

2008 Form 8835, Renewable Electricity, Refined Coal, and Indian Coal Production Credit

Purpose: This is the second circulated draft of the 2008 Form 8835 for your review and comments. See below for a discussion of the major changes.

TPCC Meeting: None, but one may be arranged if requested.

Prior Version: The 2007 Form 8835 is available at:
<http://www.irs.gov/pub/irs-pdf/f8835.pdf>

Other Products: Circulations of draft tax forms, instructions, notices, and publications are posted at: <http://taxforms.web.irs.gov/Circulations/index.htm>

Comments: Please email, fax, call, or mail any comments by **November 16, 2008**. Comments should also be sent to the reviewer at Sharon.A.Dewsbury@irs.gov

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Major Changes to the 2008 Form 8835

On the Form

f1] The Sections A and B headings are replaced with new **Parts I and II** headings to conform to the orientation on other credit forms. Also to conform to other credit forms, the line numbers after line **12** are renumbered to be continuous from the new Part I to the new Part II. The heading of Part II covers the placed-in-service date for facilities producing electricity from marine and hydrokinetic renewables per Sec.10, Div. B, 2 of P.L. 110-343.

f2] The text "the credit" is replaced with "this amount" on line **12** to be consistent with new lines 36 and 38.

f3] The text "and for electricity produced and sold after October 3, 2008, from marine and hydrokinetic renewables" is added to new line **14** (old line 2, Section B), per Sec.102, Div. B, of P.L. 110-343. Note that this date is not the same as the date in the Part II heading.

f4] The text "combustion" is removed from new line **13** as it no longer describes a trash facility per section 101(c), Div. B, of P.L. 110-343.

f5] New line **21** is added to account for steel industry fuel, per Sec. 108, Div. B, of P.L. 110-343. A line reference for line 21 is added to new line **23**.

f6] On new line **29**, the text "Section B" is replaced by "**Part II**."

f7] The old Part II (old lines 26 - 36) is deleted to conform to the 3rd WRN for the 2008 Form 3800.

Form 3800 was expanded to calculate the allowable general business credit for all credits allowed against AMT, including the renewable electricity, refined coal, and Indian coal production credit. P.L. 110-289, Sec. 3022, allowed the low-income housing credit and the rehabilitation credit to be used against AMT after 2007, causing the Form 3800 expansion.

f8] New lines **36 and 38** (old lines 23 and 25) are rewritten to indicate where to report the credit on the revised Form 3800.

In the Instructions

i1] The **What's New** area is rewritten to account for the 2 new credits (steel industry fuel, and marine and hydrokinetic renewables) and the reorientation of the form into **Parts I and II**.

i2] (page 2, 1st column) the 1st paragraph under **How to Figure the Credit** is rewritten to account for the text "combustion" being removed from the indication of a trash facility, per section 101(c), Div. B, of P.L. 110-343, and the addition of marine and hydrokinetic renewable facilities, per section 102(a), Div. B, of P.L. 110-343.

i3] The steel industry fuel and Indian coal rates are added to the next paragraph.

i4] (page 2, 2nd column) Marine and hydrokinetic renewables are added to the **Resources** under **Definitions**.

i5] (page 2, 2nd column) The reference for rules related to open-loop biomass is changed to Notice 2008-60, 2008-30 I.R.B. 178.

i6] (page 2, 3rd column) Steel industry fuel is added to the definition of refined coal per section 108, Div. B, of P.L. 110-343, and a definition of steel industry fuel is added as the next paragraph.

i7] (page 2, 3rd column) a definition of marine and hydrokinetic renewables is added.

i8] (page 2, 3rd column) Under **Part II**, the 1st bullet is augmented to indicate that no double benefit is allowed with respect to a wind facility and the residential energy efficient property credit,

per section 106 (c) (4)(B), Div. B, of P.L. 110-343.

i9] (page 2, 3rd column) Under the **Part II bulleted list**, the placed in service date for renewable energy facilities is extended (changed) to **1/10/11** in the case of **closed- and open-looped biomass, geothermal energy, landfill gas or trash** (the text “combustion” is removed), and (page 3, 1st column) **hydropower**, per section 101(2)), Div. B, of P.L. 110-343.

In the case of a **refined coal production** (which would include steel industry fuel) **or wind** facility, the placed in service date is extended (changed) to **1/10/10**, per section 101(1), Div. B, of P.L. 110-343.

In the case of a **small irrigation power** facility, the termination date is changed per 101(a), Div. B, of P.L. 110-343, and IRC section 45(d)(5).

Note that the dates for **solar energy and Indian coal production** facilities is not extended (unchanged).

i10] (page 2, 3rd column) Bullets for marine and hydrokinetic renewables production facilities, closed- and open-looped facilities, with placed in service dates, are added to the **Part II bulleted list**. The refined coal production facility bullet is augmented with steel industry fuel information.

i11] (page 3, 1st column) In the paragraph after the **Part II bulleted list** a sentence is added to account for the steel industry fuel exception to IRC section 45(e)(9), per section 108(d), Div. B, of P.L. 110-343.

i12] (page 3, 1st column) A bullet is added under “**Credit period is**” for steel industry fuel per section 108(b), Div. B, of P.L. 110-343, and IRC section 45(e)(8)(D)(i)(II).

i13] (page 2, 2nd column, line **18**) The text “(other than steel industry fuel)” is added to the discussion of refined coal.

i14] (page 2, 2nd column, line **21**) Line 21 instructions are added.

i15] The form has new **Parts I and II** headings to conform to the orientation on other credit forms. Such references are changed throughout the instructions and the line numbers (after line **12**) are renumbered to be continuous from the new Part I to the new Part II. The headings themselves are not being used in the instructions as they are unnecessary.