



**Communications & Liaison
STAKEHOLDER LIAISON**

Tax Law Changes for Tax Year 2024

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**48th Annual Delaware Federal and State Tax Institute
December 10, 2024**



Stakeholder Liaison: What We Do

Stakeholder Liaison establishes and manages relationships with the tax professional community and partners that serve small businesses, multilingual, rural and underrepresented communities to promote two-way dialogue in helping taxpayers understand and meet their tax responsibilities.





Issue, Action and Response

Please reach out to Stakeholder Liaison if you have:

- A systemic issue with policies, practices or procedures OR
- A significant issue that impacts a large number of taxpayers and/or tax pros.





Learning Objectives

At the end of this presentation, participants will be able to:

- Identify the major tax changes for tax year 2024.
- Identify the tax form changes for tax year 2024.
- List the new tax forms for tax



Information on Changes to Tax Forms

- **[IRS.gov/DraftForms](https://www.irs.gov/DraftForms)**
- **[IRS.gov/LatestForms](https://www.irs.gov/LatestForms)**
- **[IRS.gov/FormChanges](https://www.irs.gov/FormChanges)**
- **[IRS.gov/AllForms](https://www.irs.gov/AllForms)**



Recent Legislation

- **Inflation Reduction Act (IRA) of 2022**
- **SECURE 2.0 Act of 2022**



Form 5695, Residential Energy Credits

- **Part I: New checkbox for special rule for joint occupants claiming credit for qualified fuel cell property.**
- **Part II: New checkbox for special rule for joint occupants claiming the energy efficient home improvement credit.**



Form 8936, Clean Vehicle Credits

- **Modified adjusted gross income (MAGI).**
- **Transfer credits to the dealer.**
- **Repayment of credit.**
- **Gross vehicle weight rating for Section 45W.**



Form 3800, General Business Credit

- **Terminology changes.**
- **New reporting requirements.**
- **New credits added to Part III.**



Form 4255, Certain Credit Recapture, Excessive Payments and Penalties

- **Recapture of IRA or general business credits.**
- **Paybacks of excessive elective payment elections.**
- **Prevailing wage/apprenticeship penalty amount reporting.**



Form 3468, Investment Credits

- **New Part V clean electricity investment credit.**
- **Section for credit based on investment in qualified clean electricity facilities .**
- **Section for credit based on investment in qualified energy storage technology.**



Form 8933, Carbon Oxide Sequestration Credit

- **Converted model certificates into schedules.**
- **Added new lines for certain activities and prevailing wage and apprenticeship requirement.**
- **Pre-filing registration process to elect payment or transfer.**



Schedules for Form 8933

- **Schedule A, Disposal or Enhanced Oil Recovery Owner Certification.**
- **Schedule B, Disposal Operator Certification.**
- **Schedule C, Enhanced Oil Recovery Operator Certification.**
- **Schedule D, Recapture Certification.**
- **Schedule E, Election Certification.**
- **Schedule F, Utilization Certification.**



Form 4136, Credit for Federal Tax Paid on Fuels

- **Revised the caution statement to deter fraudulent claims.**



Form 8908, Energy Efficient Home Credit

- **New Part II Certifier Information.**
- **Two new lines above Part I.**



Schedule A (Form 8911), Alternative Fuel Vehicle Refueling Property

- **Restructured lines from 2023 Form 8911 to create Schedule A.**
- **Schedule A used to figure the credit amount for each qualified alternative fuel vehicle refueling property.**



Form 4626, Alternative Minimum Tax – Corporations

- **Part IV, Section I**
- **Part IV, Section II**
- **Created new Schedule A.**
- **Incorporated Worksheet B into the form as Part VI.**
- **Part VI has two sections.**



Form 6765, Credit for Increasing Research Activities

- **Section E - Other Information**
- **Section F - Qualified Research Expenses
Summary**
- **Section G - Business Component Information**



***Form 5329, Additional Taxes on Qualified
Plans (Including IRAs) and Other Tax-Favored
Accounts***

- **New exceptions to the 10% additional tax for early distributions:**
 - Emergency personal expense distributions.
 - Domestic abuse victim distributions.

- **Restructured Part IX.**



Form 1040, U.S. Individual Income Tax Return

New checkbox and entry field for the election to treat a nonresident alien spouse or dual-status alien spouse as a U.S. resident.



Schedule 1 (Form 1040), Additional Income and Adjustments to Income

- **New entry field for Form 1099-K amounts.**
- **New line 8v for digital assets received as ordinary income.**



Schedule 2 (Form 1040), Additional Taxes

- **Part I: New lines 1a-1z, 2, and 3.**
- **Part II: New lines 17a and 19.**



***Schedule 3 (Form 1040),
Additional Credits and Payments***

- **Line 13b for Section 1341.**
- **Line 13z called Other refundable credits.**



***Form 1040-SS, U.S. Self-Employment Tax
Return***

***(Including the Additional Child Tax Credit for
Bona Fide Residents of Puerto Rico)***

- **Home office expenses**
- **Schedule C (Form 1040), line 30**
- **Form 8829, Expenses for Business Use of Your Home**



Forms W-3(PR) & W-3C(PR)

- **Merged the separate instructions**
- **Reduces employer burden**



Terminology Changes

- **"Possessions" to "territories"**
- **"Fishermen" to "fishers" or "fishing income"**
- **Form title changes:**
 - Schedule J (Form 1040): Income Averaging for Individuals with Income from Farming or Fishing.
 - Form 2210-F, Underpayment of Estimated Tax by Farmers and Fishers.



Information Returns

- **E-file required for 10-or-more in the aggregate per T.D. 9972**
- **Use IRIS free e-file service: E-file forms 1099 with IRIS | Internal Revenue Service (irs.gov/IRIS)**



New Forms for 2024

Form 172

Form 709-NA

Form 7211

Form 7217

Form 7218

Schedule A (Form 8911)

Schedule A (Form 8933)

Schedule B (Form 8933)

Schedule C (Form 8933)

Schedule D (Form 8933)

Schedule E (Form 8933)

Schedule F (Form 8933)

Schedule A (Form 4626)



Form 172, Net Operating Losses (NOLs)

- **Replaces Schedules A & B (Form 1045) and Worksheets 1 & 2 (Pub. 536)**
- **Retiring Pub 536, Net Operating Losses (NOLs) for Individuals, Estates, and Trusts**



***Form 709-NA, United States Gift (and
Generation-Skipping Transfer) Tax Return on
Nonresident Not a Citizen of United States***

- **Extension requests**
- **Redesign of Form 709 series**



Form 7211, Clean Electricity Production Credit

- **IRC 45Y**
- **Amount of credit reported on Form 3800**



Form 7218, Clean Fuel Production Credit

- **IRC 45Z**
- **Amount of credit reported on Form 3800**



Form 1099-K Revisited

Prior to 2022:

- Gross payments greater than \$20,000 &
- More than 200 transactions.

Calendar years 2023 & 2024:

transition years



Refundable Tax Credits



Refundable tax credit overview

- **Nonrefundable tax credits provide a dollar-for-dollar reduction of the tax liability. They can only reduce the tax liability to zero.**
- **Refundable credits can reduce the tax liability and result in a refund to the taxpayer.**
- **Refundable credits we'll discuss today:**
 - Earned Income Tax Credit
 - Child Tax Credit
 - American Opportunity Tax Credit
 - Premium Tax Credit

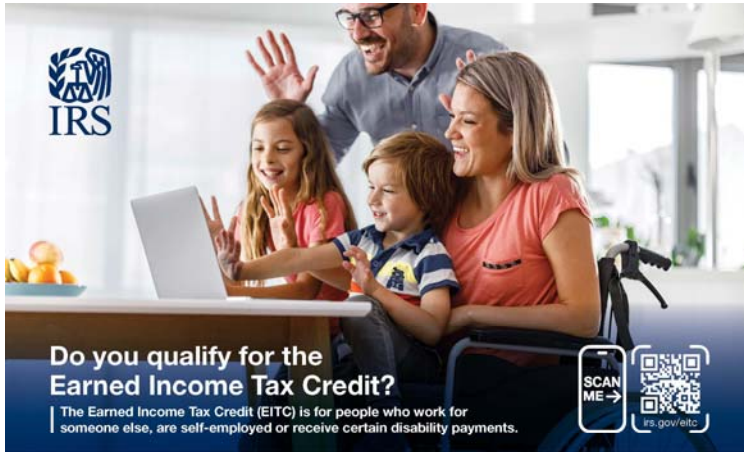


Earned Income Tax Credit (EITC)

- **For Tax Year 2024, the maximum credit amount is \$7,830**
- **Reduces the tax burden and supplements the wages of working families**
- **Can receive a refund with this credit, even if the taxpayers:**
 - Have no filing requirement
 - Owe no tax
 - Had no income tax withheld



Earned Income Tax Credit qualifications



To qualify, you must have low to moderate-income and meet the following rules.

You (and your spouse, if filing a joint return)	
Must	<ul style="list-style-type: none"> • Have earned income under a certain amount • Have a Social Security number that is valid for employment issued on or before the due date of the return (including extensions) • Be a U.S. citizen or resident alien all year • Have a qualifying child or, if you do not have a qualifying child, you must: <ul style="list-style-type: none"> • Be at least age 25 but under age 65 at the end of the year, • Live in the United States for more than half the year and • Not qualify as a dependent of another person
May not	<ul style="list-style-type: none"> • Have investment income, such as interest income, over a certain amount • File as married filing separately • Be a qualifying child of another person • File Form 2555 or 2555-EZ (related to foreign earned income)
<small>There are special rules for qualifying children, military, clergy members and taxpayers and their relatives with disabilities.</small>	

To claim the EITC, you must file a federal tax return even if you owe no tax and are not required to file. Go to www.irs.gov/eitc for more information and to use the interactive EITC Assistant to see if you qualify for the credit and estimate the amount of your EITC.

Publication 5998 (7-2024) Catalog Number 95114D Department of the Treasury Internal Revenue Service www.irs.gov

Publication 5998

- Income limitations
- Social Security number requirements
- Must be a U.S. citizen or a resident alien all year
- Must have a qualifying child or:
 - Be at least age 25 but under age 65 at the end of the year,
 - Live in the United States for more than half the year and
 - Not qualify as a dependent of another person




Child Tax Credit (CTC)

- **Provides a maximum of \$2,000 for each qualifying child**
- **For parents, foster parents, siblings and/or grandparents who can claim a dependent**
- **Special rules exist for children of divorced parents, separated parents and parents who live apart**
- **Dependents who do not qualify for the CTC may qualify for the nonrefundable Credit for Other Dependents**



Qualifying child for Child Tax Credit




Child Tax Credit (CTC)

File a tax return to claim the child tax credit for each qualifying child who has a valid social security number issued before the due date of the return. Generally, the qualifying child must be:

- Your son, daughter, stepchild, eligible foster child, brother, sister, stepbrother, stepsister, half-brother, half-sister, or a descendant of any of them (for example, your grandchild, niece, or nephew) who can be claimed as a dependent on your return. For more information, see Publication 501, Dependents, Standard Deduction, and Filing Information.
- Under age 17 at the end of the year.
- A U.S. citizen, U.S. national, or U.S. resident alien. For more information, see Publication 519, U.S. Tax Guide for Aliens.

Use the IRS Interactive Tax Assistant tool "Does My Child/Dependent Qualify for the Child Tax Credit or the Credit for Other Dependents?" to determine if a person qualifies you for the Child Tax Credit or the Credit for Other Dependents (ODC).

Visit "What You Need to Know about CTC, ACTC, and ODC" for more information or scan the QR Code:



- Under age 17
- Lived with the taxpayer for more than six months of the year (unless special rules apply for parents who are divorced, separated or live apart)
- Did not provide over half of their own support
- Meets the relationship criteria
- Is a U.S. citizen, national, or resident
- Has a valid Social Security number

Publication 5811



American Opportunity Tax Credit

- **Provides a maximum of \$2,500 credit per eligible student**
 - Up to 40% of the credit is refundable
- **For qualified education expenses paid for an eligible student for the first four years of higher education**
- **Qualified paid expenses include:**
 - Tuition
 - Required enrollment fees
 - Books, supplies and equipment needed for the course of study



Qualifying student for the American Opportunity Tax Credit (AOTC)

American Opportunity Tax Credit (AOTC)  

Generally, to be eligible for the American Opportunity Tax Credit, the student must:

- Be pursuing a degree or other recognized education credential.
- Be enrolled at least half time for at least one academic period beginning in the tax year.
- Not have finished the first four years of higher education at the beginning of the tax year.
- Not have claimed the AOTC or the former Hope credit for more than four tax years.
- Not have a felony conviction at the end of the tax year.



Maximum Amount – You can receive up to a \$2,500 credit per eligible student, which phases out if your modified adjusted gross income is over \$80,000 (\$100,000 for joint filers). For most students, the modified adjusted gross income is the adjusted gross income reported on line 11 of their tax return.

Qualified Paid Expenses – Clear the credit for tuition, required enrollment fees, and books, supplies, and equipment needed for the course of study, whether or not the materials are purchased from the educational institution.

Taxpayer Identification Number (TIN) – The taxpayer and student, if different, must have a social security number (SSN) or other TIN that was issued by the due date of their tax return (including extensions). If the SSN is issued after the due date of the taxpayer or student, apply for a different TIN from the IRS after the due date, the taxpayer cannot amend their return and clear the credit.

Eligible Educational Institution – A fully accredited college, university, trade school, or other postsecondary educational institution eligible to participate in a student aid program administered by the U.S. Department of Education is included.

Form 1098T – Eligible educational institutions are required to send Form 1098-T, Tuition Statement, to students and provide reporting information.

Eligibility – You can claim the AOTC for yourself, your spouse, or a dependent claimed on your return.

Claim the AOTC on Form 8863, Education Credits. See Publication 970, Tax Benefits for Education, or use the IRS interactive Tax Assistant tool “Am I Eligible to Claim an Education Credit?” to help you determine if your education expenses qualify for a tax benefit.

For more information, visit www.irs.gov/AOTC or scan the QR Code:



P.B. 0426 4772 (Rev. 11-2024) Catalog No. 1525-0203K. Downloaded from Treasury Internal Revenue Service (www.irs.gov)

[Publication 4772](#)

- Pursuing a degree or other recognized education credential
- Enrolled at least half time for at least one academic period beginning in the tax year
- Not have finished the first four years of higher education at the beginning of the tax year
- Not have claimed the AOTC or the former Hope credit for more than four tax years
- Not have a felony drug conviction at the end of the tax year



Premium Tax Credit

Premium Tax Credit 

If you or a member of your family enrolls in health insurance through the Marketplace, you may be eligible for the premium tax credit, a refundable credit that helps eligible individuals and families pay for health insurance.

Advance Payments
During enrollment, the Marketplace determines if you're eligible for advance payments of the premium tax credit. If you're eligible, you can choose to have **ALL, SOME or NONE** of the advance payments for which you are eligible sent to your insurance company.

- ▶ **ALL:** the entire amount of your payments will be sent monthly to your insurance company
- ▶ **SOME:** a portion of your payments are paid in advance to your insurance company, and then you wait to receive the rest of the benefit of the premium tax credit for which you are eligible when you file your tax return
- ▶ **NONE:** you have nothing sent to your insurance company during the year, and wait to get all the benefit of the credit when you file your tax return

Eligibility
If you or a family member enrolls in health coverage through the Marketplace for a month that you or the family member was not eligible for non-Marketplace health coverage, you may be allowed the credit if you:

- Paid your share of Marketplace insurance premiums
- Have household income within certain limits
- Do not file a married filing separately return. There are exceptions to this rule for domestic abuse and spousal abandonment victims.
- Cannot be claimed as a dependent by another person

You must file a federal tax return if either of these apply to you:

- Advance credit payments were made on your behalf to your insurance company
- You are claiming the premium tax credit

Failing to file your tax return will prevent you from getting the benefit of advance credit payments in future years.

Claiming and Reconciling the Credit
When you file your tax return, you will use Form 8962, Premium Tax Credit, to claim the credit and to reconcile the credit with the advance credit payments made for you and your family. To reconcile the credit, subtract the total of your advance credit payments from the amount of the premium tax credit computed on your tax return. The difference will change the amount of tax you owe or the amount of your federal refund.

Did You Know...
If you choose not to have advance credit payments made on your behalf, you will get the credit when you file your tax return.
This will lower your tax balance due and could increase your refund.

To access the Marketplace, visit Healthcare.gov

Report life changes to the Marketplace
Reporting life changes such as changes to income or family size -- will help you avoid large differences between the advance credit payments made on your behalf and the amount of the premium tax credit you are allowed when you file your tax return.

Publication 5120 (Rev. 2-2018) Catalog Number 55487X Department of the Treasury Internal Revenue Service www.irs.gov

Publication 5120

- Helps eligible taxpayers pay for health insurance purchased through the Health Insurance Marketplace
- Amount of the credit varies based on family size and income
- Can have all, some or none of the advance payments sent to insurance company to pay for premiums
- Important: report changes to family size or household income to the Marketplace



Inflation Reduction Act:

Clean Energy Credits



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PRE-REGISTRATION

Pre-file registration or online application process that can be accessed through [IRS.gov](https://www.irs.gov):

- Elective Payment Election
- Transfer Election
- Clean Vehicles
- Special Application Processes
 - ✓ Advanced Energy Project Credit (48C)
 - ✓ Low-Income Community Bonus (48e)

*The pre-filing registration and application processes will help assess the validity of the registrant and provide information about clean energy projects/investments; **it does not confirm eligibility for the credit.**



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IRS ECO Pre-File Registration Tool Overview Video

IRS | Stay Exempt | SEARCH | MENU

IRA and CHIPS Act Pre-filing Registration Tool Overview

Business online accounts Welcome page

8:16 / 12:14

IRS | Stay Exempt | SEARCH | MENU

IRA and CHIPS Act Pre-filing Registration Tool Overview

IRS Clean Energy Welcome page

8:58 / 12:14

IRS | Stay Exempt | SEARCH | MENU

IRA and CHIPS Act Pre-filing Registration Tool Overview

IRA Credits selection page

10:00 / 12:14

 <https://www.stayexempt.irs.gov>



IRC 6417 - Elective payment elections

- With Elective Pay, tax-exempt and governmental entities that do not owe Federal income taxes will, for the first time, be able to receive a payment equal to the full value of tax credits for building qualifying clean energy projects or making qualifying investments.
- Elective Payment allows entities to get their payment if they meet the requirements for both elective pay and the underlying tax credit.
- By filing a return and using Elective Payment, these entities can receive tax-free cash payments from the IRS for clean energy tax credits earned, so long as all requirements are met, including a pre-filing registration requirement.
- Applicable entities can choose Elective Payment for 12 of the IRA's tax credits.

Elective Payment entities include:

Tax-exempt organizations under § 501(a), including § 501(c) and § 501(d) organizations

States and political subdivisions such as local governments

Indian tribal governments

US territory governments and political subdivisions

Agencies and instrumentalities of state, local, tribal, and territorial governments

Alaska Native Corporations

The Tennessee Valley Authority

Rural electric co-operatives



Online processes

IRS successfully launched IRS Energy Credits Online (IRS ECO) in November 2023.

- IRS ECO provides an electronic way for users to register for a Clean Vehicle (CV) or Elective Payment/Transfer Election (EP/TE) account
- Users can submit CV Time-of-Sale reports, request advance payments, and register facilities and properties

As of September 2024:

More than **2,300 entities** have requested more than **80,000 registration numbers** for projects or facilities located across all 50 states plus territories.

The vast majority of these projects are pursuing transferability.

A wide variety of the credits are being used, but most registrations are related to solar and wind projects using the investment or production tax credit.

In addition, more than 1,200 organizations have submitted projects or facilities pursuing elective pay, including submissions from more than 500 state and local governments.

The IRS has issued more than **70,000 registration numbers**.



Elective payment elections

What will I need to do to qualify for elective payment?

1. Identify and pursue the qualifying project or activity: You will need to know what applicable credit you intend to earn and use elective pay for
2. Determine your tax year
3. Placed in service: The applicable credit property must be placed in service BEFORE a registration number will be issued
4. Complete pre-filing registration with the IRS

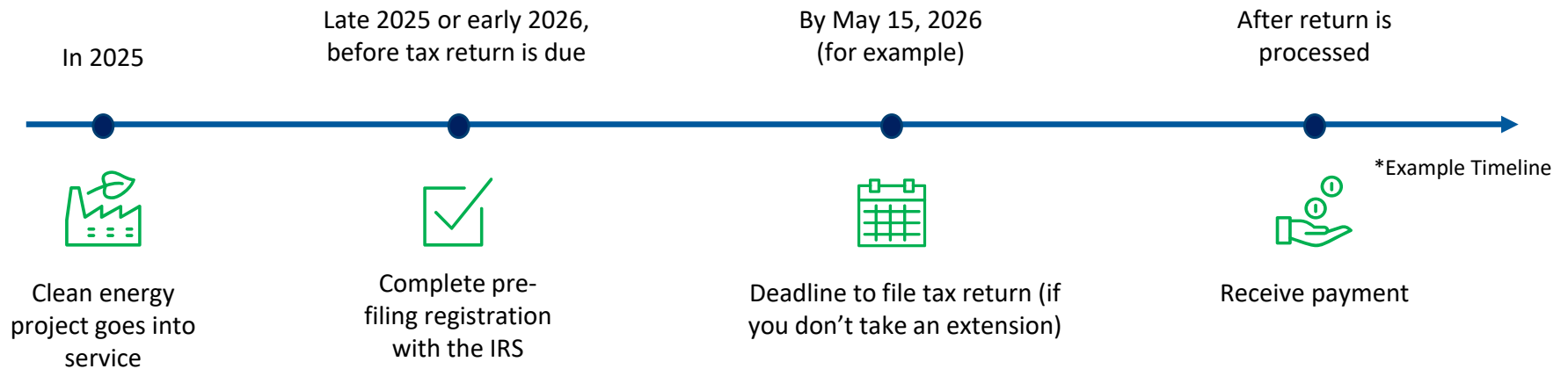
5. Satisfy all eligibility requirements for the tax credit and any applicable bonus credits, if applicable, for a given tax year

You will need the documentation necessary to properly substantiate any underlying tax credit, including if bonus amounts increased the credit

6. File the required annual tax return by the due date (or extended due date) and make a valid elective payment election.



Elective payment elections



Local Government Project Placed Into Service in 2025

A local government that makes a clean energy investment that qualifies for an applicable credit can file an annual tax return (via Form 990-T) with the IRS to claim elective pay for the full value of the applicable credit, as long as it meets all of the requirements, including a pre-filing registration requirement.

As the local government would not owe other federal income tax, the IRS would then make a refund payment in the amount of the credit to the local government.



Form 990-T for elective payment election

The image displays three video thumbnails from the IRS website, all titled "Form 990-T for Elective Payment Election Only Presentation".

- Thumbnail 1 (Left):** Shows the title "Completing Form 990-T for Elective Payment Election Only" and the IRS logo.
- Thumbnail 2 (Middle):** Titled "Fictitious Town Hypothetical", it lists "Requesting three types of credits":
 - Section 30C, Alternative Fuel Vehicle Refueling Property Credit - Purchase/installation of three electric vehicle charging stations
 - Section 45W, Credit for Qualified Commercial Clean Vehicles - Purchase of three electric vehicles
 - Section 48, Energy Credit - Purchase/installation of solar panels on two town-owned buildings.
- Thumbnail 3 (Right):** Shows "Form 990-T, Part III (page 2)" with a screenshot of the form's instructions and a table for "Part III entries".

 <https://www.stayexempt.irs.gov>



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IRS Resources for Elective Payment

IRS

Elective Pay Overview

The advance to the questions below are based on Internal Revenue Manual (IRM) 4010101, and Temporary Notice 2023-01. These resources are for informational purposes only and do not constitute an offer of tax advice. For more information, please visit www.irs.gov/electivepay.

What is elective pay?

Elective pay allows organizations, including tax-exempt and governmental entities that would otherwise be unable to claim certain credits because they do not use federal income tax, to benefit from some state energy tax credits. By choosing this election, the amount of the credit is treated as a payment of tax and any repayment will result in a refund.

For example, because of the Indian Reduction Act, a local government that makes a clean energy investment that qualifies for the investment tax credit can file an annual tax return with the IRS to claim elective pay for the full value of the investment tax credit, as long as it meets all of the requirements including a per-filing registration requirement. As the local government would not use other federal income tax, the IRS would then make a refund payment in the amount of the credit to the local government.

Who is eligible?

Applicable entities can use elective pay. Applicable entities include tax-exempt organizations, states and political subdivisions such as local governments, Indian Native Corporations, Alaska Native Corporations, the Tennessee Valley Authority, rural electric cooperatives, U.S. territories and their political subdivisions, and agencies and instrumentalities of state, local, tribal, and U.S. territorial governments.

What types of businesses are eligible?

Generally, only "applicable entities" are eligible for elective pay. However, there are special rules for those of the clean energy tax credits. Specifically, other taxpayers that are not "applicable entities" may make an election to be treated as an applicable entity for elective pay with respect to the applicable credit property being used.

The section 45D credit would be available to organizations:

- The section 45D credit (paid by production of clean hydrogen), or
- The section 45D credit (paid by production of clean hydrogen), or

How do I make the elective payment election?

Eligible entities should claim and receive an elective payment by making an elective payment election on their annual tax return along with any form required by the relevant tax credit.

However, there are steps leading up to this, such as a required per-filing registration process. The IRS will require you to complete the per-filing registration process.

Electronic return filing is strongly encouraged.

What tax credits can be used for?

See Publication 9777 for a full list of eligible credits.

Resources

- Elective Pay and Transparency
- irs.gov/electivepay

Publication 9777-09-2023, Catalog Number 9777-09-2023, Department of the Treasury, Internal Revenue Service. www.irs.gov

IRS

State & Local Governments

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For example, because of the Indian Reduction Act, a local government that makes a clean energy investment that qualifies for the investment tax credit can file an annual tax return with the IRS to claim elective pay for the full value of the investment tax credit, as long as it meets all of the requirements including a per-filing registration requirement. As the local government would not use other federal income tax, the IRS would then make a refund payment in the amount of the credit to the local government.

Are state and local governments eligible?

Yes. States, political subdivisions, and instrumentalities are eligible for elective pay. This includes the District of Columbia. It also includes cities, counties and other political subdivisions, Indian districts, tribal districts, economic development agencies, public universities and hospitals that are agencies, and instrumentalities of states or political subdivisions, are also included.

How do I make the elective payment election?

Eligible entities may receive required to file an annual tax return with the IRS about the Form 9807 along with any form required to claim the relevant tax credit.

However, there are steps leading up to this, such as a required per-filing registration process. An IRS will require you to complete the per-filing registration process.

Electronic return filing is strongly encouraged.

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See Publication 9777 for a full list of eligible credits.

Resources

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IRS

Indian Tribal Governments

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For example, because of the Indian Reduction Act, a local government that makes a clean energy investment that qualifies for the investment tax credit can file an annual tax return with the IRS to claim elective pay for the full value of the investment tax credit, as long as it meets all of the requirements including a per-filing registration requirement. As the local government would not use other federal income tax, the IRS would then make a refund payment in the amount of the credit to the local government.

Are Indian Tribal Governments Eligible?

Yes. Indian tribal governments, Indian districts, tribal districts, economic development agencies, public universities and hospitals that are agencies, and instrumentalities of Indian tribal governments are also included.

How do I make the elective payment election?

Eligible entities may receive required to file an annual tax return with the IRS about the Form 9807 along with any form required to claim the relevant tax credit.

However, there are steps leading up to this, such as a required per-filing registration process. An IRS will require you to complete the per-filing registration process.

Electronic return filing is strongly encouraged.

What tax credits can be used for?

See Publication 9777 for a full list of eligible credits.

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Publication 9777-09-2023, Catalog Number 9777-09-2023, Department of the Treasury, Internal Revenue Service. www.irs.gov

IRS

Who is eligible to use elective pay? What is an applicable entity? (added June 14, 2023)

The advance to the questions below are based on Internal Revenue Manual (IRM) 4010101, and Temporary Notice 2023-01. These resources are for informational purposes only and do not constitute an offer of tax advice. For more information, please visit www.irs.gov/electivepay.

Who is eligible?

Applicable entities can use elective pay. Applicable entities include tax-exempt organizations, states and political subdivisions such as local governments, Indian Native Corporations, Alaska Native Corporations, the Tennessee Valley Authority, rural electric co-operatives, U.S. territories and their political subdivisions, and agencies and instrumentalities of state, local, tribal, and U.S. territorial governments.

What is an applicable entity?

Generally, only "applicable entities" are eligible for elective pay. However, there are special rules for those of the clean energy tax credits. Specifically, other taxpayers that are not "applicable entities" may make an election to be treated as an applicable entity for elective pay with respect to the applicable credit property being used.

The section 45D credit would be available to organizations:

- The section 45D credit (paid by production of clean hydrogen), or
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Q1. Who is eligible to use elective pay? What is an applicable entity? (added June 14, 2023)

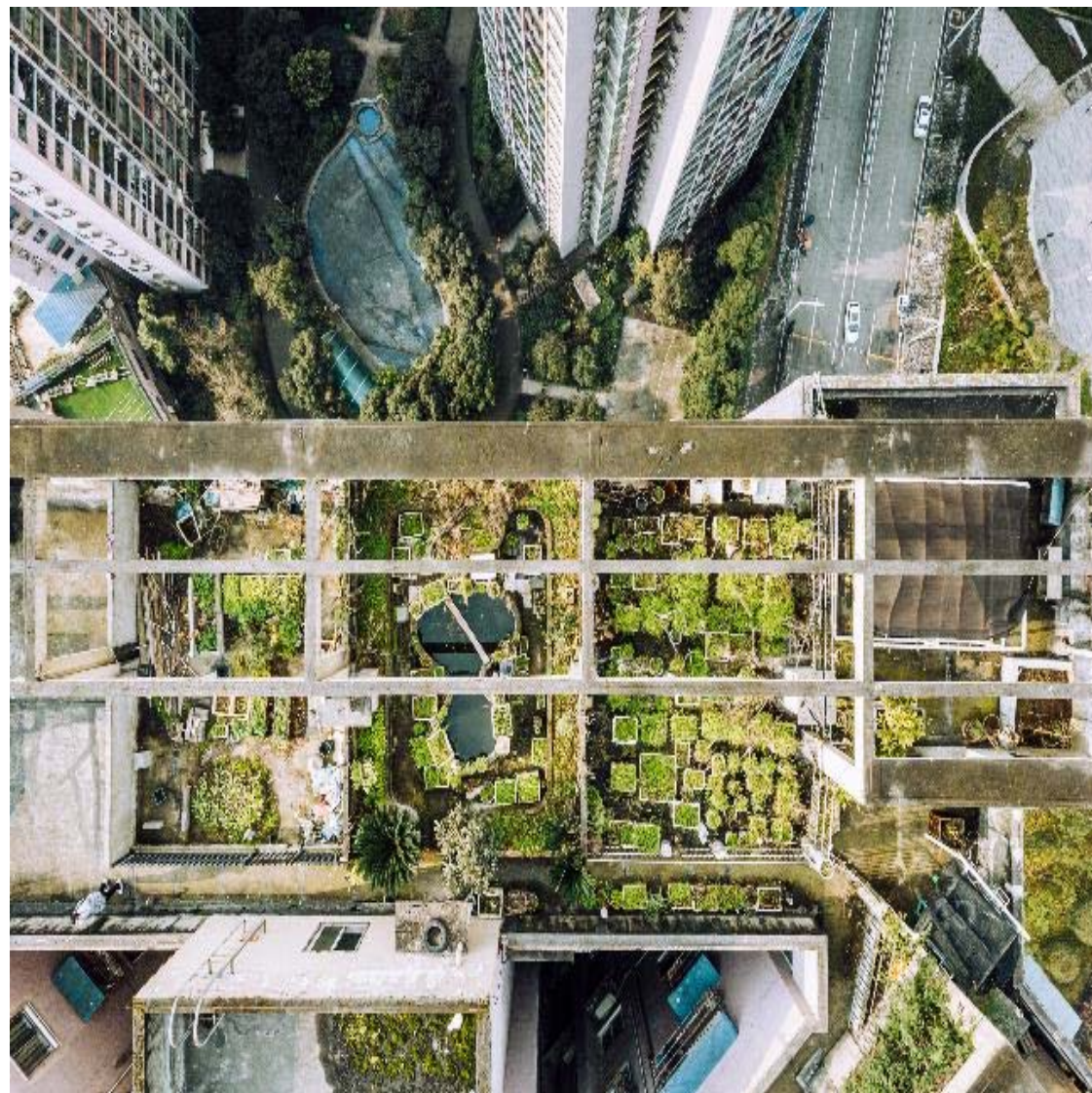
A. Applicable entities can use elective pay. Applicable entities include tax-exempt organizations, States, and political subdivisions such as local governments, Indian tribal governments, Alaska Native Corporations, the Tennessee Valley Authority, rural electric co-operatives, U.S. territories and their political subdivisions, and agencies and instrumentalities of state, local, tribal, and U.S. territorial governments. See [Q10](#) for information about other taxpayers.



IRC 6418: Transfer Election

Provision allows for eligible entities to make an election to transfer all (or the portion specified) of an eligible credit determined to an unrelated taxpayer for a cash payment, which is not included in gross income.

- The unrelated taxpayer (transferee) is then treated as the taxpayer for purposes of the Code with respect to the transferred credit, but it is not allowed to deduct the cash payment.
- Other tax attributes with respect to the property, such as depreciation, are not transferable under section 6418.
- Applicable entities can choose Transfer Election for 13 of the IRA's tax credits.





Additional Resources

- **[IRS.gov/Newsroom/Frequently-Asked-Questions-About-the-New-Previously-Owned-and-Qualified-Commercial-Clean-Vehicles-Credit](https://www.irs.gov/Newsroom/Frequently-Asked-Questions-About-the-New-Previously-Owned-and-Qualified-Commercial-Clean-Vehicles-Credit)**
- **[FuelEconomy.gov/feg/tax2023.shtml](https://www.fueleconomy.gov/feg/tax2023.shtml)**
- **[IRS.gov/HomeEnergy](https://www.irs.gov/HomeEnergy)**
- **[IRS.gov/Inflation-Reduction-Act-of-2022](https://www.irs.gov/Inflation-Reduction-Act-of-2022)**



Additional Resources (cont.)

- Drafts of tax forms, instructions and some publications are posted at [IRS.gov/DraftForms](https://www.irs.gov/DraftForms) before the final release is posted at [IRS.gov/LatestForms](https://www.irs.gov/LatestForms).
- Changes are also at [IRS.gov/FormChanges](https://www.irs.gov/FormChanges).
- For all revisions of all tax products go to [IRS.gov/AllForms](https://www.irs.gov/AllForms).



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