

SUPPORTING STATEMENT

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 1102 of the American Recovery and Reinvestment Tax Act of 2009, H.R. 1, 123 STAT. 115 (the Act), enacted on February 17, 2009, created an election for taxpayers to take the investment tax credit under § 48 in lieu of the production tax credit under § 45.

The proposed notice provides a description of the procedures that taxpayers will be required to follow to make an irrevocable election to take the investment tax credit for energy property under § 48 of the Internal Revenue Code in lieu of the production tax credit under § 45 of the Internal Revenue Code. The proposed notice includes information about election procedures and the documentation required to complete the election. The notice also discusses the coordination of this irrevocable election with an election to take a Department of Treasury Grant for specified energy property.

2. USE OF DATA

The data will be used by the Service upon examination to verify that the § 48 credit is allowed with respect to specific energy property for which the taxpayer claims the credit and that the taxpayer correctly accounted for the credit in computing the taxpayers' basis in the energy property for which the credit is claimed.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, Regulations, Notices and Letters are to be electronically enabled on a practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Not applicable.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

It is estimated that the total annual reporting burden will be 100 hours. The estimated average annual burden per respondent will be 1 hour to complete the election required under this notice. This estimated burden is based upon the approximated amount of time it will take the average respondent to gather the necessary data, compose the statement required by the notice and attach that statement to a Form 3468 in order to make the election. The estimated number of respondents is 100. This estimate is based upon the approximated number of entities currently claiming the production tax credit under § 45.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

- Not applicable.
14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT
- Not applicable.
15. REASONS FOR CHANGE IN BURDEN
- Not applicable.
16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION
- Not applicable.
17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the notice and the availability of the election sunsets as of the expiration date.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I
- Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

EMERGENCY JUSTIFICATION

The collection of information is needed quicker than the normal review process in order to provide procedures that taxpayers will be required to follow to make an irrevocable election to take the investment tax credit for energy property under section 48 of the Internal Revenue Code in lieu of the production tax credit under section 45 of the Internal Revenue Code. The election to take the investment tax credit under § 48 in lieu of the production tax credit under § 45 is available for facilities placed in service after December 31, 2008.

This election was created by the American Recovery and Reinvestment Tax Act of 2009, H.R. 1, 123 STAT. 115 (the Act), which was enacted on February 17, 2009. This notice includes information about election procedures and the documentation required to complete the election. The notice also discusses the coordination of this irrevocable election with an election to take a Department of Treasury Grant for specified energy property.