applies to property acquired and placed in service after January 19, 2025, and to specified plants planted or grafted after such date. A transition rule provides that when a taxpayer's taxable year includes January 20, 2025, the taxpayer may elect to apply a 40 percent allowance (60 percent for longer production period property and certain aircraft) instead of the 100 percent allowance. See Section 70301(b)(3) of the OBBBA for more information.

**IRM 21.7.4.4.17.7.8 Updated table in paragraph (2) to add amended dollar amounts for certain depreciable business assets under IRC 179(b) per the One Big Beautiful Bill Act (OBBBA) and added paragraph (6) explaining what has changed due to OBBBA.**

(1) *Tax Cuts and Jobs Act of 2017 (TCJA), Section 13101, Modifications of Rules for Expensing Depreciable Business Assets under Code 179*, increases the maximum amount a taxpayer may expense under Code 179 to $1,000,000.00 and increases the phase-out to $2,500,000.00.

(2) TCJA, Section 13101, amended the inflation adjustment provision in IRC 179(b)(6), and by expanding its application to the maximum amount in IRC 179(b)(5) for a sport utility vehicle.

| Rev. Proc. | Taxable Year Beginning | Inflation Adjusted Maximum Amount under IRC 179(b)(1) | Inflation Adjusted Threshold Amount under IRC 179(b)(2) | Inflation Adjusted Maximum Amount for a Sport Utility Vehicle under IRC 179(b)(5) |
|---|---|---|---|---|
| Rev. Proc. | 2019 | $1,020,000 | $2,550,000 | $25,500 |

| | | | | |
|---|---|---|---|---|
| 2018-57, 2018-49 I.R.B. 827 | | | | |
| Rev. Proc. 2019-44, 2019-47 I.R.B. 1093 | 2020 | $1,040,000 | $2,590,000 | $25,900 |
| Rev. Proc. 2020-45, 2020-46 I.R.B. 1016 | 2021 | $1,050,000 | $2,620,000 | $26,200 |
| Rev. Proc. 2021-45 , Section 3.25 | 2022 | $1,080,000 | $2,700,000 | $27,000 |
| Rev. Proc. 2022-38, Section 3.25 | 2023 | $1,160,000 | $2,890,000 | $28,900 |
| Rev. Proc. 2023-34, Section 3.25 | 2024 | $1,220,000 | $3,050,000 | $30,500 |
| Rev. Proc. 2024-40, Section 3.25 and Rev. Proc. 2025-32, Section 2 | 2025 | $2,500,000 | $4,000,000 | $31,300 |

(3) TCJA, Section 13101, expands the definition of IRC 179 property to include certain tangible property used in lodging.

(4) TCJA, Section 13101, changes the definition of qualified real property. Qualified real property is any qualified improvement property described in IRC 168(e)(6), and any of the following improvements to nonresidential real property placed in service after that property was first placed in service: roofs; heating, ventilation, and air-conditioning property; fire protection and alarm systems; and security systems.

(5) This provision applies to property placed in service in taxable years beginning after December 31, 2017. See TCJA, Section 13101, and Rev. Proc. 2019-08, 2019-03 I.R.B. 347, for more information.

(6) Section 70306 of the One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 72 (2025) (OBBBA) amended IRC 179 of the Code by raising the IRC 179(b)(1) limitation to $2,500,000 and the IRC 179(b)(2) limitation to $4,000,000 for taxable years beginning after December 31, 2024.

**IRM 21.7.4.4.17.11 Updated paragraphs (2) and (8) with information that Section 70507 of the One Big Beautiful Bill Act terminates the IRC 179D deduction with respect to property the construction of which begins after June 30, 2026.**

(1) Section 1331, Title XIII, of the Energy Policy Act of 2005, P.L. 109-58, created the Energy Efficient Commercial Buildings Deduction under IRC 179D. The provision provides a deduction for all or a part of the cost of energy efficient commercial building property placed in service during the taxable year.

(2) The energy efficient commercial building deduction has been modified by various legislation and was made permanent for property placed in service after December 31, 2020. . The following is a listing of the legislation that extended, modified, or terminated the energy efficient commercial building deduction:

- Section 303, Div. B, Title III, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the deduction for five years for property placed in-service after December 31, 2008 and on or before December 31, 2013.
- Section 158, Div. A, Title I, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the deduction for one year and is effective for taxable years beginning after December 31, 2013 and on or before December 31, 2014.
- Section 190, P.L. 114-113, Div. Q, Title I, of the Protecting Americans from Tax Hikes (PATH) Act, extends the period in which a taxpayer may claim the deduction for two years for property placed in-service after December 31, 2014 and on or before December 31, 2016. Section 341, Div. Q, Title III, of the PATH Act updates the energy efficiency standards required for a building to qualify for the section 179D deduction and is effective for property placed in-service after December 31, 2015 and on or before December 31, 2016.
- Section 40413, P.L. 115-123, Div. D, Title I of the Bipartisan Budget Act of 2018 extended the deduction through December 31, 2017.
- Section 131, P.L. 116-94, Div. Q, Title 1 of the Further Consolidated Appropriations Act, 2020, extended the deduction through December 31, 2020.
- Section 102, P.L. 116-260, of the Consolidated Appropriations Act, 2021, made the deduction permanent. The amendments made by this section apply to property placed in service after December 31, 2020.
- Section 13303, P.L. 117-169, of the Inflation Reduction Act of 2022, made significant changes to this deduction. Those changes are described in (7) below.
- Section 70507 of the One Big Beautiful Bill Act (OBBBA), Pub. L. No. 119-21, (July 4, 2025), terminates the IRC 179D deduction with respect to property the construction of which begins after June 30, 2026.

(3) After the PATH Act amendments, energy efficient commercial building property was defined as depreciable property which is installed:

a. On or in any building located in the United States that is within the scope of Standard 90.1-2007 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on the day before the date of the adoption of Standard 90.1-2010 of such Societies).

b. As part of the interior lighting system, the heating, cooling, ventilation, and hot water systems, or the building envelope, and which is certified as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to those systems by 50 percent or more in comparison to a reference building that meets the minimum requirements of Standard 90.1-2007.
c. Section 102, P.L. 116-260, of the Consolidated Appropriations Act, 2021, amends section 179D(c) with an update to Standard 90.1-2007, which updates "Reference Standard 90.1", for purposes of this section, no later than 2 -years before the date that construction of the property begins. Amendments made by this section apply to property placed in service after December 31, 2020. Amendments by Section 13303, P.L. 117-169, of the Inflation Reduction Act of 2022, effectively provided a sunset for this change as a new definition of Reference Standard 90.1 is effective for property placed in service in taxable years beginning after December 31, 2022.

(4) A partial deduction is allowed for buildings that do not meet the above requirements. See Notice 2006-52, 2006-26 I.R.B. 1175, Notice 2008-40, 2008-14 I.R.B. 725, and Notice 2012-26, 2012-17 I.R.B. 847 for special rules for partial allowances, method of calculation, basis reduction, interim rules for lighting systems, and other specific information. This partial allowance was removed by Section 13303 P.L. 117-169, of the Inflation Reduction Act of 2022, effective for property placed in service in taxable years beginning after December 31, 2022.

(5) Section 102, P.L. 116-260, of the Consolidated Appropriations Act, 2021, amended the **Methods of calculation** under section 179D(d)(2) by changing the applicable California Nonresidential Alternative Calculation Method Approval Manual with respect to any property to the **most recent** version affirmed by the Secretary after consulting with the Secretary of Energy no later than 2 years before the date that construction of such property begins. Amendments made by this section apply to property placed in service after December 31, 2020. Amendments by Section 13303, P.L. 117-169, of the Inflation Reduction Act of 2022, effectively provided a sunset for this change as a new definition of the applicable California Standard that is effective for property placed in service in taxable years beginning after December 31, 2022.

(6) The deduction was limited to the product of $1.80 and the square footage of the building over the aggregate amount of the deductions under IRC 179D with respect to the building for all prior taxable years. The $1.80 per square foot amount was indexed for inflation for taxable years after December 31, 2020. See IRC 179D(g). The maximum deduction per square foot amount was significantly changed by Section 13303, P.L. 117-169, of the Inflation Reduction Act, as discussed below.

(7) Section 13303, P.L. 117-169, of the Inflation Reduction Act of 2022, made significant revisions to the 179D deduction for property placed in service in taxable years beginning after December 31, 2022, unless otherwise noted. The significant revisions are:

1. The minimum energy savings percentage required to qualify for the deduction was reduced from 50 percent to 25 percent.
2. The deduction limitation was reduced from $1.80 per square foot to $0.50 per square foot. Both amounts are indexed for inflation.
3. The deduction limitation of $0.50 per square foot is increased 2 cents per square foot for each 1 percentage point increase in the energy savings percentage above 25 percent, until the deduction reaches $1.00 per square foot at 50 percent energy savings.
4. If prevailing wage and apprenticeship requirements are met, the per square foot deduction limitation calculated above is multiplied by 5.
5. The time period for determining the aggregate deductions claimed against the square footage maximum was changed from all prior years to the 3 prior taxable years (4 prior years for an allocated deduction).
6. The partial deduction which applied if the energy savings percentage did not meet the energy savings threshold, but one of the three major systems (envelope, lighting, HVAC) did achieve the 50 percent savings was eliminated from the section.
7. The allocation of the deduction to a designer for Government Owned buildings was expanded to allow the allocation of the deduction by most entities exempt from income taxation.
8. The definition of the applicable Reference Standard 90.1 was changed to the more recent of the 2007 standard, or the most recent standard affirmed by the Secretary not later than 4 years before the property is placed in service.
   a.) Announcement 2023-1 affirmed Reference Standard 90.1-2019 effective on January 1, 2023, meaning that it is the applicable reference standard for buildings placed in service after December 31, 2026.
   b.) If building construction began before January 1, 2023, reference standard 90.1-2007 is still used regardless of placed in service date.
   c.) Announcement 2024-24 affirmed Reference Standard 90.1-2022 as the applicable reference standard for Energy Efficient Commercial Building Property placed in service after December 31, 2028, and the construction of which did not begin by December 31, 2022.
9. The definition of the applicable California Nonresidential Alternative Calculation Method Approval Manual was changed to affirmed by the Secretary not later than 4 years before the property is placed in service.
10. The partial deduction for lighting upgrades was eliminated.
11. An alternative deduction for energy efficient building retrofit property was added. The retrofit provisions apply to property placed in service after December 31, 2022, in taxable years ending after such date, pursuant to a qualified retrofit plan established after December 31, 2022.

(8) When the Section 179D deduction is claimed for property the construction began on or before June 30, 2026:

1. The depreciable basis of the building is reduced by the amount of the 179D deduction. Depreciation is computed on the remaining depreciable basis.

2. At sale or other disposition, Real Property to the extent of the amount of the 179D deduction is treated as Section 1245 property and subject to Section 1245 recapture. See Section 1245(a)(3)(C).
3. Beginning with the 2022 tax year, Form 7205 is used when the 179D deduction is claimed. Forms 1120, 1120S, 1120-REIT, 1065 and Form 1040 Sch C were also changed to have a dedicated line for this deduction. Previously (and currently on forms without a dedicated line) the deduction was/is claimed on the “Other Deductions” Line. When a Form 7205 is attached to a return and the processing date is after 3/20/2023, the BMF returns will have an RPC Code of M. IMF returns with have an FPC of 3.

**IRM 21.7.4.4.19.2 Updated paragraph (1) indicating Notice 2015-73 is obsolete. Deleted paragraphs (5) and (6) with guidance on processing amended returns citing Notice 2015-73.**

(1) Per Notice 2015-73, 2015-46 I.R.B. 660, the Treasury Department and the Internal Revenue Service identified as a listed transaction a type of structured financial transaction, in which a taxpayer tries to defer income recognition and convert short-term capital gain and ordinary income to long-term capital gain using a contract denominated as an option contract. Notice 2015-73 alerts persons involved in these transactions about certain responsibilities that may arise from their involvement with these transactions. Notice 2015-73 is revoked. See Notice 2025-22, for details.

(2) Notice 2015-47, 2015-30 I.R.B. 76, identified the basket option contract and substantially similar transactions as listed transactions for purposes of section 1.6011-4(b)(2) of the Income Tax Regulations and section 6111 and section 6112 of the Internal Revenue Code. Notice 2015-47 also alerted persons involved in these transactions about certain responsibilities that may arise from their involvement with these transactions. Notice 2015-47 is revoked. See Notice 2015-73, for details.

(3) Per Notice 2015-74, 2015-46 I.R.B. 663, the Treasury Department and the Internal Revenue Service identified as a transaction of interest a type of structured financial transaction, in which a taxpayer tries to defer income recognition and convert short-term capital gain and ordinary income to long-term capital gain through a contract denominated as an option, notional principal contract, forward contract, or other derivative contract. Notice 2015-74 also alerts persons involved in these transactions about certain responsibilities that may arise from their involvement with these transactions. Notice 2015-74 is obsolete. See Reg-102161-23 for details.

(4) Notice 2015-48, 2015-30 I.R.B. 77, identified the basket contract and substantially similar transactions as transactions of interest for purposes of section 1.6011-4(b)(6) of the Income Tax Regulations and section 6111 and section 6112 of the Internal Revenue Code. Notice 2015-48 also alerted persons involved in these transactions about certain responsibilities that may arise from their involvement with

these transactions. Notice 2015-48 is revoked. See Notice 2015-74 for details. Notice 2015-74 is obsolete. See Reg-102161-23 for details.

**IRM 21.7.4.4.23 Updated paragraph (6) adding a note for the changes to Form 1099-K reporting under Section 70432 of the One Big Beautiful Bill Act.**

(1) IRC 6050W was added to the Internal Revenue Code by the Housing and Economic Recovery Act of 2008, P.L. 110-289. Beginning with calendar year 2011, Form 1099-K, *Merchant Card and Third-Party Network Payments*, is required to be filed with respect to payments in settlement of reportable payment transactions, and furnished to business entities including sole proprietors, partnerships, corporations, S corporations, and trusts.

(2) IRC 6050W and Treasury Regulation 1.6050W-1 require any payment settlement entity (PSE) making one or more payments to a “participating payee” in settlement of "reportable payment transactions", to file Form 1099-K annually with the IRS. The payor reports the gross amount of such reportable payment transactions for the calendar year and for each month within such calendar year. The payor must also report the name, address, and TIN of the participating payee on Form 1099-K. A similar statement must be furnished to the payee containing the same information, as well as the name, address, and phone number of the person required to prepare the return. A "reportable payment transaction" means any payment card transaction and any third-party network transaction (see (6) below for the de minimis exception). A "payment card transaction" means any transaction in which a payment card is accepted as payment. A "third-party network transaction" means any transaction that is settled through a third-party payment network.

(3) Under IRC 6050W, a "payment settlement entity" is a domestic or foreign entity, that is a merchant acquiring entity or a third-party settlement organization. A merchant acquiring entity is the bank or other organization that has the contractual obligation to make payments to participating payees in settlement of payment card transactions. A third-party settlement organization (TPSO) is the central organization that has the contractual obligation to make payments to participating payees of a third-party network transaction. In both contexts, the regulations provide that a payment settlement entity "makes payment" in settlement of a reportable transaction if it submits the instructions to transfer funds to the account of the participating payee.

(4) A “payment card” is defined as any card (e.g., a credit card or debit card) which is issued pursuant to an agreement or arrangement which provides for:

- One or more issuers of such cards
- A network of persons unrelated to each other, and to the issuer, who agree to accept such cards as payment
- Standards and mechanisms for settling the transactions between the merchant acquiring entities and the persons who agree to accept such cards

as payment. (Thus, under the provision, a bank that enrolls a business to accept credit cards and contracts with the business to make payment on credit card transactions is required to report to the IRS the business's gross credit card transactions for each calendar year. The bank also is required to provide a copy of the information report to the business)

(5) The provision also requires reporting on a third-party network transaction. A "third-party payment network" is defined as any agreement or arrangement that:

- Involves the establishment of accounts with a central organization by a substantial number of persons (e.g., more than 50) unrelated to such organization, provide goods or services, and have agreed to settle transactions for the provision of such goods or services pursuant to such agreement or arrangement
- Provides for standards and mechanisms for settling such transactions
- Guarantees persons providing goods or services pursuant to such agreement or arrangement that such person will be paid for providing such goods or services

(6) There is a de minimis exception from reporting for third-party settlement organizations. Section 9674(c), P.L. 117-2, of the American Rescue Plan Act of 2021, lowers and modifies the threshold below which a third-party settlement organization is not required to report payments to participants in its network, applicable to returns for calendar years beginning after December 31, 2021.

- Under this provision a third-party settlement organization is required to report third-party network transactions with any participating payee that exceed a minimum threshold of $600 in aggregate payments, regardless of the aggregate number of such transactions.
- The provision also clarifies that third-party network transactions only include transactions for the provision of goods or services and is applicable to transactions after the date of enactment.

**Note:** On Dec. 23, 2022, the IRS announced that calendar year 2022 will be treated as a transition year for the reduced reporting threshold of more than $600. For calendar year 2022, third-party settlement organizations who issue Forms 1099-K are only required to report transactions where gross payments exceed $20,000 and there are more than 200 transactions. For more information regarding the delay in reporting thresholds for third-party settlement organizations, see Understanding Your Form 1099-K and Notice 2023-10.

**Note:** On November 21, 2023, the IRS announced (Notice 2023-74) another year delay of the new $600 Form 1099-K, **Payment Card and Third Party Network Transactions**, reporting threshold for payment apps and online marketplaces (third-party settlement organizations) for calendar year 2023. On November 26, 2024, the IRS announced (Notice 2024-85) that TPSO's will be required to report transactions when the amount of total payments for those transactions is more

than $5,000 in 2024; more than $2,500 in 2025; and more than $600 in calendar year 2026 and after.

**Note:** Section 70432 of the One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 72 (2025) reinstates the de minimis exception from reporting for TPSOs as was in effect prior to the enactment of the American Rescue Plan Act of 2021 by amending Section 6050W(e) to provide that a TPSO is required to report transactions to the IRS if a payee has more than 200 transactions ***and*** the gross amount exceeds $20,000 in a calendar year. Section 70432 takes effect as if it were included in Section 9674 of the American Rescue Plan Act.

(7) Reportable payment transactions subject to information reporting are subject to backup withholding requirements. In addition, penalties relating to the failure to file correct information returns apply to the information reporting requirements under IRC 6050W. See TD 9496, 2010-43 I.R.B. 484, for the final regulations relating to information reporting requirements, information reporting penalties, and backup withholding requirements for payment card and third-party network transaction in the Federal Register, 49821, volume 75, No 157, dated Monday August 16, 2010.

(8) Notice 2024-85 announced for calendar year 2024, that the IRS will not assert penalties under Section 6651 or 6656 for a TPSO's failure to withhold and pay backup withholding tax during the calendar year. TPSO's that have performed backup withholding for a payee during calendar year 2024, must file a Form 945 and a Form 1099-K with the IRS and furnish a copy to the payee. For calendar year 2025 and after, the IRS will assert penalties under Section 6651 or 6656 for a TPSO's failure to withhold and pay backup withholding.

(9) There is no requirement to report the amount of payment card and third-party network transactions on a separate line of the taxpayers return. Taxpayers will include the total amount of receipts, including those included on Form 1099-K, on the gross receipts line.

(10) See the Third-Party Reporting Information Center, on www.irs.gov and the Instructions for Form 1099K, for more information. In addition, more information can be found on SERP under the IRM Supplemental tab. Click on the Form 1099-K, Payment Card and Third-Party Networks Transactions link for Frequently Asked Questions and more.

**IRM 21.7.4.4.26(1) Added additional NOL carryforward resource information for NOL deduction limitations; links to IRC 172(b), Form 172 Instructions, and Publication 225 reference added.**

(1) Taxpayers may carry forward a Net Operating Loss (NOL), Net Capital Loss (NCL), or Excess Business Credit. Section 13302, of the Tax Cuts and Jobs Act of 2017 (TCJA), Public Law 115-97, Modification of Net Operating Loss Deduction, significantly changed the NOL carryback rules. The TCJA provided that the two-year

carryback rule generally does not apply to NOLs arising in tax years ending after December 31, 2017. Exceptions apply to certain farming losses and NOLs of insurance companies, other than life insurance companies. The Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act), effectively delayed the application of the 2017 tax act amendments to carrybacks until January 1, 2021. See IRC 172(b), Form 172 Instructions, and Pub 225 for additional information on NOL deduction limitations.