



Instructions for Form 8038-CP

(April 2009)

Return for Credit Payments to Issuers of Qualified Bonds

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

General Instructions

Purpose of Form

The American Recovery and Reinvestment Act of 2009 created Build America Bonds and Recovery Zone Economic Development Bonds.

Form 8038-CP is used by issuers of governmental bonds who elect to receive a direct payment from the Federal government equal to a percentage of the interest payments on these bonds. For more information, see Notice 2009-26.

Who Must File

Governmental issuers of qualified Build America Bonds and Recovery Zone Economic Development Bonds must submit this form to request credit payments payable under the American Recovery and Reinvestment Act of 2009.

What To File

The payment requested on Form 8038-CP can only relate to the interest paid on a single bond issue. If the information provided on the form relates to more than one bond issue, the form will be returned to the entity in Part I, delaying any credit payment. Also, if the form is not completed in full, the IRS will return the form to the entity in Part I to request the missing information.

When To File

A Form 8038-CP filed with respect to fixed rate bonds must be filed by a due date that is 45 days before the relevant interest payment date. Such a form may not, however, be submitted earlier than 90 days before the relevant interest payment date.

With respect to variable rate bonds, issuers must aggregate all credit payments on a quarterly basis and file a Form 8038-CP for reimbursements in arrears by a due date that is 45 days after the last interest payment date within the quarterly period for which reimbursement is being requested.

Where To File

File Form 8038-CP with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201-0020.

Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the

Federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate. For the issuance of all qualified Build America Bonds and Recovery Zone Economic Development Bonds, use Form 8038-G, Information Return for Tax-Exempt Governmental Obligations. The Form 8038-G associated with a Form 8038-CP filing must be filed prior to the submission of the first Form 8038-CP of the bond issue. For more information, see Notice 2009-26.

Rounding to Whole Dollars

You may show amounts on this return as whole dollars. To do so, drop amounts less than 50 cents and increase amounts from 50 cents through 99 cents to the next higher dollar.

Where the Requested Payment Will Be Sent

The credit payment on line 22 will be sent to the address on file with the IRS of the entity that is to receive payment designated in Part I; this may not be the address provided on this return. An authorized party of the issuer or the designated recipient can verify their address of record by calling 1-877-829-5500. If the address of record needs to be changed/updated, file Form 8822, Change of Address, to notify the Internal Revenue Service before the return is filed.

Specific Instructions

Part I—Information on Entity That Is To Receive Payment of Credit

Amended Return. An issuer may file an amended return to change or add to the information reported on a previously filed return, with respect to a single issue for the same interest payment date. If you are filing to correct errors or change a previously filed return, check the "Amended Return" box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new or corrected information. Attach an explanation of the reason for the amended return and write across the top, "Amended Return Explanation."

Note. Do not check the amended box if you are correcting prior filings of Form 8038-CP by using lines 21a or 21b. However, if you previously filed a final

return and need to make subsequent corrections to lines 21a or 21b only, then you should check the amended return box.

Line 1. Enter the name of the entity to which the requested refundable credit payment is to be paid. If the payment is to be made to the governmental entity that issued the bonds, enter the name of that governmental issuer. If the governmental issuer authorized another entity (for example, a trustee bank) to receive the requested refundable credit payment on its behalf, enter the name of that entity.

Line 2. Enter the employer identification number (EIN) of the entity identified in line 1. An entity that does not have an EIN should apply for one on Form SS-4, Application for Employer Identification Number. You can get this form on the IRS website at www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676). You may receive an EIN by telephone by following the instructions for Form SS-4.

Lines 5 and 6. Enter the name, title, and phone number of the officer or legal representative whom the IRS may call for more information.

Part II—Reporting Authority

Part II should be completed in full if the governmental issuer authorized the Service to pay the requested refundable credit payment to another entity on its behalf (for example, a trustee bank).

Lines 7 and 8. If the issuer's name is the same as line 1, enter "SAME" and skip lines 8, 9, 11, 15, and 16. If the issuer's name is not the same as line 1, enter the name and EIN of the governmental issuer of the bond issue. The issuer's name and EIN should be identical to the name and EIN listed on the Form 8038-G, Part I, lines 1 and 2 filed with respect to the bond issue.

Line 10. This line is for IRS use only. Do not make any entries in this box.

Line 12. Enter the issue date of the bond issue. The issue date should be identical to the issue date listed on the Form 8038-G, Part I, line 6.

Line 13. Enter the name of the bond issue. The name of the bond issue should be identical to the name listed on the Form 8038-G, Part I, line 7, filed with respect to the bond issue. If the bond issue is not named write "None."

Line 14. Enter the Committee on Uniform Securities Identification Procedures (CUSIP) number on the bond with the latest maturity. The CUSIP

number should be identical to the CUSIP number listed on Form 8038-G, Part I, line 8, filed for the bond issue. If the bond issue was not publicly offered and there is no assigned CUSIP number, write "None."

Lines 15 and 16. Enter the name, title, and phone number of the officer or legal representative whom the IRS may call for more information. If you want to allow the paid preparer who signed your return to discuss this information just enter "Preparer" in the space for title of officer or legal representative.

Lines 17a and 17b. Enter the type of issue that was identified on the schedule provided with the Form 8038-G, for example, education, health and hospital, transportation, public safety, environment (including sewage bonds), housing, utilities, or other (with description). Also enter the total issue price for the bond listed on Form 8038-G, Part II, line 18 and Part III, line 21b filed for the bond issue.



Do not leave lines 12, 13, 14, and 17a and 17b blank. If these lines are left blank it will delay processing of this form.

Part III—Payment of Credit

Line 18. Enter the interest payment date to which the requested refundable credit payment relates. An interest payment date is the date on which interest is payable by the governmental issuer to the holders of the bonds. (For variable rate issues, enter the last interest payment date applicable to the quarterly period for which this return relates.)

Line 19. Enter the amount of interest payable to the holders of the bonds on the interest payment date. For certain variable rate bonds the remarketing date or the date the interest rate is reset may not be the same date the interest is paid.

Lines 20a and 20b. Enter the amount of the requested credit payment relating to the interest paid on the interest payment date. The payment requested on this return can only relate to the interest paid on a single bond issue.

Lines 21a and 21b. Lines 21a and 21b are available to correct prior mistakes with respect to credit payments related to prior filings of Form 8038-CPs for the respective issue.

- If a prior credit payment amount was received that was less than the correct

amount, then enter the amount on line 21a that relates to the corresponding increase to this payment request.

- If a prior credit payment amount was received that exceeded the correct amount for that payment, then enter the amount on line 21b that relates to the corresponding decrease to this payment request.
- If there are both increase and decrease adjustments related to multiple prior payments, then net the amounts and include the corresponding amount either in line 21a or 21b as appropriate. If any amount is entered on either line 21a or 21b, attach an explanation and write across the top, "Explanation for Adjustment - Line 21a/21b" as to how the error occurred and what steps were taken to prevent similar errors from recurring.

Line 22. If an amount of the credit payment requested is required to be offset against other outstanding taxes or obligations, then the credit payment to be received could be less than the amount on line 22. For more information, see Notice 2009-26.

Line 23. Check "Yes" or "No." Check "Yes" if the requested payment is the final payment of interest with respect to the bond issue. The final payment of interest is the last payment of interest prior to, or in conjunction with, the maturity or redemption of the bonds.

Line 24. If the governmental issuer authorized another entity (for example, a trustee bank) to receive the requested refundable credit payment and related return information on its behalf, check this box.

Signature

An issuer or issuer's representative must sign Form 8038-CP and any applicable certification. Also print the name and title of the person signing Form 8038-CP.

Paid Preparer

If an authorized representative of the issuer filled in its return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the issuer should not sign the return. Certain others who prepare the return should not sign. For example, a regular, full-time employee of the organization, such as a clerk, secretary, etc., should not sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer's Use Only* area of the return.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature,
- Enter the preparer information, and
- Give a copy of the return to the issuer.

Note. A paid preparer may sign original or amended returns by rubber stamp, mechanical device, or computer software.

Privacy Act and 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. Section 6109 requires paid preparers to provide their identifying number.

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 average time is:

Recordkeeping	6 hr., 13 min.
Learning about the law or the form	12 min.
Preparing, copying, assembling, and sending the form to the IRS	18 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. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the form to this address. Instead, see *Where To File* on page 1.