

2009 Form 8912, Credit to Holders of Tax Credit Bonds

Purpose: This is the first circulated draft of the 2009 Form 8912 for your review and comments. See the next page for a discussion of the major changes.

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

Prior Version: The 2008 Form 8912 is available at:
<http://www.irs.gov/pub/irs-pdf/f8912.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 to me by **August 10, 2009**. Comments submitted by telephone must be followed up in writing to be considered. Send a copy of any email comments to the form's reviewer, Sharon Dewsbury, at Sharon.A.Dewsbury@irs.gov

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Memo of Major Changes for 2009 Form 8912, Credits to Holders of Tax Credit Bonds

In Part I, we added line 9 so the carryforward of credits from qualified tax credit bonds and build America bonds from 2008 could be reported on the form. Since the first year these specific credits could be calculated was 2008, the 2009 form is the first year that will have a carryforward line. All subsequent line number references on the form and instructions that are affected by this change have been updated as appropriate.

On updated line 16, the items reported on 2008's lines 15b, 15c, 15d, and 15e have been combined and are now reported on line 16b. In addition, line 16b list additional credits. This conforms to the way the reporting of these credits is handled on similar credit forms. The subsequent lettered lines that make up line 16 have been updated as appropriate.

In the instructions, we eliminated the "What's New" sections, as the information is no longer new. We added specific instructions for new line 9.

Part II Allowable Credit

13	Regular tax before credits:				
	<ul style="list-style-type: none"> Individuals. Enter the amount from Form 1040, line 44 or Form 1040NR, line 41 Corporations. Enter the amount from Form 1120, Schedule J, line 2, or the applicable line of your return Estates and trusts. Enter the sum of the amounts from Form 1041, Schedule G, lines 1a and 1b, or the amount from the applicable line of your return 			13	
14	Alternative minimum tax:				
	<ul style="list-style-type: none"> Individuals. Enter the amount from Form 6251, line 36 Corporations. Enter the amount from Form 4626, line 14 Estates and trusts. Enter the amount from Schedule I (Form 1041), line 56 			14	
15	Add line 13 and line 14				15
16a	Foreign tax credit	16a			
b	Credits from Form 1040, lines 48 through 52 (or Form 1040NR, lines 45 through 48); Form 8859, line 11; Form 8834, lines 22 and 29; Form 8910, line 21; Form 8911, line 23; Form 8936, line 14; and Schedule R, line 24	16b			
c	General business credit (see instructions)	16c			
d	Credit for prior year minimum tax (Form 8801, line 27; or Form 8827, line 8b)	16d			
e	Add lines 16a through 16d				16e
17	Net income tax. Subtract line 16e from line 15				17
18	Credit to holders of tax credit bonds allowed for the current year. Enter the smallest of line 10, line 17, or the amount as limited by the formula in the instructions for line 18 (if line 18 is smaller than line 10, see instructions). Estates and trusts , enter the smallest of line 12, line 17, or the amount as limited by the formula in the instructions for line 18 (if line 18 is smaller than line 12, see instructions). Report this amount on Form 1040, line 53 or Form 1040NR, line 49; Form 1120, Schedule J, line 5e; Form 1041, Schedule G, line 3; or the applicable line of your return				18

General Instructions

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

Purpose of Form

Use Form 8912 to claim the credit for the following tax credit bonds.

- Clean renewable energy bond (CREB).
- Gulf tax credit bond (GTCB).
- Midwestern tax credit bond (MTCB).
- Qualified forestry conservation bond (QFCB).
- New clean renewable energy bond (NCREB).
- Qualified energy conservation bond (QECB).
- Qualified zone academy bond (QZAB).
- Qualified school construction bond (QSCB).
- Build America bond (BAB).

Generally, in lieu of receiving periodic interest payments from the issuer, the holder of the bond is allowed an annual income tax credit. The credit compensates the holder for lending money to the issuer and functions as interest paid on the bond. Build America bond holders receive taxable interest from the issuer in addition to being allowed an annual income tax credit.

Note. Beginning in 2008, holders of QZABs who previously figured their credit on Form 8860, Qualified Zone Academy Bond Credit, must now use Form 8912 to figure their credit. Form 8860 has been obsoleted for tax years beginning after 2007.

Who Can Claim the Credits

A taxpayer holding a CREB, GTCB, MTCB, or qualified tax credit bond (a qualified tax credit bond does not include a QZAB issued before October 4, 2008) on 1 or more credit allowance dates can claim the credit by filing Form 8912 for each tax year in which it holds the bond on a credit allowance date.

Generally, the credit allowance dates are:

- March 15,
- June 15,
- September 15, and
- December 15.

The credit allowance date also includes the last day on which the qualified tax credit bond is outstanding.

Holders of QZABs issued before October 4, 2008. An eligible taxpayer holding a QZAB on the credit allowance date can claim the credit by filing Form 8912. To be an eligible taxpayer, the taxpayer must be a bank, insurance company, or other corporation actively engaged in the business of lending money. In addition, the shareholder of an S corporation may claim the credit from an S corporation that is an eligible taxpayer. The credit allowance date is the last day of: **(a)** the 1-year period beginning on the date the bond was issued and **(b)** each successive 1-year period thereafter. See section 1397E (as in effect on October 3, 2008).

CAUTION QZABs issued after October 3, 2008, are considered qualified tax credit bonds and the rules of section 54E apply.

Holders of BABs. A taxpayer holding a BAB on an interest payment date can claim the credit by filing Form 8912. An interest payment date is any date on which the bondholder of record is entitled to a payment of interest under the bond.

Definitions

CREB. A CREB is any bond issued after 2005 and before 2010 by a **qualified issuer**, the proceeds of which are used for capital expenditures incurred by a **qualified borrower** for a **qualified project**. In addition, the bond must be designated by the issuer as a CREB under section 54. An issuer can make such a designation only if it applied for and received a CREB allocation from the IRS.

A **qualified issuer** is either a:

- Cooperative electric company—a mutual or cooperative electric company described in section 501(c)(12) or 1381(a)(2)(C), or a not-for-profit electric utility that has received a loan or loan guarantee under the Rural Electrification Act,
- Clean renewable energy bond lender—a lender that is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and including any affiliated entity which is controlled by such lender, or
- Governmental body—any state, territory, possession of the United States, the District of Columbia, Indian tribal government, and any political subdivision thereof.

A **qualified borrower** is a mutual or cooperative electric company described in section 501(c)(12) or 1381(a)(2)(C), or a governmental body.

A **qualified project** is any qualified facility (as determined under section 45(d) without regard to paragraph (10) and to any placed in service date) owned by a qualified borrower.

GTCB. A GTCB is any bond with a maturity of not more than 2 years that was issued after 2005 and before 2007 by the state of Alabama, Louisiana, or Mississippi, and designated by the governor of that state as a Gulf tax credit bond. At least 95% of the proceeds of the bond must be used to pay principal, interest, or premiums on qualified bonds issued by that state or any political subdivision thereof, or to make a loan to any political subdivision thereof to pay principal, interest, or premiums on a **qualified bond** issued by that subdivision.

A **qualified bond** for purposes of the GTCB credit means any obligation of a state or political subdivision which was outstanding on August 28, 2005. This term does not include any private activity bond, any bond for which there is any outstanding refunded or refunding bond during the period a GTCB is outstanding for such bond, or any bond issued as part of an issue if any portion of the proceeds of such issue was (or is to be) used to provide any property described in section 144(c)(6)(B).

MTCB. An MTCB is any bond with a maturity of not more than 2 years that was issued after 2008 and before 2010 by any state in which a Midwestern disaster area is located or any instrumentality of the state as a Midwestern tax credit bond. At least 95% of the proceeds of the bond must be used to pay principal, interest, or premiums on qualified bonds issued by that state or any political subdivision, or to make a loan to any political subdivision to pay principal, interest, or premiums on a qualified bond issued by that subdivision. A qualified bond for purposes of the MTCB credit means any obligation of a state or political subdivision which was outstanding on the earliest applicable disaster date for Midwestern disaster areas within the state. This term does not include any private activity bond, any bond for which there is any outstanding refunded or refunding bond during the period an MTCB is outstanding for such bond, or any bond issued as part of an issue if any portion of the proceeds of such issue was (or is to be) used to provide any property described in section 144(c)(6)(B).

Qualified tax credit bond. A qualified tax credit bond means a qualified forestry conservation bond, new clean renewable energy bond, qualified energy conservation bond, qualified zone academy bond, or qualified school construction bond that is a part of an issue that meets the requirements of section 54A(d)(2), (3), (4), (5), and (6).

QFCB. A QFCB is any bond issued after May 22, 2008, by a **qualified issuer** as a qualified forestry conservation bond and 100% of the available project proceeds are used for one or more **qualified forestry conservation purposes**.

A **qualified issuer** for purposes of the QFCB is a state or any political subdivision or instrumentality thereof, or a 501(c)(3) organization (as defined in section 150(a)(4)).

Qualified forestry conservation purpose means the acquisition by a qualified issuer from an unrelated person of forest and forest land that meets the following qualifications.

- Some portion of the land acquired must be adjacent to the United States Forest Service Land.
- At least half of the land acquired must be transferred to the United States Forest Service at no net cost to the United States and not more than half of the land acquired may either remain with or be conveyed to a State.
- All of the land must be subject to a native fish habitat conservation plan approved by the United States Fish and Wildlife Service.
- The amount of acreage acquired must be at least 40,000 acres.

NCREB. An NCREB is any bond issued after October 3, 2008, by a **qualified issuer** as a new clean renewable energy bond and 100% of the available project proceeds are used for capital expenditures incurred by governmental bodies, public power providers, or cooperative electric companies for one or more **qualified renewable energy facilities**.

A **qualified issuer** is a public power provider, a cooperative electric company, a governmental body, a clean renewable energy bond lender, or a not-for-profit electric utility that has received a loan or loan guarantee under the Rural Electrification Act.

A **clean renewable energy bond lender** is a lender that is a cooperative that is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity that is controlled by that lender.

A **cooperative electric company** is a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C).

A **governmental body** is any state or Indian tribal government, or any political subdivision thereof.

A **public power provider** is a state utility with a service obligation, as defined in section 217 of the Federal Power Act (as in effect on October 3, 2008).

A **qualified renewable energy facility** is a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date) owned by a public power provider, a governmental body, or a cooperative electric company.

QECB. A QECB is any bond issued after October 3, 2008, by a state or local government as a qualified energy conservation bond and 100% of the available project proceeds are used for one or more qualified conservation purposes. See section 54D(f) for the definition of qualified conservation purposes.

QZAB. A QZAB is any bond issued by a state or local government as a qualified zone academy bond and 100% of the available project proceeds are used to improve certain eligible public schools (for QZABs issued before October 4, 2008, 95% of the available project proceeds are used to improve certain eligible public schools).

QSCB. A QSCB is any bond issued after February 17, 2009, by a state or local government as a qualified school construction bond and 100% of the available project proceeds are for the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which the bond-financed facility is to be constructed.

BAB. A BAB is any bond (other than a private activity bond) issued after February 17, 2009, and before January 1, 2011, by an issuer who makes an irrevocable election to have the rules of section 54AA apply and except for that election, the interest on the bond would have been excludable under section 103.

Specific Instructions

Separate entries and calculations are required for each bond with a different issuance date or a different credit rate.

Part I—Current Year Credit Line 3

Enter the date the bond was redeemed, sold, or otherwise disposed of.

Line 4, Column (b)

Enter the face amount of the CREB, GTCB, MTCB, qualified tax credit bond, or QZAB (issued before October 4, 2008) minus any payment of principal received. For a BAB, enter the amount of interest payable.

Line 4, Column (c)

The credit rate for the CREB, GTCB, MTCB, qualified tax credit bond, and QZAB (issued before October 4, 2008) is the rate published on the Treasury Direct website under "IRS Tax Credit Bond Rates" at: www.treasurydirect.gov/govt/rates/rates_irstcb.htm for the first day on which there is a binding contract in writing for the sale or exchange of the bond.

The credit rate for QZABs issued before July 1, 1999, is 110% of the long-term applicable federal rate (AFR), compounded annually, for the month and year the bond is issued. The IRS announces the long-term AFR monthly in a series of revenue rulings published in the Internal Revenue Bulletin.

The credit rate for a BAB is 35%.

Line 4, Column (e)

Generally, enter 25% for each credit allowance date you hold a CREB, GTCB, MTCB, or qualified tax credit bond during your tax year. Enter 100% for a BAB, or a QZAB issued before October 4, 2008.

Example. Your tax year begins December 1, 2009, and ends November 30, 2010. You were issued a GTCB on March 16, 2010, and held it through the end of the tax year ending November 30, 2010. You would enter 50% computed as follows.

Credit allowance date	%
June 15, 2010	25
September 15, 2010	25
	50

However, the 25% will be prorated if a CREB, GTCB, MTCB, or qualified tax credit bond is issued, redeemed, or matures during the 3-month period ending on a credit allowance date. The percentage of credit allowed for that credit allowance date is prorated for the number of days the bond was outstanding during the 3-month period.

Example. Your tax year begins December 1, 2009, and ends November 30, 2010. You were issued a CREB on March 24, 2010. Since the bond was not held for the entire 3-month period ending on June 15, 2010, the prorated portion of the 25% is figured by dividing (a) the number of days the bond was outstanding beginning on the date the bond was issued and ending on the next credit allowance date by (b) the number of days included in the 3-month period beginning on the day after the credit allowance date and ending on the next credit allowance date. See below.

84 days (number of days from March 24 through June 15)

= .913 x 25% = 23%

92 days (number of days from March 16 through June 15)

You would enter 48% computed as follows.

Credit allowance date	%
June 15, 2010	23
September 15, 2010	25
	48

Line 4, Column (f)

This amount is the income tax credit to the holder of a tax credit bond.

Line 6

Interest Income

The current year credit on line 6 is deemed to be a payment of qualified stated interest (as defined in Regulations section 1.1273-1(c)) and as such is treated as taxable interest income paid on the credit allowance date, or for BABs, the interest payment date. If the holder is on the accrual method, the holder must accrue the credit amount as taxable interest income on the credit allowance date or interest payment date.

If a holder of a tax credit bond sells the bond between credit allowance dates (or for BABs, interest payment dates), part of the sales price is treated as accrued interest to the date of the sale and must be reported as interest income. If a holder purchases a bond between credit allowance dates or interest payment dates, the interest accrued as of the date of the purchase (as reflected in the purchase price) is not included as interest when the purchaser receives the value of the credit (and the deemed payment of interest) on the next credit allowance date or interest payment date. Instead, the payment of the deemed interest is treated as a return of capital to the extent of the accrued interest at the time of purchase and reduces the holder's basis in the bond.

Line 7

If you have more than one tax credit bond, attach an additional page 1 of Form 8912 for each additional bond showing the information for lines 1 through 6. Combine the line 6 amount from page 1 of Form 8912 for each additional bond and enter the total on line 7.

Line 9

Enter the amount of the credit carryforward from 2008 that is attributable to a qualified tax credit bond or a BAB. Credits attributable to a CREB, GTCB, MTCB, or QZAB (issued before October 4, 2008) cannot be carried forward.

Line 11

Estates and trusts. Allocate the CREB, GTCB, or MTCB credit on line 10 between the estate or trust and the beneficiaries in the same proportion as income was allocated and enter the beneficiaries share on line 11.

Part II—Allowable Credit

The credit allowed for the current year may be limited based on your tax liability. Use Part II to figure the allowable credit.

Line 16c

If you are filing Form 3800, General Business Credit, enter the credit from Form 3800.

Line 18

If you do not have an entry space for these credits on your tax return, enter the allowable credit on the "Total credits" line with the applicable notation (for example, "CREB" or "QECB").

Holders of an MTCB, a GTCB, a CREB, or a QZAB (issued before October 4, 2008). If you cannot use all of the credit from Part I because of the tax liability limit (for example, line 18 is smaller than line 10), you can deduct the unused credit for the current tax year. However, you can choose to deduct the unused credit in the next tax year instead of the current tax year.

Because a current year deduction may further reduce the tax liability limit, you may need to refigure the tax liability limit and the unallowed credit. Refigure the unallowed credit until it equals the deduction. It may be necessary to use the "trial and error" method.

Holders of a qualified tax credit bond or a BAB. If you cannot use all of the credit from Part I (for example, line 18 is smaller than line 10), you may carry the unused portion of the credit to the next tax year and add it to any credit allowable to the holder of the same bond in the next tax year. A holder of a qualified tax credit bond or BAB cannot deduct any unused credit.

Limitation on credit from pass-through entities. For a CREB, GTCB, or MTCB from a pass-through entity (partnership, S corporation, estate, or trust), the credit on line 8 is limited to the amount of tax attributable to your taxable income from your interest in the pass-through entity generating the credit. Figure the credit limitation separately for each interest in a pass-through entity using the following formula:

Taxable income attributable to your interest in the pass-through entity
Line 17 x _____
Your taxable income for the year

If in the current tax year you had no taxable income attributable to a particular interest in a pass-through entity, you cannot claim any CREB, GTCB, or MTCB credit this year for that interest.

All taxpayers (other than estates and trusts). For line 18, add the line 8 credits separately figured for each interest in a pass-through entity (as limited by the formula above for each such interest) to the total credit on line 6. Enter on line 18 the smaller of this result or the amount on line 17.

Estates and trusts. For line 18, add the line 8 credits (excluding any amount allocated to beneficiaries) separately figured for each interest in a pass-through entity (as limited by the formula above for each such interest) to the total credit on line 6 (excluding any amount allocated to beneficiaries). Enter on line 18 the smaller of this result or the amount on line 17.

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** 7 hr., 24 min.
- Learning about the law or the form** 1 hr., 59 min.
- Preparing and sending the form to the IRS** 2 hr., 11 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.