

SUPPORTING STATEMENT

Notice 2009-52

Election of Investment Tax Credit in Lieu of Production Tax Credit; Coordination with Department of Treasury Grants for Specified Energy Property in Lieu of Tax Credits

OMB Control Number 1545-2145

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 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. 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.

To make the election for a qualified facility, a taxpayer has to claim the energy credit on a Form 3468 and file it with his or her income tax return for the year in which the property was placed in service. Burden for making the election (Form 3468) is reported under OMB Control Number 1545-0155. The taxpayer is also required to attach a statement to the Form 3468 with a variety of information, including: name, address, taxpayer identification number, and phone number; detailed technical descriptions of the qualified investment credit facility and the energy property placed in service as an integral part of the facility; a statement that the taxpayer has not and will not claim a Section 1603 grant for property for which he or she is claiming the energy credit; and a declaration signed by the taxpayer or an individual the taxpayer authorizes. Burden for the statement (as required by Notice 2009-52) is reported under 1545-2145. Likely respondents are businesses or other for-profit.

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

There are no small entities affected by this collection.

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

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. The consequences are that the IRS will have to spend more taxpayer assistance resources to collect this data through other means. This will compromise the Agency's ability to enforce tax compliance. Tax compliance is a vital part of the government's ability to meet its' mission and serve the public.

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

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

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

Notice 2009-52 was published in the Internal Revenue Bulletin on July 22, 2009 (2009-25 IRB 1094).

We received no comments during the comment period in response to the *Federal Register* notice dated January 6, 2016 (81 FR 572).

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

No payment or gift has been provided to any respondents.

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

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the "Business Master File (BMF)" system and a Privacy Act System of Records notice (SORN) has been issued for this system under Treas/IRS 24.046-Customer Account Data Engine Business Master File and Treas/IRS 34.047-Audit Trail and Security Records system. The Internal Revenue Service PIAs can be found at:

<https://www.irs.gov/uac/Privacy-Impact-Assessments-PIA> .

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

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

There is no annual start-up costs associated with this collection.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no annualized cost to the federal government.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

See below (OMB Expiration Date).

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

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.

OMB EXPIRATION DATE

We believe the public interest will be better served by not printing an expiration date on the form(s) in this package.

Printing the expiration date on the form will result in increased costs because of the need to replace inventories that become obsolete by passage of the expiration date each time OMB approval is renewed. Without printing the expiration date, supplies of the form could continue to be used.

The time period during which the current edition of the form(s) in this package will continue to be usable cannot be predicted. It could easily span several cycles of review and OMB clearance renewal. In addition, usage fluctuates unpredictably. This

makes it necessary to maintain a substantial inventory of forms in the supply line at all times. This includes supplies owned by both the Government and the public. Reprinting of the form cannot be reliably scheduled to coincide with an OMB approval expiration date. This form may be privately printed by users at their own expense. Some businesses print complex and expensive marginally punched continuous versions, their expense, for use in their computers. The form may be printed by commercial printers and stocked for sale. In such cases, printing the expiration date on the form could result in extra costs to the users.

Not printing the expiration date on the form(s) will also avoid confusion among taxpayers who may have identical forms with different expiration dates in their possession.

For the above reasons we request authorization to omit printing the expiration date on the form(s) in this package.