

Major Changes to 2008 Form 3468, Investment Credit

Because of legislation adding and modifying investment credits in late 2008 and early 2009, we have split the form into three parts.

The form was also converted into an annual use form.

A new Part I is added to obtain information on the election to treat a lessee as the purchaser of investment credit property. This was added at the request of SB/SE under the authority of IRC section 50(d)(5).

Part II will be used calculate the energy credit for tax years beginning before October 4, 2008, qualifying advanced coal project credit, and qualifying gasification project credit.

Part III was added as a result of P. L. 110-289, sec. 3022, and P.L. 110-343, Div. B, sec. 103(b) to calculate the rehabilitation credit and the energy credit (for tax years beginning after October 3, 2008) which can offset AMT.

Lines were added to the rehabilitation credit for the increased percentages allowed for the Midwestern disaster area under section 702(d)(5) of P.L. 110-343.

The following changes were made to Form 3468 under P.L. 110-343, Div. B, since it increased and extended various credits and added new energy property. The changes were made effective after October 3, 2008. Thus, the changes are reflected in Parts II and III of the form.

- Under section 103(c), new lines 5l through 5n and 11i through 11k were inserted for the energy credit for combined heat and power system property.

- Under section 103(d), the credit limitation for fuel cell property was increased. New lines 5f through 5h and 11c through 11e were added.

- Under section 104, new lines 5o, 5p, 11l and 11m were added for small wind energy property.

- Under section 105, new lines 5q and 11n were added for geothermal heat pump systems.

- Under section 111, new line 6c was added for the expansion of the advanced coal project investment credit.

- Under section 112, new line 7a was added for the expansion of the coal gasification investment credit.

The following changes were made to Form 3468 under P.L. 111-5, Div. B, the American Recovery and Reinvestment Act of 2009, since this Act added new investment credit property and made several revisions to already existing credits.

- Under section 1102, taxpayers may elect to receive the investment credit in lieu of production credit for qualified investment credit facilities. We inserted new lines 5s in Part II and 11p in Part III of the form.

- Under section 1103, the limitation for the credit for qualified small wind energy property was repealed after December 31, 2008. We have inserted new lines 5q in Part II and 11n in Part III for property placed in service after December 31, 2008.

--Under section 1302, we inserted a new line in Part II of Form 3468 for the new credit for investments in advanced energy facilities. We inserted new line 8a in Part II of the form for this new credit.

We renumbered all subsequent lines accordingly.

Major Changes

Because of legislation adding and modifying investment credits, we split Form 3468 into three parts. We also added new lines to account for additional investment credit property. This necessitated an expansion of the related Instructions.

What's New, p. 1.

We specified that the Housing and Economic Recovery Act of 2008 allows the rehabilitation credit to offset the alternative minimum tax for periods after 2007.

We noted that the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 increased the rehabilitation credit for certain properties damaged or destroyed as a result of the severe storms, tornados, or flooding in the Midwestern disaster area.

We explained that the Energy Improvement and Extension Act of 2008: (1) added three new properties for the energy credit for property placed in service after October 3, 2008, (2) increased the half kilowatt capacity limit for qualified fuel cells from \$500 to \$1,500 per half kilowatt of capacity, and (3) allows the energy credit to be offset against the alternative minimum tax for tax years beginning after October 3, 2008.

We noted that the American Recovery and Reinvestment Act of 2009 added: (1) a new investment credit for qualifying advanced energy project credit for periods after February 17, 2009, (2) repealed the credit limitation for qualified small wind energy property for periods after December 31, 2009, and (3) provides an election to treat qualified facilities as energy property for facilities placed in service after December 31, 2008.

Recapture of Credit, p. 1

We added a bullet point that clarifies that a renewable energy credit was provided for section 48 property that was allowed a credit for progress expenditures before the grant was made is subject to recapture.

Shareholder of S Corporations, Partners of Partnerships, and Beneficiaries of Estates and Trusts, p. 2

We modified the information that is provided by the entity to shareholders, partners, or beneficiaries.

Part I. Information Regarding the Election to Treat the Lessee as the Purchaser of Investment Credit Property, p. 2

We added Instructions for Part I, a section on the 2008 Form 3468 to obtain information on the election to treat the lessee as the purchaser of investment credit property at the request of SB/SE under the authority of section 50(d)(5). Accordingly, we expanded the Instructions regarding the election for certain leased property.

Line 2. Address of lessor, p. 2

We clarified that the address of the lessor's principal office or place of business is to be used in Part I, Line 2. We inserted a note clarifying that the address of the registered agent for the state in which the lessor is incorporated is not to be reported. We illustrated this note with an example. We also clarified third party deliveries.

Part II and III. Energy Credit, Qualifying Advanced Coal Project Credit, and Qualifying Gasification Project Credit, p. 2-3

We explain in a note that taxpayers should use Part II for the energy credit if their tax year began before October 4, 2008. Part II is also used for the qualifying advanced coal project credit and qualifying gasification project credit. Finally, we noted that taxpayers should use Part III to figure the energy credit if their tax year began after October 3, 2008.

Energy Credit, p. 2

We also noted that for periods after December 31, 2008, there is no basis reduction for property financed by subsidized energy financing.

We clarify in **Energy Credit** that energy property does not include any property that is public utility property for periods before February 14, 2008.

Line 5c, Line 5f, and Line 11c.

We clarified that taxpayers should enter the basis of any qualified fuel cell property placed in service during the tax year as follows:

- Line 5c, if the tax year began before October 4, 2008, and the property was placed in service before October 4, 2008.
- Line 5f, if the tax year began before October 4, 2008, and the property was placed in service after October 3, 2008.
- Line 11c, if the tax year began after October 3, 2008.

Page 2-3

Line 5l and Line 11i. We added instructions for the energy credit for the new qualified combined heat and power system property. We also explained the energy efficiency percentage of a combined heat and power system property.

We clarified that systems designed to use biomass for at least 90 percent of the energy source are eligible for a reduced credit. We added transitional rules.

Page 3

Line 5o and Line 11l, p. 3. We added instructions for the energy credit for qualified small wind energy property placed in service after October 3, 2008, and before January 1, 2009.

Line 5q and 11n, p. 3. We added instructions of the energy credit for qualified small wind energy property placed in service after December 31, 2008. We also inserted transitional rules for eligible property.

Line 5r and Line 11o, p. 3. We added instructions for the energy credit for qualified geothermal heat pump systems.

Line 5s and 11p, p. 3. We added instructions for the energy credit for qualified investment credit facility property placed in service after December 31, 2008.

Part II. Qualifying advanced coal project credit, p. 3-4.

We revised and expanded the Instructions for the qualifying advanced coal project credit.

Line 6a. We revised and expanded the instructions for qualifying investment in integrated gasification combined cycle property for projects described in section 48A(d)(3)(B)(i).

Line 6b. We revised and expanded the instructions for qualifying investment in advanced coal-based generation technology property for projects described in section 48A(d)(3)(B)(ii).

Line 6c. We revised and expanded the instructions for qualifying investment in advanced coal-based generation technology for projects described in section 48A(d)(3)(B)(iii). We clarified that eligible property is any certified property located in the United States and which is part of a qualifying advanced coal project credit which has equipment that separates and sequesters at least 65 percent of the project's total carbon dioxide equipment. We also explain the percentage is increased if credits are later reallocated by the IRS.

Part II. Qualifying gasification project, p. 4.

We revised and expanded the instructions for the qualifying gasification project credit.

We also clarified that the total amount of credits that may be allocated under the qualifying gasification project program may not exceed \$650,000,000.

Line 7a. We explained that the credit is based on the basis of the qualified investment in qualifying gasification project property placed in service during the tax year for which

credits were allocated or reallocated after October 3, 2008, and which include equipment that separates and sequesters at least 75% of the project's carbon dioxide emissions.

Line 7b. We clarified that the basis of qualified investment other than in Line 7a in qualifying gasification property should be entered here.

Line 8a. Qualifying Advanced Energy Project Credit, p. 4. We inserted instructions for the qualifying advanced energy project. We also detailed eligible property. We added transitional rules.

Line 8b and Line 12. Credit From Section 1381(a) Cooperatives, p. 4. We clarified that cooperatives should see the Instructions for Form 3800, *General Business Credits*, line 1a, for allocating the investment credit to its patrons.

Part III. Rehabilitation Credit, p. 4-5.

We expanded the discussion for the rehabilitation credit for qualified rehabilitation expenditures paid or incurred in the GO Zone to include the Midwestern disaster area. We also updated the chart to include the Midwestern disaster area and list the states involved and the applicable dates. We also clarified that taxpayers should obtain further information on the affected counties and disaster dates in the Midwestern disaster area from Pub. 4492-B, *Information for Affected Taxpayers in the Midwestern Disaster Areas*.

We also added lines clarifying that the credit is available as a percentage of expenditures paid or incurred for any qualified rehabilitation building such as certified historic structures and structures other than a certified historic structure located in the Midwestern disaster area.