

## IRM PROCEDURAL UPDATE

DATE: 01/29/2015

NUMBER: WI-21-0115-0212

SUBJECT: Tax Increase Prevention Act of 2014, P.L. 113-295

AFFECTED IRM(s)/SUBSECTION(s): 21.7.4

CHANGE(s):

**IRM 21.7.4.4.8.1.3 Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the empowerment zone employment credit for one year and is effective after December 31, 2013 and on or before December 31, 2014.**

1. The Revenue Reconciliation Act of 1993 amended IRC 38 and added new section 1396 and section 1397 to the Internal Revenue Code to allow an income tax credit for qualified wages and certain training and educational expenses paid or incurred on behalf of qualified zone employees.
2. Form 8844 is filed to claim the empowerment zone employment credit, and, previously, the renewal community employment (EZRC) credit. (Section 753(a)(1), of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, **repealed the renewal community employment credit** for calendar years after 2009.):
3. The **empowerment zone employment credit** is 20 percent of the employer's qualified wages (up to \$15,000) paid or incurred during the calendar year for qualified empowerment zone employees,
4. The empowerment zone employment credit has been modified by various legislation. Below is a listing of the legislation that has extended the empowerment zone employment credit:
  - Section 753(a)(1), of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the credit to December 31, 2011.
  - Section 327(a), of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years and is effective after December 31, 2011 and on or before December 31, 2013.
  - Section 139, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year and is effective after December 31, 2013 and on or before December 31, 2014.
5. A qualified empowerment zone employee is any employee (full-time or part-time) of the employer who:
  - Performs substantially all of the services for that employer within an empowerment zone in the employer's trade or business, **and**

- Has their principal residence within that empowerment zone while performing those services. (Employees who work in the Washington, DC empowerment zone may live anywhere in the District of Columbia.)
- 6. A qualified renewal community employee is any employee (full-time or part-time) of the employer who:
  - Performs substantially all of the services for that employer within a renewal community in the employer's trade or business, **and**
  - Has their principal residence within that renewal community while performing those services.
- 7. The credit is a component of Form 3800, *General Business Credit*, however, IRC 38, provides a special tax liability limitation for the credit. For 2007 and prior, the credit is figured separately and is never carried to Form 3800. For 2008 and subsequent, the allowable credit is figured in Part II of Form 3800. The credit is based on designated qualified areas nominated by state and local government in 1994.
- 8. Publication 954, *Tax Incentives for Distressed Communities* (Obsolete 3/18/2011) advises taxpayers of the tax incentives available for businesses located in to-be-designated empowerment zones and enterprise communities.
- 9. See the General Instructions for Form 8844 for more specific information, and for a listing of the Urban Areas, Rural Areas, and parts of Washington, DC that make up the Empowerment Zones and for a listing 180 of the Renewal Communities. This information can also be found by using the RC/EZ/EC Address Locator at [hud.gov/crlocator](http://hud.gov/crlocator).

**IRM 21.7.4.4.8.3.2 Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the work opportunity credit for one year for qualified individuals who begin work for the employer after December 31, 2013 and on or before December 31, 2014.**

1. The Work Opportunity Credit was previously known as the Jobs Credit until it expired December 31, 1994. The credit was reduced from 40 percent to 35 percent for workers beginning work October 1, 1996 - September 30, 1997. The TPRA of 1997 extended the provisions to workers beginning work through June 30, 1998 and increased the percentage to 40 percent for workers beginning work after September 30, 1997. For workers beginning work after September 30, 1997, who work at least 120 hours but less than 400 hours for the employer, the credit is 25 percent.

**NOTE:** An employer cannot claim the welfare-to-work credit with respect to wages of any employee on which the work opportunity credit is claimed.

2. The work opportunity credit has been modified by various legislation. See the 09/09/2013 revision of this IRM for a complete list of legislation that extended

the work opportunity credit before 2007. Below is a listing of the most recent legislation that has extended the work opportunity credit:

- Section 8211, of the Small Business and Work Opportunity Tax Act of 2007, P.L. 110-28, modifies and extends the credit for 44 months for qualified individuals who begin work for an employer after December 31, 2007, and before September 1, 2011.
  - Section 757, of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the credit for 4 months to December 31, 2011.
  - Section 309(a), of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for qualified individuals who begin work for the employer after December 31, 2011 and on or before December 31, 2013. See Notice 2013-14 for guidance on claiming the credit under section 309(a) of the Act.
  - Section 119, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year for qualified individuals who begin work for the employer after December 31, 2013 and on or before December 31, 2014.
3. Qualified first-year wages are wages paid or incurred for work performed during the one-year period beginning on the date the certified individual begins work for the taxpayer. The amount of qualified wages that may be taken into account for a qualified employee is limited to \$6,000 or \$3,000 for a qualified summer youth employee.
  4. To claim the credit, taxpayers generally must request and be issued a certification for each employee from the state employment security agency (SESA) to prove that the employee is a member of a targeted group. Taxpayers must receive the certification by the day the individual begins work, or they must complete Form 8850, *Pre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits*, on or before the day the taxpayer offers the individual a job.
  5. For TY 2005 and prior, Form 5884, *Work Opportunity Credit* must be submitted. The credit may need to be carried to Form 3800, *General Business Credit*, if two or more credits are claimed.
  6. For TY 2006 and subsequent, the credit can only be claimed as a general business credit and must be carried to Form 3800, *General Business Credit*. The allowable credit will then be figured on Form 3800.
  7. Any unused portion of this credit remaining, after the tax is reduced to zero, can be carried back one year to reduce taxes for that year. It can then be carried forward 20 years. See IRM 21.7.4.4.8.1.4 for tax years beginning prior to 1998.
  8. See the General Instructions for Form 5884 for more specific information on the targeted groups, rules concerning qualified wages, and specific instructions for completing the form.
  9. Section 8214 of the Small Business and Work Opportunity Tax Act of 2007, treats the tentative minimum tax as zero for purposes of determining the tax liability limitation with respect to the work opportunity credit. Therefore, the work opportunity credit may offset the alternative minimum tax liability and is effective for taxable years beginning after December 31, 2006.
  10. Action required:

- a. # [REDACTED] # math  
verify the form.
- b. Input TC 291 to increase the credit or TC 290 to reduce the credit.

**IRM 21.7.4.4.8.3.3(3) Added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the second generation biofuel producer credit for one year and is effective for fuels sold or used after December 31, 2013 and on or before December 31, 2014.**

3. Section 152, Extension of Second Generation Biofuel Producer Credit, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for qualified second generation biofuel production for one year and is effective for fuels sold or used after December 31, 2013 and on or before December 31, 2014.

**IRM 21.7.4.4.8.3.4(6) Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the research credit for one year for amounts paid or incurred after December 31, 2013 and on or before December 31, 2014.**

1. Form 6765 is used to claim the credit for increasing the research activities of a trade or business. It was also used to claim the Orphan Drug Credit for periods 199511 and prior.
2. For TY 2006 and subsequent the credit can only be claimed as a general business credit and must be carried to Form 3800, *General Business Credit*. The allowable credit will then be figured on Form 3800.
3. Any unused portion of this credit remaining, after the tax has been reduced to zero, can be carried back one year to reduce taxes for that year. It can then be carried forward 20 years. See IRM 21.7.4.4.8.1.4 for tax years beginning prior to 1998.
4. The research credit has been modified by various legislation. See the 09/09/2013 revision of this IRM for a complete list of legislation that extended the research credit before 2007. Below is a listing of the most recent legislation that has extended the research credit:
  - o Division C, Title III, section 301, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the credit for two years to any amount paid or incurred for taxable years beginning after December 31, 2007 and on or before December 31, 2009, and modifies the alternative simplified credit.
  - o Section 731, of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the credit for two years for any amount paid or incurred for taxable years beginning after December 31, 2009 and on or before December 31, 2011.

- Section 301(a), of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years for amounts paid or incurred for taxable years beginning after December 31, 2011 and on or before December 31, 2013.
  - Section 111, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year for amounts paid or incurred for taxable years beginning after December 31, 2013 and on or before December 31, 2014.
5. See the General Instructions for Form 6765 for specific information on claiming the credit for increasing research activities.
  6. Notice 2002-44 established a new filing address for certain claims for credit or refund reported on Forms 1120X, generated by the Credit for Increasing Research Activities (Research Credit). **Research Credit Suspension Period claims ARE NOT** covered by this notice.
    - a. The notice applies to taxpayers required to file Form 1120, *U. S. Corporate Income Tax Return*, with claims for credit or refund attributable to the Research Credit that: (1) Was not reported on an original Form 1120 or a Form 1120X; (2) Was filed on or before the due date of the original Form 1120, including extensions; and (3) Was not filed with the IRS on or before the date this notice was printed in the Internal Revenue Bulletin (July 9, 2002).
    - b. Claims attributable in whole or part, to the Research Credit and reported on Form 1040 or Form 1040X **ARE NOT** subject to this notice. Form 1045 and Form 1139 also **ARE NOT** subject to the notice.
    - c. All claims subject to this notice should indicate "**Refund-Research Credit**" at the top of the claim/return and must include a completed Form 6765, (and a copy of the Form 6765 they filed with their original return, if any) **and must:** (1) Explain in detail the grounds which the credit is claimed; (2) Provide facts sufficient to apprise the Service of the exact basis thereof; and (3) Include a written declaration under the penalties of perjury.

**NOTE:** Accounts Management in Ogden and Cincinnati follow the general claims instructions in IRM 21.5.3.4.2, *Tax Decrease or Credit Increase Processing*, for claims that do not meet the criteria in (c) above.

- d. Per Notice 2008-39 , 2008-13 IRB, (supersedes Notice 2002-44 ), all Form 1120X *Amended U.S. Corporate Income Tax Returns*, involving the Research Credit are worked in Accounts Management at the Ogden campus only. Notice 2008-39 instructs taxpayers to file claims at the following address:  
Internal Revenue Service  
1973 N. Rulon White Blvd.  
Ogden, UT 84201
- e. If a Form 1120X involving the Research Credit is received in Accounts Management (**other than Ogden**) prepare a Form 3210 *Transmittal*,

and route to Ogden Accounts Management, Mail Stop OSC 6552. For CIS cases, reassign to 0433005337. Ogden will suspend the case to Exam based on the taxpayer's Business Operation Division (BOD) code. **For CIS cases received in Ogden**, suspend to Exam as 2CATA. Use suspense reason OTHER for Small Business Self Employed (SB/SE) cases, and use suspense reason HQ Reserved 5, for LB&I cases.

7. If the case is routed back to Accounts Management (Cincinnati or Ogden) stamped "Accepted as Filed," the case is worked in AM in the campus that sent the referral to Exam.
8. Action required:
  - a. Math verify Form 6765
  - b. Input TC 291 to increase the credit or TC 290 to reduce the credit

**IRM 21.7.4.4.8.3.8(3) IRM 21.7.4.4.8.3.8(11) Added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended some of the categories that are eligible for the renewable electricity, refined coal, and Indian production credit for one year in 2014.**

1. Section 1914 of the Energy Policy Act of 1992, P.L. 102-486, revised IRC 38 and added new section 45 to the Internal Revenue Code to allow an income tax credit on the sale of electricity produced in the United States and U.S. possessions from qualified energy resources.
2. Section 710 of the American Jobs Creation Act of 2004, P.L. 108-357, expanded the credit to include refined coal from a qualified refined coal production facility placed in service **after** 10/22/2004. Section 1301 of the Energy Policy Act of 2005, P.L. 109-58, extended and modified the Renewable Electricity Production Credit to include hydropower and Indian coal production facilities. Section 102 of the Emergency Economic Stabilization Act of 2008, P.L. 110-343 extended and modified the Renewable Electricity Production Credit to include marine and hydrokinetic renewable energy facilities.
3. The credit has been modified by various legislation. Below is a listing of some of the legislation that has impacted the credit. See paragraph (8) below for the placed in service dates for various categories, and the Instructions for Form 8835 for more specific information:
  - o Section 1301 of the Energy Policy Act of 2005, P.L. 109-58
  - o Section 201 of the Tax Relief and Health Care Act of 2006, P.L. 109-432
  - o Section 101 of the Emergency Economic Stabilization Act of 2008, P.L. 110-343
  - o Section 1101 of the American Recovery and Reinvestment Act of 2009, P.L. 111-5
  - o Section 702 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312

- Section 406 and section 407 of the American Taxpayer Relief Act of 2012, P.L. 112-240
  - Section 155, of the Tax Increase Prevention Act of 2014, P.L. 113-295
4. Form 8835 is filed to claim the renewable electricity, refined coal, and Indian coal production credit. The credit is allowed only for the sale of electricity, refined coal, or Indian coal produced in the United States or U.S. possessions from qualified energy resources at a qualified facility.
  5. Generally, the credit is 1.5 cents per kilowatt-hour (kWh) for the sale of electricity produced by the taxpayer from qualified energy resources at a qualified facility during the credit period. The credit is reduced for grants, tax-exempt bonds, subsidized energy financing and is adjusted annually based on inflation. The credit for electricity produced at qualified facilities using: wind, closed-loop biomass, geothermal, and solar are listed in the second column. The credit for electricity produced at qualified facilities using: open-loop biomass, small irrigation, landfill gas, trash, hydropower, marine and hydrokinetic renewables is reduced by one-half in any calendar year after 2003 and are listed in the third column:

<b>Tax year</b>	<b>Amount per kWh</b>	<b>Amount per kWh</b>
2007	.020	.010
2008	.021	.010
2009	.021	.011
2010 thru 2012	.022	.011
2013 and 2014	.023	.011

6. In addition, the amount of the credit is phased out as the market price of electricity (or refined coal in the case of refined coal production credit) exceeds certain threshold levels. Per Notice 2005-37 , 2005-20 IRB, the phaseout of the credit does not apply to electricity produced from wind, refined coal, closed-loop biomass, geothermal energy, solar energy, small irrigation power, or municipal solid waste sold during calendar year 2005. There is also no phaseout of the credit for calendar year 2006. See the General Instructions for Form 8835 on how to figure the credit. See the chart below for the factor to use to figure the amount of the credit:
7. The phaseout also does not apply to:
  - Electricity sold in 2007 - 2012 that was produced from wind.
  - Refined coal sold during calendar years 2007- 2012.
  - Electricity sold in calendar years 2007 - 2012, that was produced from closed-loop biomass, geothermal energy, solar energy, small irrigation power, and municipal solid waste.
  - Electricity sold in calendar years 2005 - 2012 that was produced from open-loop biomass.
  - Electricity sold in calendar years 2006 - 2012 that was produced from qualified hydropower.
  - Electricity sold in calendar years 2009 - 2012 that was produced from marine and hydrokinetic energy.
8. Notice 2007-40, 2007-21 IRB, publishes the inflation adjustment factor and reference prices for calendar year 2007 for the renewable electricity

production credit and the refined coal production credit under section 45 of the Internal Revenue Code. The 2007 inflation adjustment factor and reference prices are used in determining the availability of the credits. The 2007 inflation adjustment factor and reference prices apply to calendar year 2007 sales of kilowatt-hours of electricity produced in the United States or a possession thereof from qualified energy resources and to calendar year 2007 sales of refined coal produced in the United States or a possession thereof. See the following notices for the yearly inflation factor:

<b>Tax Year</b>	<b>Notice Number</b>
<b>2007</b>	<b>2007-40</b>
<b>2008</b>	<b>2008-48</b>
<b>2009</b>	<b>2009-40</b>
<b>2010</b>	<b>2010-37</b>
<b>2011</b>	<b>2011-40</b>
<b>2012</b>	<b>2012-35</b>
<b>2013</b>	Notice 2013-33

9. Generally, section 45(e)(8)(A) provides that the credit is \$4.375 per ton for the sale of refined coal produced, and section 45(e)(10)(B)(i) provides that the credit is \$1.50 per ton for calendar years 2006 through 2009 and \$2.00 per ton for calendar years beginning after 2009. See the chart below for the factor to use to figure the amount of the credit:

<b>Tax Year</b>	<b>Factor for refined coal produced and sold per ton</b>	<b>Factor for Indian coal produced and sold per ton</b>
2007	\$5.877	\$1.54
2008	\$6.061	\$1.589
2009	\$6.20	\$1.625
2010	\$6.27	\$2.20
2011	\$6.33	\$2.20
2012	\$6.475	\$2.267
2013	\$6.59	\$2.308
2014	\$6.601	\$2.317

10. The credit is available in Part 1, Electricity Produced at Qualified Facilities Placed in Service Before October 23, 2004, for the following:
- Poultry waste facility placed in service after 12/31/1999 and before 1/1/2005.
  - Wind facility placed in service after 12/31/1993 and before 10/23/2004.
  - Closed-loop biomass facility placed in service after 12/31/1992 and before 10/23/2004.
11. The credit for electricity and refined coal produced at qualified facilities placed in service after October 22, 2004 (after October 2, 2008, for electricity produced from marine and hydrokinetic renewables), and Indian coal produced at facilities placed in service after August 8, 2005, may be taken on Form 8835 (Part II). The credit includes the following:



- Wind facility placed in service after 10/22/2004 and the construction of which begins before 1/1/2015. This does not include any facility for which any qualified small wind energy property expenditure (as defined in section 25D(d)(4)) is used in determining the residential energy efficient property credit.
- Closed-loop biomass facility placed in service after 10/22/2004 and the construction of which begins before 1/1/2015.
- Closed-loop biomass facility modified before 1/1/2014 to co-fire with coal or other biomass (or both), and placed in service before 1/1/2014. The facility will be treated as modified before 1/1/2014, if the construction of the modification begins before 1/1/2014. See section 45(d)(2).
- Closed-loop biomass facility that is a new unit placed in service after October 3, 2008, in connection with a facility described in section 45(d)(2)(A)(i), but only to the extent of the increased amount of electricity produced at the facility by reason of the new unit.
- Open-loop biomass facility using cellulosic waste and the construction of which begins before 1/1/2015.
- Open-loop biomass facility using agricultural livestock waste in service after 10/22/2004 and the construction of which begins before 1/1/2014 and the nameplate capacity rating is not less than 150 kilowatts.
- Open-loop biomass facility that is a new unit placed in service after 10/3/2008, in connection with a facility described in section 45(d)(3)(A), but only to the extent of the increased amount of electricity produced at the facility by reason of the new unit.
- Geothermal energy facility placed in service after 10/22/2004, and the construction of which begins before 1/1/2015. The facility does not include any property described in IRC 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under IRC 48.
- Solar energy facility placed in service after 10/22/2004 and before 1/1/2006. The facility does not include any property described in IRC 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under IRC 48.
- Small irrigation power facility placed in service after 10/22/2004 and before 10/3/2008.
- Landfill gas or trash combustion facility using municipal solid waste placed in service after 10/22/2004 and the construction of which begins before 1/1/2015.
- A refined coal production facility originally placed in service after 10/22/2004 and before 1/1/2012. Also, a facility producing steel industry fuel (or any modification to such a fuel that is produced through a facility) placed in service before January 1, 2010. See Notice 2010-54, 2010-40 IRB, for more information on refined coal facilities.
- Hydropower facility producing incremental hydroelectric production attributable to efficiency improvements or additions to capacity described in section 45(c)(8)(B) placed in service after 8/8/2005. The facility will be treated as placed in service before 1/1/2015, if the

construction of the improvement or addition begins before 1/1/2015, and any other facility producing qualified hydroelectric production described in section 45(c)(8) placed in service after 8/8/2005, and the construction of which begins before 1/1/2015.

- Indian coal production facility placed in service before 1/1/2009.
- Marine and hydrokinetic renewable energy facility placed in service after 10/2/ 2008, and the construction of which begins before 1/1/2015.

**NOTE:** A qualified facility does not include a refined coal production facility or landfill gas facility using municipal solid waste to produce electricity, if the production from that facility is allowed as a credit under section 45K.

12. Notice 2013-29, 2013-20 IRB, defines the beginning of construction in order to clarify the legislative change made by sections 406 and 407 of the American Taxpayer Relief Act of 2012, P.L. 112-240. A taxpayer can begin construction of a qualified facility by starting physical work of a significant nature or meeting the safe harbor. Both methods are described fully in Notice 2013-29.
13. For TY 2006 and subsequent the credit can only be claimed as a general business credit and must be carried to Form 3800, *General Business Credit*. The allowable credit will then be figured on Form 3800.
14. Any unused portion of this credit remaining, after the tax is reduced to zero, can be carried back one year to reduce taxes for that year. It can then be carried forward 20 years. See IRM 21.7.4.4.8.1.4 for tax years beginning prior to 1998.
15. Action required:
  - a. Math verify Form 8835
  - b. Input TC 291 to increase the credit or TC 290 to reduce the credit

**IRM 21.7.4.4.8.3.11 Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the Indian employment credit and the rules for accelerated depreciation for business purpose on an Indian reservation for property placed in service for one year to December 31, 2014.**

1. Form 8845 is used by employers of American Indians who are qualified employees to claim this credit. Qualified employee means, for any tax period, any employee who meets all three of the following tests. (See the General Instructions for Form 8845 for those employees who are not considered qualified employees.)
  - The employee is an enrolled member, or the spouse of an enrolled member, of an Indian tribe. Each tribe determines who qualifies for enrollment and what documentation, if any, is issued as proof of enrollment status. Examples of appropriate documentation will vary from one tribe to another and may include a tribal membership card,

Certified Degree of Indian Blood (CDIB) card, or letter from the tribe or tribal enrollment office. Employers should retain a copy of the proof of enrollment status provided by the employee.

- Substantially all the services performed by the employee for the employer are performed within an Indian reservation (defined below).
- The employee's principal residence while performing such services is on or near the reservation where the services are performed.

**NOTE:** However, the employee shall be treated as a qualified employee for any tax year only if more than 50% of the wages paid or incurred by the employer to the employee during the tax year are for services performed in the employer's trade or business. Each member of a controlled group must meet this requirement independently. Also, see the instructions for lines 1 and 2 of Form 8845.

2. In most cases, the credit is 20 percent of the excess of an employer's current year qualified wages and employee health insurance costs over the sum of the corresponding amounts paid or incurred during calendar year by the employer (or predecessor).
3. In general, qualified Indian reservation property means property described in IRC 168(j)(2), and which is:
  - Used by the taxpayer predominately in the active conduct of a trade or business within an Indian reservation,
  - Not used or located outside the Indian reservation on a regular basis,
  - Not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(bb)(3)(C), and
  - Not property (or any portion thereof) placed in service for purposed of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703).

**NOTE:** See IRC 168(j)(4)(B) & (C) for the exception for alternative depreciation property and special rule for reservation infrastructure investments.

4. The Indian employment credit, and the accelerated depreciation for business purpose on an Indian Reservation, has been modified by various legislation. See the 09/09/2013 revision of this IRM for a complete list of legislation that extended the credit before 2007. Below is a listing of recent legislation that has extended the Indian employment credit and accelerated depreciation for business property on an Indian reservation:
  - Division C, Title III, section 314 and section 315, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the credit and accelerated depreciation rules for property placed in service for two years for taxable years beginning after December 31, 2007 on or before December 31, 2009.
  - Section 732 and section 739(a), of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-

- 312, extended the credit and the accelerated depreciation rules for property placed in service for two years for taxable years beginning after December 31, 2009 and on or before December 31, 2011.
- Section 304(a) and section 313(a), of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit and the accelerated depreciation rules for property placed in service for two years for taxable years beginning after December 31, 2011 and on or before December 31, 2013.
  - Section 114 and section 124, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit and the accelerated depreciation rules for property placed in service for one year for taxable years beginning after December 31, 2013 and on or before December 31, 2014.
5. See the General Instructions for Form 8845 for specific information on claiming the Indian employment credit and the accelerated depreciation rules for property on Indian Reservations.
  6. Any unused portion of this credit remaining, after the tax is reduced to zero, can be carried back one year to reduce taxes for that year. It can then be carried forward 20 years. See IRM 21.7.4.4.8.1.4 for tax years beginning prior to 1998.
  7. Action required:
    - a. # [REDACTED] # math verify the form.
    - b. Input TC 291 to increase the credit or TC 290 to reduce the credit.

**IRM 21.7.4.4.8.3.17.1 Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the qualified zone academy bond credit for one year for taxable years beginning after December 31, 2013 and on or before December 31, 2014.**

1. Taxpayers use Form 8912 to claim the clean renewable energy bond (CREB) credit, Gulf tax credit bond (GTCB) credit, Midwestern tax credit bond (MTCB) credit, qualified forestry conservation bond (QFCB) credit, new clean renewable energy bond (NCREB) credit, qualified energy conservation bond (QECB) credit, qualified zone academy bond (QZAB) credit, qualified school construction bond (QSCB) credit, and build American bond (BAB) credit. The holder of the bond is generally allowed an annual income tax credit in lieu of, or in addition to, receiving periodic interest payments on the bonds. Prior to TY 2008, the credit on QZABs was claimed on Form 8860. 21.7.4.4.8.3.17 above for more information.
2. A CREB is any bond issued after 2005 and before 2010 by a qualified issuer (such as a cooperative electric company or governmental body) of 95 percent of the proceeds of which are used for capital expenditures incurred by a qualified borrower for a qualified project.

3. A GTCB is any bond issued after 2005 and before 2007, with a maturity of not more than 2 years by the states of Alabama, Louisiana, or Mississippi and designated by the governor of that state as a Gulf tax credit bond.
4. A MTCB is any bond with a maturity of not more than two years that was issued after 2008 and before 2010 by any state (or any instrumentality of a state) in which a Midwestern disaster area is located and designated by the governor of that state as a Midwestern tax credit bond. Division C, section 702, Temporary Tax Relief for Areas Damaged By 2008 Midwestern Severe Storms, Tornadoes, and Flooding, of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, P.L. 110-343, added a MTCB as a form of relief assistance for affected areas and applies to bonds issued on or before December 31, 2012.
5. A QFCB is any bond issued after May 22, 2008, by a qualified issuer as a qualified forestry conservation bond. 100 percent of the available project proceeds of which are used for one or more qualified forestry conservation purposes. Section 15316, Qualified Forestry Conservation Bonds, of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, allows the issuance of up to \$500,000,000 of the QFCBs for qualified forestry conservation purposes.
6. A NCREB is any bond issued after October 3, 2008, by a qualified issuer as a new clean renewable energy bond. 100 percent of the available project proceeds of which are used for capital expenditures incurred by governmental bodies, public power providers, or cooperative electric companies for one or more qualified renewable energy facilities. Division B, section 107, New Clean Renewable Energy Bonds, of the Energy Improvement and Extension Act of 2008, P.L. 110-343, provided for a national volume cap of \$800,000,000 for NCREBs to finance qualified renewable energy facilities. Section 1111, Increased Limitation on Issuance of New Clean Renewable Energy Bonds, of Title 1 of Division B of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, increased the national limitation for new CREBs by \$1.6 billion to \$2.4 billion.
7. A QECB is any bond issued after October 3, 2008, by a state or local government as a qualified energy conservation bond. 100 percent of the available project proceeds of which are used for one or more qualified energy conservation purposes. Section 301, Qualified Energy Conservation Bonds, of the Energy Improvement and Extension Act, Division C of P.L. 110-343, provided national authority too issue \$800,000,000 of QECBs, Section 1112, Increased Limitations on Issuance of Qualified Energy Conservation Bonds of Title 1 of Division B of the American Recovery and reinvestment Act of 2009, P.L. 111-5, increased the national limitation for QECBs by \$2.4 billion to \$3.2 billion.
8. A QZAB is any bond issued by a state or local government as a qualified zone academy bond and 100 percent of the available project proceeds of which are used to improve certain eligible public schools (for QZABs issued before October 4, 2008, 95 percent or more of the proceeds are used to improve certain eligible public schools). Below is a list of recent legislation that extended the QZAB credit:
  - o Division DC, Section 313, of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, P.L. 110-343, provided national

authority to issue \$400,000,000 of qualified zone academy bonds for 2008.

- Section 1522, of the American Recovery and Reinvestment Act of 2009 Act, P.L. 111-5, extended the QZAB credit and increased the national limitations for QZABs. The provision authorizes the issuance of up to \$1,400,000,000 in QZAB annually for 2009 and 2010. . See Notice 2009-30 , 2009-16 IRB, and Notice 2010-22 , 2010-10 IRB for the maximum face amount of QZAB that may be issued for each State for calendar years 2008, 2009, and 2010, respectively, under IRC 54E.
- Section 758(a), of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the credit for one year to December 31, 2011. In addition, section 758(a) sets the national limitation at \$400,000,000 for 2011. See Rev. Proc. 2011-19, 2011-6 IRB, for the maximum face amount of QZAB that may be issued for each State for calendar year 2011 under IRC 54E(c)(2).
- Section 310(a), of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years and is effective after December 31, 2011 and on or before December 31, 2013. See Notice 2013-3 for more information.
- Section 120, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year ear for taxable years beginning after December 31, 2013 and on or before December 31, 2014.

## S

9. A QSCB is any bond issued after February 17, 2009, by a state or local government as a qualified school construction bond and 100 percent of the available project proceeds of which are used 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. Section 1521, Qualified School Construction Bonds, of Title 1 of Division B of the American Recovery and Reinvestment Act of 2009 Act, P.L. 111-5, added QSCB as a new tax credit bond to the IRC and provided a national bond limit for QSCB of \$11 billion for 2009 and 2010, each. See Notice 2009-35 , 2009-17 IRB and Notice 2010-17 , 2010-17 IRB, for the maximum face amount of QSCBs that may be issued for each State, large school districts, certain possessions, and Indian tribal governments for calendar years 2009 and 2010, respectively, under IRC 54F.
10. A BAB is any bond issued after February 17, 2009 and before January 1, 2011, by an issuer who makes an irrevocable election to have the rules of IRC 54A apply and except for that election, the interest on the bonds would have been excluded under section 103. Section 1531, Build America Bonds, of Title 1 of Division B of the American Recovery and Reinvestment Act of 2009 Act, P.L. 111-5, added BABs as a tax credit bond to the code.
11. See Form 8912 and its instructions for the definitions of a qualified issuer, qualified borrower, and qualified project and see the specific information on claiming the credits.

12. Action required:

- a. Math verify Form 8912
- b. Input TC 291 to increase the credit and TC 290 to decrease the credit

**IRM 21.7.4.4.8.3.20 Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the new markets credit for one year and is effective after December 31, 2013 and on or before December 31, 2014. In addition, the Act sets the maximum amount of qualified equity investments at \$3.5 billion for 2014.**

1. The Community Renewal Tax Relief Act of 2000 created the New Markets Credit. Taxpayers use Form 8874 to claim the New Markets Credit for qualified equity investments made in qualified community development entities (CDE) after December 31, 2000. The credit is part of the General Business Credit, Form 3800. For more information, see IRC 45D. Also, see Notice 2006-60, for interim guidance on how an entity meets the requirements to be a qualified active low-income community business when its activities involve certain targeted populations under IRC 45D(e)(2).
2. The new markets credit has been modified by various legislation. Below is a listing of recent the legislation that has extended the new markets credit:
  - Section 102, of the Tax Relief and Health Care Act of 2006, P.L. 109-432, extended the credit through 2008, permitting up to \$3.5 billion in qualified investments for that calendar year.
  - Division C, Title III, section 302, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the credit for one year for calendar year 2009 and modifies the alternative simplified credit.
  - Section 1403, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, increases the maximum amount of qualified equity investment by \$1.5 billion for calendar years 2008 and 2009 to \$5 billion. See the General Instructions for Form 8874 for specific information on claiming the credit and recapture of the credit.
  - Section 733, of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the credit for two years and is effective for taxable years beginning after December 31, 2009 and on or before December 31, 2011. In addition, section 733 sets the maximum amount of qualified equity investments at \$3.5 billion for both 2010 and 2011.
  - Section 305(a), of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years and is effective after December 31, 2011 and on or before December 31, 2013. In addition, section 305(a) sets the maximum amount of qualified equity investments at \$3.5 billion for both 2012 and 2013.
  - Section 115, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year and is effective after December 31, 2013 and on or before December 31, 2014. In addition, section

- 115(a) sets the maximum amount of qualified equity investments at \$3.5 billion for 2014.
3. A qualified equity investment is generally stock in a corporation or a capital interest in a partnership that is:
    - Acquired solely for cash at its original issue (or from a taxpayer for whom the investment was a qualified equity investment)
    - Used predominantly by the CDE to make qualified low-income community investments, and
    - Designated by the CDE as a qualified equity investment
  4. A qualified community development:
    - Is an entity certified as a qualified CDE by the Department of the Treasury's Community Development Financial Institution (CDFI) Fund
    - Maintains accountability to residents of low-income communities through their representation on any governing board or advisory board of the entity
    - Primary mission is serving, or providing investment capital for, low-income communities or persons
  5. Qualified CDEs also include specialized small business investment companies and community development financial institutions. See IRC 45D(c)(2) for more information.
  6. A credit generally is allowed on each of seven credit allowance dates. The credit allowance dates are the date the qualified equity investment is made in a CDE and that date on each of the next six years.
  7. The credit is equal to the qualified investment multiplied by:
    - 5 percent with respect to the first three credit allowance dates
    - 6 percent with respect to the remainder of the credit allowance dates
  8. The New Markets Credit may not be carried back to a tax year ending before 2001.

**IRM 21.7.4.4.8.3.21 Added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for biodiesel and renewable diesel fuels produced, and sold or used, for one year through December 31, 2014.**

1. Section 301 of the American Jobs Creation Act of 2004, P.L. 108-357, created IRC 6426, Credit for Alcohol Fuel and Biodiesel Mixtures. The credit applies to fuels produced, and sold or used, after December 31, 2004 and on or before December 31, 2006. Section 302 of the American Jobs Creation Act of 2004, created IRC 40A, Biodiesel Used as Fuel, which defines the qualifications for the credit.
2. The credit was extended by Section 1344 of the Energy Policy Act of 2005, P.L. 109-58, to fuels produced and sold or used after December 31, 2006, and on or before December 31, 2008. The Act also added credits for renewable diesel fuel sold or used after December 31, 2005. In addition, the Act added a small agri-biodiesel producer credit for tax years ending after August 8, 2005.



3. Division B, Title II, section 202(a) of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the credit for fuels produced, and sold or used, for one year through December 31, 2009. Section 701(a) and section 701(b), of the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010, P. L. 111-312, extended the credit for fuels produced, and sold or used, for two years through December 31, 2011.
4. Special Rule for 2010. Under section 701(c) of the Act, per Notice 2011-10, Biodiesel and Alternative Fuels; Claims for 2010; Excise Tax, taxpayers may make a one-time claim for payment of the credits and payments allowable under IRC sections 6426 and 6427 for biodiesel (including renewable diesel) mixtures, alternative fuels, and alternative fuel mixtures sold or used during calendar year 2010, on Form 8849. See IRM 21.7.8.4.5.4, *Form 8849, Schedule 3, Certain Fuel Mixtures and the Alternative Fuel Credit*, for more information. Taxpayers may also continue to claim the credit on Form 4136, *Credit for Federal Tax Paid on Fuels*. The one-time claim rule mentioned above, does not pertain to claims on Form 4136.
5. Section 405(a), Extension of Incentives for Biodiesel and Renewable Diesel, of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for fuels produced, and sold or used, for two years through December 31, 2013. Section 153, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for fuels produced, and sold or used, for one year through December 31, 2014.
6. The credit is claimed on Form 8864, *Biodiesel and Renewable Biodiesel Fuels Credit*, and is part of the general business credit. The credit consists of:
  - o Biodiesel credit
  - o Renewable diesel credit
  - o Biodiesel (or agri-biodiesel) mixture credit
  - o Renewable (or agri-biodiesel) diesel mixture credit, and
  - o Small agri-biodiesel producer credit
7. Notice 2005-62, was issued to clarify the biodiesel certificate rules and to require copies of certificates to be attached to Form 8864 in certain situations.
8. The small agri-biodiesel producer credit is allowed for gallons **sold in tax years ending after August 8, 2005**. Taxpayers who have a credit that occurs in a tax year beginning in 2004, include the credit on line 5 of the 2004 Form 8864, and enter SABPC, and the amount of the credit to the left of the entry on line 5. They must attach a statement showing the information requested on line 7 of the form and file it with their original or amended tax return for the tax year beginning in 2004.
9. See the General Instructions for Form 8864 for the definition of biodiesel, agri-biodiesel, renewable diesel, biomass, and other related terms.
10. Lines 1 and 2 are for claiming the credit for 100 percent biodiesel (B100) and agri-biodiesel **that are not mixed** with diesel fuel. Line 3, Renewable Diesel sold or used after December 31, 2005, also **must not be a mixture**. The credit is allowed only to the person who:
  - o Sold at retail to another person and placed in the fuel tank of that person's vehicle, **or**
  - o Used as a fuel in a trade or business
11. Lines 4, 5 and 6 are for claiming a biodiesel mixture, agri-biodiesel mixture, and renewable diesel mixture credit. A qualified biodiesel mixture means a

mixture of agri-biodiesel, biodiesel other than agri-biodiesel, or renewable diesel **that are mixed** with diesel fuel, without regard to kerosene. The credit is allowed only to the producer who blends the mixture. The credit is allowed only for the taxable year the mixture was sold or used and the producer must have:

- Sold the mixture to any person for use as a fuel, or
  - Used the mixture as a fuel
12. However, no credit is allowed for fuel used in a trade or business that was purchased in a retail sale described above. The credit is \$.50 for each gallon of biodiesel other than agri-biodiesel. the credit increases to \$1 per gallon for agri-biodiesel, and for renewable diesel sold or used after December 31, 2005.
13. The credit is \$.50 for each gallon of biodiesel included in a biodiesel mixture. The credit increases to \$1 per gallon for agri-biodiesel used in a biodiesel mixture, and for renewable diesel included in a renewable diesel mixture that was sold or used after December 31, 2005.
14. Line 7, qualified agri-biodiesel production means up to 15 million gallons of agri-biodiesel which is produced by an eligible small agri-biodiesel producer, and which during the tax year:
- a. Is sold by such producer to another person: (1) For use by such person in the production of a qualified biodiesel mixture in such other person's trade or business (other than casual off-farm production); (2) For use by such person as a fuel in a trade or business; or (3) Who sells such agri-biodiesel at retail to another person, and places such agri-biodiesel in the fuel tank of such other person, or
  - b. Is used or sold by such producer for any purpose described in paragraph (a) directly above.
15. The credit is \$.10 per gallon.
16. Any unused portion of this credit remaining, after the tax is reduced to zero, can be carried back one year to reduce taxes for that year. (However, it cannot be carried back to a tax year ending before 2005.) It can then be carried forward 20 years.

**NOTE:** Any unused renewable diesel credits claimed on line 3 or line 6 cannot be carried back to a tax year ending before 2006. Any unused small agri-biodiesel producer credit claimed on line 7 cannot be carried back to a tax year ending before August 9, 2005.

17. Only one credit may be taken with respect to any amount of any type of biodiesel or renewable diesel. If any amount is claimed (or will be claimed) with respect to any amount of biodiesel or renewable diesel on Form 720, *Quarterly Federal Excise Tax Return*, Form 8849, *Claim for Refund of Excise Taxes*, or Form 4136, *Credit for Federal Tax Paid on Fuels*, then a claim cannot be made on Form 8864 for that amount of biodiesel or renewable diesel.
18. Action Required:
- a. Math verify Form 8864
  - b. Input TC 291 to increase the credit and TC 290 to decrease the credit

**IRM 21.7.4.4.8.3.23 Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the railroad track maintenance credit one year to taxable years beginning after December 31, 2013 and on or before December 31, 2014.**

1. Section 245 of the American Jobs Creation Act of 2004, P.L. 108-357, created IRC 45G, Railroad Track Maintenance Credit. This section applies to qualified railroad track maintenance expenditures paid or incurred by an eligible taxpayer for taxable years beginning after December 31, 2004, and before January 1, 2008. The credit is claimed on by an eligible taxpayer on Form 8900. For TY 2006 and subsequent, the credit can only be claimed as a general business credit and must be carried to Form 3800, *General Business Credit*. The allowable credit is then figured on Form 3800.
2. The qualified railroad track maintenance credit has been modified by various legislation. Below is a listing of the legislation that has extended the qualified railroad track maintenance credit:
  - Division C, Title III, section 316(a) of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the credit for two years for expenditures paid or incurred after December 31, 2007 and on or before December 31, 2009.
  - Section 734, of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the credit for two years for expenditures paid or incurred for taxable years beginning after December 31, 2009 and on or before December 31, 2011.
  - Section 306(a), of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years for expenditures paid or incurred for taxable years beginning after December 31, 2011 and on or before December 31, 2013.
  - Section 116, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit one year for expenditures paid or incurred for taxable years beginning after December 31, 2013 and on or before December 31, 2014.
3. On December 17, 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, was signed into law. Section 734 of the act extended the qualified railroad track maintenance credit for two years for expenditures paid or incurred during taxable years beginning after December 31, 2009 and on or before December 31, 2011. Section 306(a), Extension of Railroad Track Maintenance Credit, of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years to taxable years beginning after December 31, 2011 and on or before December 31, 2013.
4. An eligible taxpayer includes Class II and Class III railroads as these terms are defined by the Surface Transportation Board.
5. Eligible taxpayers also include persons (including Class I railroad) who:

- Transport property using the rail facilities of a Class II or Class III railroad, or who furnishes railroad-related property or services to a Class II or Class III railroad, but only with respect to miles of railroad track assigned to such person by such Class II or Class III railroad.
- 6. Qualified railroad track maintenance expenditures include expenditures for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2005, by a Class II or Class III railroad. Section 423 of the Tax Relief and Health Care Act of 2006 modifies the definition of qualified railroad track expenditures so that the term means "gross expenditures" (whether or not otherwise chargeable to capital account). See the General Instructions for Form 8900 for additional information regarding maintenance expenditures.
- 7. Any unused credit may be carried back one year and carried forward for up to 20 years.
- 8. The credit allowed for any taxable year cannot exceed the product of \$3,500 multiplied by the sum of:
  - The number of miles of railroad track owned or leased by the eligible taxpayer as of the close of the taxable year, **and**
  - The number of miles of railroad track assigned to the eligible taxpayer by a Class II or Class III railroad which owns or leases such railroad track as of the close of the taxable year
- 9. Action required:
  - a. Math verify Form 8900
  - b. Input TC 291 to increase the credit and TC 290 to decrease the credit

**IRM 21.7.4.4.8.3.24 Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the pre-2008 cover over amount for one year to distilled spirits brought into the United States on or before December 31, 2014.**

- 1. Section 11126 of the Safe Accountable, Flexible, and Efficient Transportation Equity Act of 2005, P.L. 109-59, created the Distilled Spirits Credit under IRC 7652.
- 2. Generally, the credit is computed by multiplying the number of cases of bottled distilled spirits purchased or stored during the tax year by the average tax-financing cost per case for the most recent calendar year ending before the beginning of the tax year.
- 3. The amount of the distilled spirits credit for any taxable year is the amount equal to the product of the number of cases of distilled spirits purchased or stored during the tax year by the average tax financing cost per case:
  - For eligible wholesalers who hold a permit under the Federal Alcohol Administration Act and are not a state or political, subdivision thereof or an agency of either, the number of cases bottled in the United States, and which were purchased by wholesalers directly from the bottler, or

- For taxpayers subject to IRC 5005 whom are not eligible wholesalers, the number of cases of bottles of distilled spirits which are stored in a warehouse operated by, or on behalf of, a State or political subdivision thereof, or an agency of either, on which title has not passed on an unconditional sale basis
- 4. The credit is claimed on Form 8906. The credit is part of the general business credit and is effective for tax years beginning after September 30, 2005. Section 114 of the Tax Relief and Health Care Act of 2006 temporarily suspends the limitation on the amount of excise taxes on rum paid over to Puerto Rico and the Virgin Islands. See the General Instructions for Form 8906 for more specific information and an example on how to compute the credit.
- 5. The distilled spirits credit has been modified by various legislation. Below is a listing of the legislation that has extended the pre-2008 cover over amount of \$13.25 per proof gallon to distilled spirits brought into the United States:
  - Division C, Title III, section 308 of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the pre-2008 cover over amount for two years to distilled spirits brought into the United States after December 31, 2007 and on or before December 31, 2009.
  - Section 755, of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the pre-2008 cover over amount for two years to distilled spirits brought into the United States after December 31, 2009 and on or before December 31, 2011.
  - Section 329(a), of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the pre-2008 cover over amount for two years to distilled spirits brought into the United States after December 31, 2011 and on or before December 31, 2013.
  - Section 140, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the pre-2008 cover over amount for one year to distilled spirits brought into the United States after December 31, 2013 and on or before December 31, 2014. After December 31, 2014, the cover over goes back to \$10.50 per proof.
- 6. The average tax-financing cost per case on Line 2 is as follows:

Year	Amount
2008	.29717
2009	.21134
2010	.13756
2011	.12695
2012	.10575
2013	.08433
2014	.08456

- 7. Action required:
  - a. Math verify Form 8906
  - b. Input TC 291 to increase the credit and TC 290 to reduce the credit

**IRM 21.7.4.4.8.3.28 Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the qualified alternative fuel vehicle refueling property credit for taxable years beginning after December 31, 2013 and ending on or before December 31, 2014.**

1. Section 1342, Credit for Installation of Alternative Fueling Stations, of the Energy Policy Act of 2005, P.L. 109-58, created IRC 30C. The provision provides for a 30 percent credit for the cost of installing all alternative vehicle refueling property to be used in a trade or a business of the taxpayer, or installed at the principal residence of the taxpayer for property placed in service after December 31, 2005 and before January 1, 2010 (January 1, 2015 for hydrogen fuel property). Form 8911 is used to claim the credit.
2. The alternative fuels vehicle refueling property credit has been modified by various legislation. Below is a listing of the legislation that has extended the alternative fuels vehicle refueling property credit:
  - Section 207, Alternative Fuel Vehicle Refueling Property Credit, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the credit for one year for property placed in service in taxable years beginning after December 31, 2009 and on or before December 31, 2010.
  - Section 711, of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the credit for one year for property placed in service in taxable years beginning after December 31, 2010 and on or before December 31, 2011.
  - Section 402(a), of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years for property placed in service in taxable years beginning after December 31, 2011 and on or before December 31, 2013.
  - Section 161, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year to taxable years for property placed in service in taxable years beginning after December 31, 2013 and on or before December 31, 2014.
3. For tax periods beginning after December 31, 2005 and before January 1, 2009, the credit was generally the smaller of 30% of the property's cost or:
  - \$30,000 for each property of a character subject to an allowance for depreciation (business/investment use property), and
  - \$1,000 for each property of a character not subject to an allowance for depreciation (personal use property).
4. ) Section 1123, Temporary Increase in Credit for Alternative Fuel Vehicle Refueling Property, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, increases the percentage of the cost of any qualified alternative fuel vehicle refueling property not related to hydrogen that can be claimed as a credit for qualified property placed in service by the taxpayer during the taxable year. The percentage is increased from 30 percent to 50 percent. The provision also increases the maximum amount of credit that can be claimed.

- The maximum credit has been increased from \$30,000 to \$50,000 for business/investment use alternative fuel vehicle refueling property, and from \$1,000 to \$2,000 for other alternative fuel vehicle refueling property. The maximum credit for qualified alternative fuel vehicle refueling property related to hydrogen is increased from \$30,000 to \$200,000 and is effective for taxable years beginning after December 31, 2008 and on or before December 31, 2010.
- The above provision expired on December 31, 2010. Therefore, the applicable percentage returned back to 30 percent. The maximum credit is \$30,000 for business/investment use alternative fuel vehicle refueling property, and \$1,000 for other alternative fuel vehicle refueling property. The maximum credit for qualified alternative fuel vehicle refueling property related to hydrogen is \$30,000 and is effective for taxable years beginning after December 31, 2010 and on or before December 31, 2013. Section 161, of the Tax Increase Prevention Act of 2014, extended the above provisions to taxable years beginning after December 31, 2013 and on or before December 31, 2014.
5. Alternative fuels are any fuels with at least 85 percent of the volume consisting of ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, any mixture of diesel fuel, biodiesel, and kerosene containing at least 20 percent biodiesel or electricity.
  6. For retail alternative vehicle refueling property subject to an allowance for depreciation (business/investment use), the credit for all property placed in service at each location is generally the smaller of 50 percent (30 percent for hydrogen refueling property) of the qualified alternative fuel vehicle refueling property's cost or \$50,000 (\$200,000 for hydrogen refueling property) placed in service by the taxpayer after December 31, 2008.
  7. For retail alternative vehicle refueling property **not** subject to an allowance for depreciation placed in service at the taxpayer's main home (personal use property) the credit is generally the smaller of 50 percent (30 percent for hydrogen refueling property) of the property's cost **or** \$2,000 (\$1,000 for hydrogen refueling property).
  8. See the General Instructions for Form 8911 for more information and Notice 2007-43, 2007-22 IRB, for interim guidance relating to the computation of the credit and the treatment for purposes of the credit, of converted and dual-use refueling property.
  9. Action required:
    - Math verify Form 8911
    - Input TC 291 to increase the credit and TC 290 to decrease the credit

**IRM 21.7.4.4.8.3.32 Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the mine rescue team training credit for one year to taxable years beginning after December 31, 2013 and on or before December 31, 2014.**

1. Section 405 of the Tax Relief and Health Care Act of 2006, P.L. 109-432, created the *Mine Rescue Team Training Credit*, under IRC 45N, and is claimed on Form 8923. The provision is effective for taxable years beginning after December 31, 2005, and before January 1, 2009. Taxpayers may claim a credit for each qualified mine rescue team employee equal to the lesser of:
  - 20 percent of the amount paid or incurred by the taxpayer during the taxable year with respect to the training of qualified mine rescue team employee (including wages while attending a program), or
  - \$10,000.00.
2. Employers which employ individuals as miners in underground mines in the United States are eligible. A qualified mine rescue team employee is any full-time employee of the taxpayer who is a miner eligible for more than six months of a taxable year to serve a mine rescue team member by either:
  - Having completed the initial 20 hour course prescribed by the Mine Safety and Health Administration's Office of Educational Policy and Development, or
  - Receiving at least 40 hours of refresher training in such instructions.
3. The mine rescue team training credit has been modified by various legislation. Below is a listing of the legislation that has extended the mine rescue team training credit:
  - Section 310 of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the credit for one year for taxable years beginning after December 31, 2008 and on or before December 31, 2009.
  - Section 735 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the credit for two years and is effective for taxable years beginning after December 31, 2009 and on or before December 31, 2011.
  - Section 307(a), Extension of Mine Rescue Team Training Credit, of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years to taxable years beginning after December 31, 2011 and on or before December 31, 2013.
  - Section 117, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year to taxable years beginning after December 31, 2013 and on or before December 31, 2014.
4. The provision is effective for taxable years beginning after December 31, 2005, and before January 1, 2009. Section 735 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the mine rescue team training credit for two years and is effective for taxable years beginning after December 31, 2009 and before January 1, 2012.



5. Section 307(a), Extension of Mine Rescue Team Training Credit, of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years to taxable years beginning after December 31, 2011 and on or before January 1, 2014.
6. Action required:
  - Math Verify Form 8923
  - Input TC 291 to decrease the credit and TC 290 to reduce the credit
7. See the General for Form 8923 for more information.

**IRM 21.7.4.4.8.3.33 Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the energy efficient home credit for one year to any qualified new energy efficient home acquired after December 31, 2013 and on or before December 31, 2014.**

1. Section 1332, Credit for Construction of New Energy Efficient Homes, of the Energy Policy Act of 2005, P.L. 109-58, created new IRC 45L, New Energy Efficient Home Credit. Eligible contractors use Form 8908 to claim the credit for each qualified energy efficient home sold or leased during the taxable year. The energy efficient home credit is part of the general business credit and cannot be carried back to any tax year ending before 2006.
2. As originally enacted, a qualified new energy efficient home is:
  - A dwelling located in the United States.
  - Whose construction is substantially completed after August 8, 2005, and acquired by sale or lease after 2005, but on or before December 31, 2007.
3. The energy efficient home credit has been modified by various legislation. Below is a listing of the legislation that has extended the energy efficient home credit:
  - Section 205, Credit for New Energy Efficient Homes, of the Tax Relief and Health Care Act of 2006, extended the credit for one year to any qualified new energy efficiency home acquired after December 31, 2007 and on or before December 31, 2008. See Notice 2008-35, 2008-12 IRB (for on-site homes), and Notice 2008-36 , 2008-12 IRB (for manufactured homes), for a discussion of certification requirements.
  - Section 304, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the credit for one year to any qualified new energy efficient home acquired after December 31, 2008 and on or before December 31, 2009.
  - Section 703, of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the credit for two years to any qualified new energy efficient home acquired December 31, 2009 and on or before December 31, 2011.
  - Section 408(a), of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years to any qualified new energy

- efficiency home acquired after December 31, 2011 and on or before December 31, 2013.
  - Section 156, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year to any qualified new energy efficient home acquired after December 31, 2013 and on or before December 31, 2014.
- 4. An eligible contractor is:
  - The person who constructed the qualified new energy efficient home, **or**
  - For manufactured homes, the person who manufactured the home, **or**
  - The person who hires a third party contractor to construct the home.
- 5. The home is required to be certified and meet certain energy savings requirements. Construction includes substantial reconstruction and rehabilitation.
- 6. The amount of the credit is based on the energy savings requirements that are met. Generally, the credit is \$2,000 for units that meet the 50 percent energy efficient standard and \$1,000 for units that meet the 30 percent energy efficient standard. .
- 7. Section 408(b), of the American Taxpayer Relief Act of 2012, P.L. 112-240, updated the energy savings requirements for any qualified new energy efficient home acquired after December 31, 2011. See the General Instructions for Form 8908 for the energy savings requirements to compute the credit and for the certification requirements.
- 8. Action required:
  - Math verify Form 8908
  - Input TC 291 to increase the credit and TC 290 to decrease the credit

**IRM 21.7.4.4.8.4 Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the domestic production activities deduction for one year and is effective for taxable years beginning after December 31, 2013 and on or before December 31, 2014.**

1. Section 102 of the American Jobs Creation Act of 2004, P.L.108-357, created IRC 199, Domestic Production Activities Deduction (DPAD). The act provides a deduction from income (in the case of an individual, adjusted gross income) for taxable years beginning **after 2004**, equal to a portion of the taxpayer's qualified production activities income. For taxable years beginning in 2005 and 2006, the deduction is 3 percent of the lesser of the taxpayer's:
  - a. Qualified production activities income, or
  - b. Taxable income for the taxable year
2. For taxable years beginning in 2007, 2008 and 2009, the percentage increases to 6 percent, and increases further to 9 percent for taxable years beginning after 2009.
3. However, the DPAD may not be more than 50 percent of the Form W-2 wages paid by the taxpayer (employer) during the calendar year that ends in such taxable year.

4. Form 8903 is filed to claim the deduction. Form 8903 is filed by corporations, individuals, partners, S corporation shareholders, beneficiaries of estates and trust, cooperatives, and patrons of cooperatives.
5. Rev. Proc. 2006-42 , 2006-47 IRB, sets forth the administrative procedures for taxpayers to obtain automatic approval to change certain elections relating to the apportionment of interest expense and research and experimental expenditures. Taxpayers complying with this revenue procedure are deemed to have obtained the approval of the Commissioner of the Internal Revenue Service. See Rev. Proc. 2006-42, 2006-47 IRB, for more detailed information.
6. See IRC 199 regulations and the Instructions for Form 8903 for more specific information.
7. The domestic production activities deduction has been modified by various legislation. See the 09/09/2013 revision of this IRM for a complete list of legislation that extended the domestic production activities deduction before 2007. Below is a listing of recent legislation that has extended the domestic production deduction for income attributable to domestic production activities in Puerto Rico:
  - Division C, Title III, section 312 of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the deduction for two years and is effective for taxable years beginning after December 31, 2007 and on or before December 31, 2009,.
  - Section 746, of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the deduction for two years and is effective for taxable years beginning after December 31, 2009 and on or before December 31, 2011.
  - Section 318(a), of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the deduction for two years and is effective for taxable years beginning after December 31, 2011 and on or before December 31, 2013.
  - Section 130, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the deduction for one year and is effective for taxable years beginning after December 31, 2013 and on or before December 31, 2014.

**IRM 21.7.4.4.18.9 Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for employer differential wage payments for one year and is effective for payments made after December 31, 2013 and on or before December 31, 2014.**

1. Section 111, Credit for Employer Differential Wage Payments to Employees Who Are Active Duty Members of the Uniformed Services, of the Heroes Earning Assistance and Relief Tax Act of 2008, P.L. 110-245, created new IRC 45P. The provision provides for a credit for compensation paid by an employer to an employee who is called to active duty with respect to the armed forces of the United States and is effective for differential wage

- payments made to qualified employees after June 17, 2008 and on or before December 31, 2009, by an eligible small business employer, can be used to figure the credit.
2. The credit is claimed on Form 8932, *Credit for Employer Differential Wage Payments*. To be considered a differential wage payment, the payment must meet both of the following requirements:
    - The payment is made by an eligible small business employer to a qualified employee for any period during which the employee is performing service in the uniformed services of the United States while on active duty for a period of more than 30 days.
    - The payment represents all or a portion of the wages the employee would have received from the employer if the employee were performing services for the employer.
  3. The credit for employer differential wage payments has been modified by various legislation. Below is a listing of the legislation that has extended the credit for employer differential wage payments:
    - Section 736, of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the credit for two years and is effective for payments made after December 31, 2009 on or before December 31, 2011.
    - Section 308(a), of the Uniformed Services, of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years and is effective for payments made after December 31, 2011 and on or before December 31, 2013.
    - Section 118, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year and is effective for payments made after December 31, 2013 and on or before December 31, 2014.
  4. Employers who voluntarily pay the employee "differential pay," the difference between the compensation that the employer would have paid to the employee during the period of military service less the amount of pay received by the employee from the military are eligible for the credit.
  5. The differential wage payment credit for any taxable year is an amount equal to 20 percent of the first \$20,000 of "eligible differential wage payments" paid to each "qualified employee" of the taxpayer during such taxable year.
  6. A "qualified employee" of a taxpayer is a person who has been an employee for the 91-day period immediately preceding the period for which any differential wage payment is made during such taxable year.
  7. See the General Instructions for Form 8932, for definitions of terms and more specific information and Notice 2010-15, 2010-6 IRB, for more information.
  8. Action required:
    - Math verify Form 8932
    - Input TC 291 to increase the credit and TC 290 to reduce the credit

**IRM 21.7.4.4.18.11 Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the energy efficient commercial building tax deduction for one year and is effective for taxable years beginning after December 31, 2013 and on or before December 31, 2014**

1. Section 1331, of the Energy Policy Act of 2005, P.L. 109-58, created an energy efficient commercial building deduction under IRC 179D. The provision provides a deduction for all or a part of the energy efficient commercial building property expenditures made by the taxpayer after December 31, 2005 in calendar years 2006 and 2007.
2. The energy efficient commercial building deduction has been modified by various legislation. Below is a listing of the legislation that has extended the energy efficient commercial building deduction:
  - o Division A, section 204, Tax Relief and Health Care Act of 2006, P.L. 109-432, extended the deduction for one year for property placed in service after December 31, 2007 and on or before December 31, 2008.
  - o Division B, Title III, section 303, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the deduction for five years for property placed in service after December 31, 2008 and on or before December 31, 2013.
  - o Section 130, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the deduction for one year and is effective for taxable years beginning after December 31, 2013 and on or before December 31, 2014
3. Energy efficient commercial building property is defined as depreciable property which is installed:
  - a. On or in any building located in the United States that is within the scope of Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on April 2, 2003)
  - b. As part of the interior lighting system, the heating, cooling, ventilation, and hot water system, or the building envelope, and is certified as being installed as part of a plan designed to reduce the total annual energy and power costs by 50 percent or more in comparison to a reference building that meets the minimum requirements of Standard 90.1-2001
4. A partial deduction is allowed for buildings that do not meet the above requirements. See section 1331 of the Energy Policy Act of 2005 for the special rules for partial allowances, method of calculation, basis reduction, interim rules for lighting systems, and other specific information.
5. The deduction is limited to an amount equal to \$1.80 per square foot of the building over the aggregate amount of the deductions under IRC 179D with respect to the building for all prior taxable years, in which such expenditures were made and is allowed in the year in which the property is placed in service (2006 or 2007).

**IRM 21.7.4.4.18.12 Reformatted the subsection and added that the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the election to expense advanced mine safety equipment for one year and is effective property placed in service for taxable years beginning after December 31, 2013 and on or before through December 31, 2014.**

1. Division A, section 404, of the Tax Relief and Health Care Act of 2006, P.L. 109-432, added IRC 179E, Election to Expense Advanced Mine Safety Equipment. Taxpayers may elect to treat 50 percent of the cost of any qualified advance mine safety equipment as an expense which is not charged to a capital account.
2. Qualified advanced mine safety equipment property is any advanced mine safety equipment property for use in any underground mine located in the United States where the original use commences with the taxpayer, and which is placed in service after December 20, 2006 and on or before December 31, 2008.
3. Advanced mine safety equipment property means any of the following:
  - a. Emergency communication technology or device which is used to allow a miner to maintain constant communication with an individual who is not in the mine
  - b. Electronic identification and location device which allows an individual who is not in the mine to track at all times the movements and location of miners working in or at the mine
  - c. Emergency oxygen-generating, self-rescue device which provides oxygen for at least 90 minutes
  - d. Pre-positioned supplies of oxygen which (in combination with self-rescue devices) can be used to provide each miner on a shift, in the event of an accident or other event which traps the miner in the mine or otherwise necessitates the use of such a self-rescue devices, the ability to survive for at least 48 hours
  - e. Comprehensive atmospheric monitoring system which monitors the level of carbon monoxide, methane, and oxygen that are present in all areas of the mine and which can detect smoke in the case of a fire in the mine
4. The election to expense advanced mine safety equipment has been modified by various legislation. Below is a listing of the legislation that has extended the election to expense advanced mine safety equipment:
  - o Division C, Title III, section 311, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the election for one year and is effective for property placed in service for taxable years beginning after December 31, 2008 and on or before December 31, 2009.
  - o Section 743, of the Tax Relief Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the election for two years and is effective for property placed in service for taxable years beginning after December 31, 2009 and on or before December 31, 2011.

- Section 316(a), of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the election for two years and is effective for property placed in service for taxable years beginning after December 31, 2011 and on or before December 31, 2013.
- Section 128, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the election for one year and is effective for property placed in service for taxable years beginning after December 31, 2013 and on or before December 31, 2014.