

SUPPORTING STATEMENT
Internal Revenue Service (IRS)
Form 8835, Renewable Electricity Production Credit
OMB Control Number 1545-1362

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code (IRC) section 38 allows for certain general business credits against taxes imposed on a taxpayer. IRC section 45 provides a credit for electricity produced from certain renewable resources as a component of the general business credit.

The Inflation Reduction Act of 2022, P.L. 117-169, amended IRC sections 38 and 45, and added IRC sections 6417 and 6418. IRC section 6417 allows certain applicable entities to elect to treat a renewable electricity production credit as a payment of taxes on their tax return. IRC section 6418 allows certain taxpayers to transfer all or a portion of an eligible credit to an unrelated taxpayer.

Form 8835 is used to claim renewable electricity production credits allowable under IRC sections 38 and 45 and make any allowable elections with respect to the credits.

2. USE OF DATA

The IRS uses the data to verify the eligibility and allowable amount of the credits claimed.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Electronic filing of Form 8835 is currently available.

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

Small businesses should not be disadvantaged as the form has been structured to request the least amount of information and still satisfy the requirements of the statutes and the needs of the IRS.

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

A less frequent collection on federal programs would not allow the IRS to verify the correct amount of credit or eligible elections allowed on the tax return, resulting in the inability of the IRS to meet its mission. It would also limit the taxpayer's right to claim the credit as provided by law.

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

The IRS received no comments during the public comment period in response to the Federal Register notice (88 FR 67438), dated September 29,2023.

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 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Individual Master File (IMF)” and “Business Master File (BMF)” systems, and a Privacy Act System of Records notice (SORN) has been issued for these systems under Treasury/IRS 22.062 - Electronic Filing Records; Treasury/IRS 24.030 - Customer Account Data Engine (CADE) Individual Master File; Treasury/IRS 24.046 - CADE Business Master File (BMF); Treasury/IRS 34.037 - Audit Trail and Security Records. The Internal Revenue Service PIAs can be found at <https://www.irs.gov/privacy-disclosure/privacy-impact-assessments-pia>.

Title 26 U.S.C. 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

IRC sections 38 and 45 require eligible taxpayers to disclose information and keep records. The estimated burdens for individual and business filers are included in the estimates for OMB control numbers 1545-0074 and 1545-0123. This collection includes the estimated burden for estates, trusts, and tax-exempt organizations filing Form 8835 with their tax return. The IRS anticipates that there will be approximately 40 respondents annually, with a total estimated burden of 697 hours annually. The estimated burden is shown below.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden Hours
IRC § 38 and 45	Form 8835	40	1	40	17.43	697
Totals		40		40		697

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

From our Federal Register notice, dated September 29,2023, no public comments on the estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information were received. However, to ensure more accuracy and consistency across its information collections, the IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, the 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. These costs do not include any activities such as taxpayer assistance and enforcement.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables, such as complexity, number of pages, type of product, and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries, and other outlets. The result is the government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

<u>Product</u>	<u>Aggregate Cost per Product (factor applied)</u>	<u>Printing and Distribution</u>	<u>Government Cost Estimate per Product</u>
Form 8835	\$53,034	\$0	\$53,034
Form 8835 Instructions	\$12,053	\$0	\$12,053
Grand Total	\$65,087	\$0	\$65,087
Table costs are based on 2022 actuals obtained from IRS Chief Financial Officer and Media and Publications			

15. REASONS FOR CHANGE IN BURDEN

The number of responses was updated based on current filing data. This reduces the number of responses by 437 and the burden time by 7,989 hours annually due to Agency Estimate.

Form 8835 was revised to comply with the provisions of sections 13101 and 13801 of P.L. 117-169. The revision includes a reorganization of the form, additional lines for information about the qualified facility, additional lines for new credits, and the removal of expired credits. This reduces the burden time by an additional 34 hours annually due to New Statute.

	Total Requested	Change Due to New Statute	Change Due to Agency Discretion	Change Due to Adjustment in Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	40	0	0	-437	0	477
Annual Time Burden (Hr)	697	-34	0	-7,989	0	8,720

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

The IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the form expires 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.

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.