

Form 8900 (Rev. Dec. 2006)

Qualified Railroad Track Maintenance Credit

Purpose: This is the first circulated draft of the Form 8900 (Rev. Dec. 2006) for your review and comments. Changes made to the form are explained on the attachment.

TPCC meeting: No meeting is planned, but you may request one by contacting John R. Nelson

Prior Revisions The 2005 Form 8900 is available at:

<http://www.irs.gov/pub/irs-pdf/f8900.pdf>

Other products Circulations of draft tax forms and instructions are posted at http://taxforms.web.irs.gov/draft_products.html.

Draft publications are not available.

Comments Please email, fax, or call, any comments by **June 21, 2006**.

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Major Changes for 2006

- We deleted Part II, relating to computation of the allowable credit from the form. Beginning in 2006, all taxpayers will be required to complete Form 3800, General Business Credit, to make this computation.
- Beginning in 2006, this form will become a continuous use form. That is, it will be revised only as needed instead of annually. Under current law, this credit is set to expire on December 31, 2007.
- In response to a request from the Office of Chief Counsel, we added an additional entry for lines 3b and 3c that requests information from the assignee (line 3b) or assignor (line 3c.)
- The final version of the Instructions for “Controlled Groups” will be replaced with the following text:

Member of controlled group or business under common control. For purposes of figuring the credit, all members of a controlled group of corporations (as defined in section 41(f)(1)(A) and (f)(5)) and all members of a group of businesses under common control (as defined in section 41(f)(1)(B)), are treated as a single taxpayer. As a member, compute your credit based on your proportionate share of qualified railroad track maintenance expenditures giving rise to the group’s railroad track maintenance credit. Enter your share of the credit on line 5. Attach a statement showing how your share of the credit was figured, and write “See Attached” next to the entry space for line 5.

Note: Please disregard the instructions for “Controlled Groups” in this 1st draft.

Qualified Railroad Track Maintenance Credit

▶ **Attach to your tax return.**

Attachment
 Sequence No. **144**

Name(s) shown on return		Identifying number	
1 Qualified railroad track maintenance expenditures paid or incurred (see instructions)	1		
2 Enter 50% (.50) of line 1		2	
3a Number of miles of railroad track owned or leased by you (see instructions).	3a		
b Less: number of miles of railroad track owned or leased by you and assigned to other eligible taxpayers for purposes of this credit (see instructions) Enter the name of the assignee (see instructions) ▶ -----	3b ()		
c Number of miles of railroad track assigned to you by the owner or lessee for purposes of this credit (see instructions) Enter the name of the assignor (see instructions) ▶ -----	3c		
d Total. Combine lines 3a through 3c ▶		3d	
4 Multiply line 3d by \$3,500		4	
5 Enter the smaller of line 2 or line 4		5	
6 Qualified railroad track maintenance credit from partnerships and S corporations		6	
7 Add lines 5 and 6. Partnerships and S corporations, report this amount on Schedule K; all others, report the credit on the applicable line of Form 3800 (e.g. line 1o of the 2006 Form 3800)		7	

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

What's New

- The tax liability limit is no longer figured on this form. Instead, it must be figured on Form 3800, General Business Credit.
- Taxpayers that are not partnerships or S corporations, and whose only source of this credit is from those pass-through entities, are not required to complete or file this form. Instead, they can report this credit directly on line 1o of Form 3800.
- The IRS will revise this December 2006 version of the form only when necessary. Continue to use this version for tax years beginning after 2005 until a new revision is issued.
- For tax years beginning in 2006, railroads that assigned track to another railroad, or have been assigned trackage by another railroad, will be required to provide additional information relating to such trackage. See the instructions for more information.

Purpose of Form

Eligible taxpayers use Form 8900 to claim the credit with respect to qualified railroad track maintenance expenditures paid or incurred during tax years beginning after December 31, 2004 and before January 1, 2008.

Definitions

Eligible Taxpayer

Eligible taxpayers include:

1. Any Class II or Class III railroad, as these terms are defined by the Surface Transportation Board (STB).
2. Any person (including a Class I railroad (see below)) who transports property using the rail facilities of a Class II or Class III railroad.
3. Any person (including a Class I railroad (see below)) who furnishes railroad-related services or property to a Class II or Class III railroad.

For purposes of 2 or 3 above, the taxpayer is only eligible to claim the credit with respect to miles of railroad track assigned to it by a Class II or Class III railroad for purposes of the credit. See the instructions for line 3c.

Class I railroads include only the following seven entities:

- BNSF,
- CSX,
- Grand Trunk Corporation (a holding company for all of Canadian National's U.S. railroad operations),
- Kansas City Southern,
- Norfolk Southern,
- Soo Line (owned by Canadian Pacific), and
- Union Pacific.

Qualified Railroad Track Maintenance Expenditures

Qualified railroad track maintenance expenditures means expenditures (whether or not otherwise chargeable to a capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2005, by a Class II or Class III railroad.

Basis Reduction

You must reduce the basis of any railroad track by the amount of the credit on line 5 related to that railroad track.

Specific Instructions

Part I—Current Year Credit

Figure the current year credit from your trade or business on lines 1 through 5. Skip lines 1 through 5 if you are only claiming a credit that was allocated to you from an S corporation or partnership.

Line 1

Qualified railroad track maintenance expenditures must be paid or incurred by an eligible taxpayer during the tax year.

Line 3a (This line only applies to you if you are a Class II or Class III railroad.)

You (a) must own or lease each mile of railroad track by the close of your tax year that corresponds to the credit computation and (b) that mile must have been owned or leased by a Class II or Class III railroad as of January 1, 2005.

Line 3b (This line only applies to you if you are a Class II or Class III railroad.)

You must reduce on line 3b the number of miles of railroad track entered on line 3a that you assigned to another eligible taxpayer for purposes of the credit computation. You can only assign each mile of railroad track once during your tax year. Each mile of railroad track that you assign is treated as being assigned on the last day of your tax year.

If there is more than one assignee, attach a statement identifying the assignees and the mileage assigned to each one.

Line 3c

The eligible taxpayer (a) must be assigned each mile of railroad track for purposes of the credit (i) by the close of the tax year that corresponds to the credit computation and (ii) by the Class II or Class III railroad that owns or leases that railroad track and (b) that mile must have been owned or leased by a Class II or Class III railroad as of January 1, 2005.

If there is more than one assignor, attach a statement identifying the assignors and the mileage assigned by each.

Line 7

S corporations and partnerships. Allocate the line 7 credit among the shareholders or partners. Show the credit for each shareholder or partner on Schedule K-1. Electing large partnerships include this credit in "general credits."

Member of controlled groups or business under common control. For purposes of figuring the credit, all members of a controlled group of corporations (as defined in section 41(f)(5) and Regulations section 1.41-6T), and all members of a group of businesses under common control, are treated as a single taxpayer. The credit allowed each member is based on its proportionate share of qualified railroad track maintenance expenditures giving rise to the group's railroad track maintenance credit. Use Part I to figure the credit for the entire group, but enter only this member's share of the credit on line 7. Attach a statement showing how this member's share of the credit was figured, and write "See Attached" next to the entry space for line 7.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

- Recordkeeping** 6 hr., 56 min.
- Learning about the law or the form** 30 min.
- Preparing, copying, assembling, and sending the form to the IRS** 38 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.