



# Instructions for Form 4255

(Rev. December 2016)

## Recapture of Investment Credit

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

### Future Developments

For the latest information about developments related to Form 4255 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/form4255](http://www.irs.gov/form4255).

### What's New

Form 4255 has been revised to reflect the computational steps required under section 50(a)(1) and to provide additional instructions on how to adjust the unused portion (i.e., carryover) of a recaptured credit.

## General Instructions

### Purpose of Form

Use Form 4255 to figure the increase in tax for the recapture of investment credit claimed and for the recapture of a qualifying therapeutic discovery project grant.

### Credit Recapture Requirements and Special Rules

Generally, you must refigure the investment credit and may have to recapture all or part of it if any of the following apply.

- You disposed of investment credit property before the end of 5 full years after the property was placed in service (the recapture period).
- You changed the use of the property before the end of the recapture period so that it no longer qualifies as investment credit property.
- The business use of the property decreased before the end of the recapture period so that it no longer qualifies (in whole or in part) as investment credit property.
- Any building to which section 47(d) applies will no longer be a qualified rehabilitated building when placed in service.
- Any property to which section 48(b), 48A(b)(3), 48B(b)(3), 48C(b)(2), or 48D(b)(4) applies will no longer qualify as investment credit property when placed in service.
- Before the end of the recapture period, your proportionate interest was reduced by more than one-third in a partnership (other than an electing large partnership), S corporation, estate, or trust that

allocated the cost or other basis of property to you for which you claimed a credit.

- You received a grant under section 1603 of the American Recovery and Reinvestment Tax Act of 2009 for property for which you were previously allowed an investment credit for qualified progress expenditures under section 48(d), and the amounts constituting the qualified basis for the credit are also the basis for the grant.
  - You returned leased property (on which you claimed a credit) to the lessor before the end of the recapture period.
  - In the case of a project under the Phase II or Phase III gasification program, failure at any time during the applicable recovery period (as defined in section 168(c)) to attain and maintain the separation and sequestration requirements in section 48B(d)(1)(B). For more information, see Notice 2009-23, 2009-16 I.R.B. 802, available at [https://www.irs.gov/irb/2009-16\\_IRB/ar06.html](https://www.irs.gov/irb/2009-16_IRB/ar06.html); as modified by Notice 2011-24, 2011-14 I.R.B. 603 available at [https://www.irs.gov/irb/2011-14\\_IRB/ar08.html](https://www.irs.gov/irb/2011-14_IRB/ar08.html); and amplified by Notice 2014-81, 2014-53 I.R.B. 1001, available at [https://www.irs.gov/irb/2014-53\\_IRB/ar09.html](https://www.irs.gov/irb/2014-53_IRB/ar09.html).
  - In the case of a project under the Phase II or Phase III qualifying advanced coal project program, failure during the applicable recovery period (as defined in section 168(c)) to attain and maintain the separation and sequestration requirements in section 48A(e)(1)(G). For more information, see Notice 2009-24, 2009-16 I.R.B. 817, available at [https://www.irs.gov/irb/2009-16\\_IRB/ar07.html](https://www.irs.gov/irb/2009-16_IRB/ar07.html); as modified by Notice 2011-24, 2011-14 I.R.B. 603, and amplified by Notice 2012-51, 2012-33 I.R.B. 150, available at [https://www.irs.gov/irb/2012-33\\_IRB/ar05.html](https://www.irs.gov/irb/2012-33_IRB/ar05.html), and Notice 2015-14, 2015-10 I.R.B. 722, available at [https://www.irs.gov/irb/2015-10\\_IRB/ar10.html](https://www.irs.gov/irb/2015-10_IRB/ar10.html).
  - A net increase in the amount of nonqualified nonrecourse financing occurred for any property to which section 49(a)(1) applied. For more details, see the instructions for [Part II](#), later.
- Exceptions to recapture.** Recapture of the investment credit does not apply to the following.
- A transfer because of the death of the taxpayer.
  - A transfer between spouses or incident to divorce under section 1041. However, a later disposition by the transferee is subject to recapture to the same extent as

if the transferor had disposed of the property at the later date.

- A transfer of an interest in an electing large partnership.
- A transaction to which section 381(a) applies (relating to certain acquisitions of the assets of one corporation by another corporation).
- A mere change in the form of conducting a trade or business if:
  1. The property is retained as investment credit property in that trade or business, **and**
  2. The taxpayer retains a substantial interest in that trade or business.

A mere change in the form of conducting a trade or business includes a corporation that elects to be an S corporation and a corporation whose S election is revoked or terminated.

For more details on the recapture rules, see section 50(a).



*See section 46(g)(4) (as in effect on November 4, 1990) to figure the recapture tax if you made a withdrawal from a capital construction fund set up under the Merchant Marine Act of 1936 to pay the principal of any debt incurred in connection with a vessel on which you claimed investment credit.*

### Recapture of Qualifying Therapeutic Discovery Project Grant

If you received a grant under section 9023 of the Affordable Care Act (ACA), you may have to recapture it if the project for which the grant was awarded ceases to be a qualifying therapeutic discovery project. If the amount of the grant is more than the amount allowable as a grant, the excess must be recaptured as if the investment to which the excess portion of the grant related had ceased to be a qualified investment immediately after the grant was made.

The increase in tax for any recapture of the grant is imposed on the person to whom the grant was made. In the case of pass-through entities (including partnerships, S corporations, estates, and trusts), the tax is determined at the entity level and allocated to the entity owners as a credit recapture.

To recapture a qualifying therapeutic discovery project grant, skip lines 1–18 and complete line 19. For more information, see Notice 2010-45, 2010-23

## Carryover Adjustment on Recapture

For property subject to investment credit recapture, reduce any remaining carryforwards and carrybacks from the property by the recapture percentage used for the property on line 15.

## Basis Adjustment on Recapture

For property subject to investment credit or qualifying therapeutic discovery project grant recapture, increase the property's basis as follows.

- For rehabilitation credit property, qualifying advanced coal project property, qualifying gasification project property, qualifying advanced energy project property, or depreciable qualifying therapeutic discovery project property, increase the basis by 100% of the amount, attributable to each such property, of the recapture tax, adjustments to carrybacks and carryforwards under section 39, or adjustments to disallowed passive activity credits.
- For energy property, increase the basis by 50% of the amount, attributable to each such property, of the recapture tax, adjustments to carrybacks and carryforwards under section 39, or adjustments to disallowed passive activity credits. If the reason for recapture is due to receipt of a grant under section 1603 of the American Recovery and Reinvestment Act of 2009, the basis of the energy property is reduced by 50% of the grant received.

If you are a partner or S corporation shareholder, adjust the basis of your interest in the partnership or stock in the S corporation to take into account the adjustment made to the basis of property held by the partnership or S corporation.

For more information, see section 50(c) and Regulations section 1.469-3(f).

## Partnerships, S Corporations, Estates, and Trusts

A partnership, S corporation, estate, or trust that allocated any or all of a qualified investment to its partners, shareholders, or beneficiaries, must provide the information they need to refigure the credit. See Regulations sections 1.46-3(f), 1.47-4(a) and (c), 1.47-5, and 1.47-6. See the Instructions for Form 1065-B for information on recapture of the investment credit by electing large partnerships.

## Partners, Shareholders, and Beneficiaries

If you are a partner, shareholder, or beneficiary and your Schedule K-1 shows recapture of investment credit claimed in an earlier year, you will need your copy of

the original Form 3468 to complete this form.

## Specific Instructions

**Lines A through D.** Describe the property for which you must refigure the credit. Use the corresponding column for each property in Parts I, II, and III. If you need more property columns, use additional Forms 4255 or other statements that include all the information shown on Form 4255. Enter the total from all the separate statements on lines 17 and 18.

### Part I. Original Investment Credit

Use Part I to refigure the original credit.

**Line 1.** Enter the rate you used to figure the original credit from the Form 3468 that you filed. For heat and power system property, enter the effective rate used to figure the original credit, taking into account the limit under section 48(c)(3) (B).

**Line 2.** Enter the credit base (cost or other basis) that you used to figure the original credit.

If section 49(a)(1) applied to the property and there was a net increase in nonqualified nonrecourse financing with respect to the property in previous tax years, enter the credit base you used to figure the original credit, reduced by the amount of that net increase. If there was a net decrease in nonqualified nonrecourse financing with respect to the property in previous tax years, enter the credit base you used to figure the original credit, increased by the amount of that net decrease. For more details, see the instructions for Part II.

**Line 3.** If section 49(a)(1) did not apply to the property, enter -0-. If section 49(a)(1) applied to the property, enter the net change in nonqualified nonrecourse financing related to the property during the tax year. Enter a net increase in nonqualified nonrecourse financing as a positive number. Enter a net decrease in nonqualified nonrecourse financing as a negative number. For more information about section 49, see the instructions for Part II.

**Line 4.** Subtract line 3 from line 2.



*If line 3 is negative, then the entry on line 4 will be larger than the entry on line 2.*

**Line 5.** Multiply line 1 by line 4. If the credit for the property for which you must refigure the credit was limited to a dollar amount (for example, by the kilowatt limit in section 48(c)(1)(B)), do not enter more than the amount of the applicable limit on line 5.

**Line 6.** Enter the total of all credits taken for the property on Form 3800 in prior years. But do not include the amount of any credit previously recaptured due to an increase in nonqualified nonrecourse financing.

### Part II. Recapture From Increase in Nonqualified Nonrecourse Financing

Use Part II to figure any increase in tax for the recapture of an investment tax credit under section 49.

Generally, section 49(a)(1) applies to property:

- Placed in service by individuals or certain closely held corporations during a tax year in which they were engaged in activities described in section 465, and
- Used in connection with an activity subject to the at-risk limitations under section 465.

The credit base of this property for investment credit purposes may be limited if you borrowed against the property and are protected against loss, or if you borrowed money from a person who is related or who has an interest (other than as a creditor) in the business activity. The credit base must be reduced by the amount of any nonqualified nonrecourse financing related to the property at the end of the tax year.

If, at the close of a tax year following the year property described in section 49(a)(1) was placed in service, the nonqualified nonrecourse financing for the property has increased or decreased, then the credit base for the property changes accordingly. The changes may result in an increased credit or a recapture of the credit in the year of the change. See sections 49 and 465 for details.

**Line 8.** If the original credit had been figured using the current-year tax base in the year the property was first placed in service, you may have been able to use other general business credits instead. Use [Worksheet 1](#) to calculate the amount of unused general business credits that would have been allowed under section 38.



*When making this calculation, include any general business credits that could have been carried forward or carried back to a year affected by the recapture of the original credit. Do not include any credits that were previously recaptured. If you previously used the credit to offset the recapture of a credit on another property, treat it as a credit allowed in a previous tax year.*

**Multiple recapture properties.** If you are recapturing investment credits from multiple properties in Part II, complete Form 4255, line 7 for each property before

**Worksheet 1**

Use Worksheet 1 to calculate the amount of unused general business credits that would have been allowed instead of the credit from the recapture property. If you need to account for more than five years, complete Steps 4 through 6 for those years on additional copies of the worksheet. Include the total for all years on Step 7.

| Steps  | First Year | Year  | Year  | Year  | Year  | Total |
|--|------------|-------|-------|-------|-------|-------|
| <b>Step 1.</b> Identify the first year that the aggregate amount of credit allowed for the property was more than the amount on line 5. Enter the excess as a positive number . . . . .  | _____      |       |       |       |       |       |
| <b>Step 2.</b> Figure the amount of other general business credits that could have been used in that year had the amount in Step 1 not been allowed. Enter the result as a positive number . . . . .   | _____      |       |       |       |       |       |
| <b>Step 3.</b> Subtract any general business credits that were actually allowed in any previous tax year from the result of Step 2 . . . . .   | _____      |       |       |       |       |       |
| <b>Step 4.</b> For the following year, figure the reduction in general business credits that would have been allowed for that year if:<br>1. No amount on line 7 had been allowed as a credit, and<br>2. Any other credits were used as calculated in Step 2 above . . . . . | _____      | _____ | _____ | _____ | _____ |       |
| <b>Step 5.</b> Figure the amount of other general business credits that would have been allowed to offset the reduction figured in Step 4 . . . . .  | _____      | _____ | _____ | _____ | _____ |       |
| <b>Step 6.</b> Subtract any general business credits that were actually allowed in any previous tax year from the result of Step 5 . . . . .   | _____      | _____ | _____ | _____ | _____ |       |
| <b>Step 7.</b> Repeat Steps 4 through 6 above for each of the following tax years. Then add the amount from Step 3 to the amount from each iteration of Step 6. Enter the result on line 8 . . . . .   | _____      | _____ | _____ | _____ | _____ | _____ |

using Worksheet 1. Then fill out Worksheet 1, reapplying any allowable investment credits as if no credit had been allowed for any of the properties in excess of the refigured credit for that property on line 5. As you complete the worksheet, separately identify the amount of unused general business credits that could have been used instead of the excess credit from each property. If an unused general business credit could have been used instead of the excess credit from more than one property (for example, the amount figured in Step 1 or Step 3 for a single year is attributable to more than one property), apply the unused credit to the property with the highest original credit rate on line 1. When completing Step 7, add the amounts from Steps 3 and 6 separately by property and enter the results in the corresponding property column of line 8.

 **CAUTION** *Disallowed passive activity credits (as defined in section 469(d)(2)) can be used in the calculation of line 8 only to the extent that credits from passive activities are included in the credits subject to recapture.*

*Unused credits other than “specified credits” (as defined in section 38(c)(4)(B)) and eligible small business credits (ESBCs) can be used in the calculation of line 8 taking into account the limitation under section 38(c)(1)(A).*

**Part III. Recapture From Disposition of Property or Cessation of Use as Investment Credit Property**

Use Part III to figure any increase in tax for the recapture of an investment tax credit or qualified therapeutic discovery grant under section 50.

**Line 10.** Enter the date (month/day/year) on which the property was placed in service, using the first day of the month in which the property was placed in service. For example, if the property was placed in service on February 20, 2014, enter 02/01/2014 on line 10. See Regulations section 1.47-1(c) for more information.

**Line 11.** Generally, this will be the date you disposed of the property. For more details, see Regulations section 1.47-1(c).

**Line 12.** Do not enter partial years. If the property was held less than 12 months, enter -0-. In case of failure to attain or maintain the separation and sequestration requirements applicable to a Phase II or III gasification program or a Phase II or III advanced coal program, enter -0-. If a grant was received under section 1603 of the American Recovery and Reinvestment Act of 2009, enter -0-.

**Line 13.** If you had never taken the recaptured credit, you may have been able to use other general business credits instead. Use [Worksheet 2](#) to calculate the amount of unused general business

credits that would have been allowed under section 38.

 **TIP** *When making this calculation, include any general business credits that could have been carried forward or carried back to a year affected by the recapture of the original credit. Do not include any credits that were previously recaptured. If you previously used the credit to offset the recapture of a credit on another property, treat it as a credit allowed in a previous tax year.*

**Multiple recapture properties.** If you are recapturing investment credits from multiple properties in Part II, complete Form 4255, line 6 for each property before using Worksheet 2. Then fill out Worksheet 2, reapplying any allowable investment credits as if no credit had been allowed for any of the properties. As you complete the worksheet, separately identify the amount of unused general business credits that could have been used instead of the recaptured credit from each property. If an unused general business credit could have been used instead of a recaptured credit from more than one property (for example, the amount figured in Step 1 or Step 3 for a single year is attributable to more than one property), apply the unused credit first to the property with the highest recapture percentage on line 15. When completing Step 7, add the amounts from Steps 3 and 6 separately by property and enter the

**Worksheet 2**

Use Worksheet 2 to calculate the amount of unused general business credits that would have been allowed under section 38 had there been no credit from the recapture property. If you need to account for more than five years, complete Steps 4 through 6 for those years on additional copies of the worksheet. Include the total for all years on Step 7.

| Steps  | First Year | Year  | Year  | Year  | Year  | Total |
|--|------------|-------|-------|-------|-------|-------|
| <b>Step 1.</b> Identify the first year that an amount from line 6 was allowed as a credit. Enter that amount as a positive number . . .  | _____      |       |       |       |       |       |
| <b>Step 2.</b> Figure the amount of other general business credits that could have been used in that year had the amount in Step 1 not been allowed. Enter the result as a positive number . . . . .   | _____      |       |       |       |       |       |
| <b>Step 3.</b> Subtract any general business credits that were actually allowed in any previous tax year from the result of Step 2 . . . . .   | _____      |       |       |       |       |       |
| <b>Step 4.</b> For the following year, figure the reduction in general business credits that would have been allowed for that year if:<br>1. No amount on line 6 had been allowed as a credit, and<br>2. Any other credits were used as calculated in Step 2 above . . . . . |            | _____ | _____ | _____ | _____ |       |
| <b>Step 5.</b> Figure the amount of other general business credits that would have been allowed to offset the reduction figured in Step 4 . . . . .  |            | _____ | _____ | _____ | _____ |       |
| <b>Step 6.</b> Subtract any general business credits that were actually allowed in any previous tax year from the result of Step 5 . . . . .   |            | _____ | _____ | _____ | _____ |       |
| <b>Step 7.</b> Repeat Steps 4 through 6 above for each of the following tax years. Then add the amount from Step 3 to the amount from each iteration of Step 6. Enter the result on line 13 . . . . .  |            | _____ | _____ | _____ | _____ | _____ |

results in the corresponding property column of line 13.

**Electing large partnerships.** Electing large partnerships must enter -0- on line 13. These partnerships are required to determine the amount of investment credit recapture under Part III as if the credit subject to recapture had been fully used to reduce tax.

 **Disallowed passive activity credits** (as defined in section 469(d)(2)) can be used in the calculation of line 13 only to the extent that credits from passive activities are included in the credits subject to recapture.

Unused credits other than “specified credits” (as defined in section 38(c)(4)(B)) and eligible small business credits (ESBCs) can be used in the calculation of line 13 taking into account the limitation under section 38(c)(1)(A).

**Line 14.** Subtract line 13 from line 6 to calculate the aggregate decrease in general business credits that would have been allowed under section 38 had there been no credit from this property.

**Line 15.** Enter the recapture percentage from the following table. Enter 100 if you received a grant under section 1603 of the American Recovery and Reinvestment Act of 2009.

| IF the number of full years on line 12 of Form 4255 is . . . | THEN the recapture percentage is . . . |
|--|--|
| 0  | 100                                    |
| 1  | 80                                     |
| 2  | 60                                     |
| 3  | 40                                     |
| 4  | 20                                     |
| 5 or more  | 0                                      |

**Line 16.** Multiply the amount on line 14 by the percentage on line 15 to calculate the recapture tax due to disposition or cessation of use as an investment credit property.

**Example 1.** In 2014, Kumar earned a rehabilitation credit of \$100,000 on property A. Kumar used \$20,000 of the credit to offset tax in 2014 and used \$16,000 as a carryforward to offset tax in 2015. He had \$64,000 remaining carryforward for property A at the end of 2015. Kumar has no other tax credits for other properties for any other years.

Kumar disposed of the property in June of 2016. His recapture percentage is 60%. Because Kumar has no other credits for properties for other years, he enters -0- on line 13. He enters \$36,000 on line 6 (the credit from property A used in 2014 and 2015). Kumar’s total increase in tax for 2016 is \$21,600 (60% of \$36,000). His remaining credit carryforward for property A also is reduced by the recapture percentage of 60%. Kumar’s remaining carryforward is \$25,600 (40% of \$64,000).

Kumar increases his basis for property A by \$60,000 (\$21,600 + \$38,400).

**Example 2.** The facts are the same as in *Example 1*, except that Kumar also earned a rehabilitation credit on property B in 2014 of \$12,000, which he did not use to offset his tax. As before, he disposed of property A in June of 2016. He enters \$36,000 on line 6 (the credit from property A used in 2014 and 2015). However, Kumar could have used his \$12,000 of unused credit from property B for 2014 against his 2014 tax had no credit been available from property A. Therefore, he enters \$12,000 on line 13 and \$24,000 (\$36,000 - \$12,000) on line 14. Kumar’s total increase in tax for 2016 is \$14,400 (60% of \$24,000). His remaining credit carryforward for property A also is reduced by the recapture percentage of 60%. Kumar’s remaining carryforward is \$25,600 (40% of \$64,000). Kumar increases his basis for property A by \$52,800 (\$14,400 + \$38,400).

**Example 3.** In January of 2014, Maayan earned a rehabilitation credit of \$100,000 from property A. She used all of the credit to offset \$100,000 of tax in 2014. In 2015, Maayan earned a rehabilitation credit of \$75,000 from property B and used none of the credit to offset tax. In June of 2016, property A ceased to be investment credit property and Maayan must refigure the credit from property A. Her recapture percentage is 60%. She enters \$100,000 on line 6. However, Maayan could have carried the rehabilitation credit of \$75,000 from

property B back to 2014 had no credit been available from property A. Therefore, she enters \$75,000 on line 13 and \$25,000 (\$100,000 - \$75,000) on line 14. Maayan's total increase in tax for 2016 is \$15,000 (60% of \$25,000). She increases her basis in property A by \$15,000.

**Example 4.** In 2014, Ian earned a rehabilitation credit of \$100,000 from property A. Ian used \$1,000 of the credit to offset tax in 2014 and used \$99,000 as a carryforward to offset tax in 2015. In 2016, he earned a rehabilitation credit of \$75,000 from property B and used none of the credit to offset tax.

On February 1, 2016, property A ceased to be investment credit property and Ian must refigure the credit from property A. His recapture percentage is 80%. He enters \$100,000 on line 6. No carryback or carryforward credits are available for 2014 to offset the \$1,000 credit used for property A. However, Ian could have carried the rehabilitation credit of \$75,000 from property B back to 2015 had no credit been available from property A that year. Therefore, he enters \$75,000 on line 13 and \$25,000 (\$100,000 - \$75,000) on line 14. Ian's total increase in tax for 2016 is \$20,000 (80% of \$25,000). He increases his basis in property A by \$20,000.

**Lines 17 and 18.** If you used separate statements to list additional properties, write to the left of the entry space "Tax from attached" and the total tax from the separate statements. Include the amounts from these statements in the totals for lines 17 and 18, respectively.

**Special rule for electing large partnerships.** Before entering the result on line 18, subtract the current year credit,

if any, shown on Form 3468. Enter the result (but not less than zero) on line 18. See the Instructions for Form 1065-B.

**Line 19.** Enter the amount of any qualifying therapeutic discovery project grant required to be recaptured under section 9023(e) of the ACA.

Do not complete lines 1 through 18 to figure this increase in tax. Attach a statement showing how you figured the increase in tax. Do not adjust the increase in tax for any unused investment credit.

Partnerships, S corporations, estates, and trusts, determine the increase in tax at the entity level. This amount will be allocated to the entity owners as a credit recapture.

**Line 20.** Enter the line 20 amount on the appropriate line of your tax return (for example, 2016 Form 1120, Schedule J, line 9a). Partnerships (other than electing large partnerships), enter the amount from line 20 on Form 1065, Schedule K, line 20c using code H. See the Instructions for Form 1065 for more information on how to allocate this amount to the partners. S corporations, enter the amount from line 20 on Form 1120S, Schedule K, line 17d using code G. See the Instructions for Form 1120S for more information. Estates and trusts, enter the amount from line 20 on Form 1041, Schedule G, line 5. See the Instructions for Form 1041 for more information.

**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.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual and business taxpayers filing this form is approved under OMB control number 1545-0074 and 1545-0123 and is included in the estimates shown in the instructions for their individual and business income tax returns. The estimated burden for all other taxpayers who file this form is shown below.

|  |                |
|--|----------------|
| <b>Recordkeeping</b> . . . . .                             | 6 hr., 27 min. |
| <b>Learning about the law or the form</b> . . . . .        | 1 hr., 35 min. |
| <b>Preparing and sending the form to the IRS</b> . . . . . | 1 hr., 46 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. See the instructions for the tax return with which this form is filed.