

Attach to your return.

Table with 2 columns: Name(s) shown on return, Identifying number

Part I Current Year Credit

Table with 12-14 rows for Part I, including sections for biomass and wind electricity production, and reduction for government grants.

Part II Tax Liability Limitation (See Who Must File Form 3800 to see if you complete Part II or file Form 3800.)

Table with 22 rows for Part II, detailing tax liability limitations for individuals, corporations, and other filers, and the final renewable electricity production credit allowed.

## Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping** 9 hr., 34 min.; **Learning about the law or the form** 6 min.; **Preparing and sending the form to the IRS** 16 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to both the IRS and the Office of Management and Budget at the addresses listed in the instructions for the tax return with which this form is filed.

## General Instructions

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

### Purpose of Form

Use Form 8835 to claim the renewable electricity production credit. The credit is part of the general business credit under section 38 and is figured under section 45. The credit is allowed for the sale of electricity produced in the United States or U.S. possessions from qualified energy resources (see **Definitions**).

### How To Figure the Credit

The rate of the credit is 1.5 cents per kilowatt hour (Kwh) on the sale of electricity produced by the taxpayer from qualified energy resources at a qualified facility during the 10-year period beginning with the date the facility is originally placed in service.

The credit is proportionately phased out over a 3-cent range when the reference price (see **Definitions**) exceeds the adjusted threshold price (see next paragraph).

Both the 1.5 cent credit rate and the 8 cent threshold price are adjusted for inflation. The reference price and the inflation adjustment factor (**IAF**) for the calendar year are published in the Federal Register by April 1.

**Note:** For calendar year 1994, per Notice 94-43, 1994-1 C.B. 354, the IAF is 1.0273 and the reference price per Kwh is 0 cents for closed-loop biomass facilities and 5.4 cents for wind facilities. The 1995 IAF and reference prices will be published by April 1, 1995.

If the reference price is less than the threshold price of 8 cents (adjusted by the IAF), there is no reduction. If the reference price is more than 3 cents over 8 cents (adjusted), there is no credit. If the reference price is more than 8 cents (adjusted) but not more than 3 cents above, there is a phaseout adjustment on lines 2 and 5 of Form 8835. See section 45(b) for details.

For example, if the reference price is 9 cents and the IAF is 1, you must reduce the credit by  $1/3$  ((9 cents minus 8 cents) divided by 3 cents =  $1/3$  = .3333). In this example, enter the line 1 credit in the first entry space on line 2, .3333 in the second entry space, and multiply to figure the reduction. This example could also apply to line 5 of the form.

The credit is also reduced for any government grants, subsidized financing, and other credits. See **Line 8** below for details.

## Definitions

**Qualified energy resources** means closed-loop biomass and wind.

**Closed-loop biomass** means any organic material from a plant that is planted exclusively for use at a qualified facility to produce electricity. It does not include any waste materials such as the use of scrap wood, manure, municipal or agricultural waste, or standing timber.

**Qualified facility** means any taxpayer-owned facility using closed-loop biomass to produce electricity that is originally placed in service after December 31, 1992, but before July 1, 1999. It also means any taxpayer-owned facility using wind to produce electricity that is originally placed in service after December 31, 1993, but before July 1, 1999 (see Rev. Rul. 94-31, 1994-1 C.B. 16, for details).

**Reference price** means the annual average contract price per kilowatt hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States as determined by the Secretary of the Treasury.

**United States and possessions of the United States** includes the seabed and subsoil of those submarine areas that are adjacent to the territorial waters over which the United States has exclusive rights in accordance with international law.

## Specific Instructions

Complete lines 1 through 12 to figure any renewable electricity production credit from your trade or business. Skip lines 1 through 12 if you are claiming only a credit that was allocated to you from an S corporation, partnership, estate, or trust.

**Fiscal year taxpayers.**—If you have sales in 1994 and 1995 and the credit rate on line 1 or 4 or phaseout adjustment on line 2 or 5 is different for 1995, make separate computations for each line. Use the respective sales, credit rate, and phaseout adjustment for each calendar year. Enter the total of the two computations on lines 1 and 2 or lines 4 and 5. Attach the computations to Form 8835 and write "FY" in the margin.

**Line 1.**—Enter the Kwh of electricity produced and sold during 1994 from a facility using closed-loop biomass as the renewable resource and multiply by \$.015. The \$.015 rate will also apply to 1995 sales if the 1995 IAF does not increase the rate. If the 1995 IAF causes a rate increase, fiscal year filers with 1995 sales must figure line 1 as explained under **Fiscal year taxpayers**.

**Line 2.**—There is no phaseout adjustment for calendar year 1994. Calendar year filers enter -0- on line 2. Fiscal year filers with sales in 1995 also enter -0- if the published 1995 reference price is equal to or less than the 1995 adjusted threshold price. If the 1995 reference price exceeds the 1995 adjusted threshold price, the phase out adjustment applies for 1995 sales. See **How To Figure the Credit** for figuring the adjustment.

**Line 4.**—Enter the Kwh of electricity produced and sold during 1994 from a qualified wind facility and multiply by \$.015. The \$.015 rate will also apply to 1995 sales if the 1995 IAF does not increase the rate. If the 1995 IAF causes a rate increase, fiscal year filers with 1995 sales must figure line 4 as explained under **Fiscal year taxpayers**.

**Line 5.**—There is no phaseout adjustment for calendar year 1994. Calendar year filers enter -0- on line 5. Fiscal year filers with sales in

1995 also enter -0- if the published 1995 reference price is equal to or less than the 1995 adjusted threshold price. If the 1995 reference price exceeds the 1995 adjusted threshold price, the phaseout adjustment applies for 1995 sales. See **How To Figure the Credit** for figuring the adjustment.

**Line 8.**—Enter the sum, for this and all prior tax years, of (a) grants provided by the United States, a state, or political subdivision of a state for the project; (b) proceeds of an issue of state or local government obligations used to provide financing for the project, the interest of which is tax-exempt; (c) total of subsidized energy financing provided directly or indirectly under a Federal, state, or local program provided for the project; and (d) the amount of any other credit allowable for any property that is part of the project.

**Line 9.**—Enter the total amount of additions to the capital account for the project for this and all prior tax years.

**Line 14.**—

**S corporations and partnerships.**—Allocate the line 14 credit to the shareholders or partners. Attach Form 8835 to the S corporation or partnership return, and show on Schedule K-1 each shareholder's or partner's credit.

**Estates and trusts.**—The line 14 credit is allocated between the estate or trust and the beneficiaries in proportion to the income allocated to each. On the dotted line to the left of the line 14 entry, enter the estate or trust's share of the credit. Label it "1041 PORTION" and use it in Part II (or Form 3800, if required) to figure the credit to claim on Form 1041.

## Who Must File Form 3800

If for this year you have more than one of the credits included in the general business credit listed below, a carryback or carryforward of any of the credits, or a credit from a passive activity, you must complete **Form 3800**, General Business Credit, instead of completing Part II of Form 8835 to figure the tax liability limitation.

The general business credit consists of the following credits: investment, jobs, alcohol used as fuel, research, low-income housing, enhanced oil recovery, disabled access, renewable electricity production, Indian employment, employer social security and Medicare taxes paid on certain employee tips, and contributions to selected community development corporations.

The empowerment zone employment credit, while a component of the general business credit, is figured separately on Form 8844 and is never carried to Form 3800.

**Line 15c.**—Form 990-T filers, enter the total of either lines 35c and 37 or lines 36 and 37, whichever applies.

**Line 18.**—Enter the tentative minimum tax (TMT) figured on the appropriate alternative minimum tax (AMT) form or schedule. Although you may not owe AMT, you must still compute the TMT to figure your credit.

**Line 20.**—See section 38(c)(3) for special rules for married couples filing separate returns, controlled groups, and estates and trusts.

**Line 22.**—If you cannot use part of the credit because of the tax liability limitations (line 22 is less than line 14), carry the excess to other years. See the separate instructions for Form 3800 for carryback restrictions and details.

