

Supporting Statement
Internal Revenue Service
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 #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 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 Internal Revenue Service (IRS) 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

The IRS has no plans to offer electronic filing because this collection is a narrative statement attached to Form 3468.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

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

This collection has no impact on small business. The recordkeeping/reporting requirement

is considered to be the minimum necessary to ensure compliance with existing regulations under §48.

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

Less frequent collection would not allow IRS to identify the information that is required to be collected and retained in order to ensure that energy property meets the requirements for the investment tax credit determined under § 48. This information will be used to determine whether the property for which the energy credit is claimed is energy property that qualifies for the credit.

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

In response to the Federal Register notice dated May 5, 2022 (87 FR 26,803), IRS received no comments during the comment period regarding this notice.

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

This notice describes the procedures that taxpayers will be required to follow in order to make irrevocable election to take the investment tax credit determined under § 48 in lieu of the production tax credit under § 45 with respect to certain renewable energy facilities.

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.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
§48	Notice 2009-52	100	1	100	1hr.	100
Totals		100	1	100	1hr.	100

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs.

Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The Federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized startup expenses, operating and maintenance expenses, and distribution of the product that collects the information. Since this is a statement that companies attach to Form 3468, there are no development or distribution costs to the IRS.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. IRS is making this submission for renewal purposes only.

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

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that this notice sunsets as of the expiration date. Taxpayers are not likely to be aware that the IRS intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement for this collection.

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.