

# HAWKINS ADVISORY

## REVISED IRS FORM 8038-CP

Please be advised that on Tuesday, January 21, 2020, the Internal Revenue Service released a revised Form 8038-CP, *Return for Credit Payments to Issuers of Qualified Bonds* ("IRS Form 8038-CP").

We call your attention to the following two substantive changes to IRS Form 8038-CP:

- A new question (line 24) confirming whether the issuer has paid or reasonably expects to pay all of the interest payable to bondholders on or before the reported interest payment date.
- A revised question (line 23) that now asks whether the debt service schedule has changed to help determine whether or not the issuer has provided the Internal Revenue Service with the latest version of the debt service schedule.

Attached is copy of the IRS Form 8038-CP and the instructions thereto. Please contact a member of the Tax Department if you have any questions about the new form and instructions.

### ***About Hawkins Advisory***

The Hawkins Advisory is intended to provide occasional general comments on new developments in Federal and State law and regulations that we believe might be of interest to our clients. Articles in the Hawkins Advisory should not be considered opinions of Hawkins Delafield & Wood LLP. The Hawkins Advisory is not intended to provide legal advice as a substitute for seeking professional counsel; readers should not under any circumstance act upon the information in this publication without seeking specific professional counsel. Hawkins Delafield & Wood LLP will be pleased to provide additional details regarding any article upon request.

**New York**  
7 World Trade Center  
250 Greenwich Street  
New York, NY 10007  
Tel: (212) 820-9300

**Washington, D.C.**  
601 Thirteenth Street, N.W.  
Washington, D.C. 20005  
Tel: (202) 682-1480

**Newark**  
One Gateway Center  
Newark, NJ 07102  
Tel: (973) 642-8584

**Hartford**  
20 Church Street  
Hartford, CT 06103  
Tel: (860) 275-6260

**Ann Arbor**  
2723 South State Street  
Ann Arbor, MI 48104  
Tel: (734) 794-4835

**Sacramento**  
1415 L Street  
Sacramento, CA 95814  
Tel: (916) 326-5200

**Los Angeles**  
333 South Grand Avenue  
Los Angeles, CA 90071  
(213) 236-9050

**San Francisco**  
One Embarcadero Center  
San Francisco, CA 94111  
Tel: (415) 486-4200

**Portland**  
200 SW Market Street  
Portland, OR 97201  
Tel: (503) 402-1320

*Hawkins*  
DELAFIELD & WOOD LLP

# Return for Credit Payments to Issuers of Qualified Bonds

OMB No. 1545-0047

▶ Go to [www.irs.gov/Form8038CP](http://www.irs.gov/Form8038CP) for instructions and the latest information.

**Part I Information on Entity That Is To Receive Payment of Credit and Communications** Check box if Amended Return

1 Name of entity that is to receive payment of the credit		2 Employer identification number (EIN)	
3 Number and street (or P.O. box no. if mail is not delivered to street address)			Room/suite
4 City, town, or post office; state; and ZIP code			
5 Name and title of designated contact person whom the IRS may call for more information		6 Telephone number of officer or legal representative	

**Part II Reporting Authority**

7 Issuer's name (if same as line 1, enter "SAME" and skip lines 8, 9, 11, 15, and 16)		8 EIN	
9 Number and street (or P.O. box no. if mail is not delivered to street address)	Room/suite	10 Report number (For IRS Use Only)	
11 City, town, or post office; state; and ZIP code		12 Date of issue (MM/DD/YYYY)	
13 Name of issue		14 CUSIP number (see instructions)	
15 Name and title of officer or other person whom the IRS may call for more information		16 Telephone number of officer or other person to call	

17a Check applicable box  Variable rate bond  Fixed rate bond

b Enter the issue price ▶ 17b

**Part III Payment of Credit** (For specified tax credit bonds with multiple maturities, see instructions.)

18 Interest payment date to which this payment of credit relates (MM/DD/YYYY)	
19a Interest payable to bondholders on the interest payment date. See instructions	19a
b For specified tax credit bonds only, enter the applicable credit rate determined under sec. 54A(b)(3) <span style="border:1px solid black; padding:2px;"> </span> %	
c For specified tax credit bonds only, enter the interest that would be payable to bondholders on the interest payment date calculated using the applicable credit rate. See instructions	19c
20 Amount of credit payment to be received as of the interest payment date (complete only line 20a, 20b, 20c, 20d, 20e, or 20f)	
a Build America bonds. Multiply line 19a by 35% (0.35)	20a
b Recovery zone economic development bonds. Multiply line 19a by 45% (0.45)	20b
c New clean renewable energy bonds, enter the lesser of line 19a or 70% (0.70) of line 19c	20c
d Qualified energy conservation bonds, enter the lesser of line 19a or 70% (0.70) of line 19c	20d
e Qualified zone academy bonds, enter the lesser of lines 19a or 19c	20e
f Qualified school construction bonds, enter the lesser of lines 19a or 19c	20f
21 Adjustment to previous credit payments (complete line 21a OR line 21b only):	
a Net increase to previous payments (attach explanation)	21a
b Net decrease to previous payments (attach explanation)	21b
22 Amount of credit payment to be received. Combine either line 20a, 20b, 20c, 20d, 20e, or 20f with line 21a or line 21b	22 <span style="float:right">0.00</span>
23 Has there been a change to the debt service schedule most recently filed with the IRS? See instructions. (If "Yes," attach the revised debt service schedule.)	Yes <input type="checkbox"/> No <input type="checkbox"/>
24 Have you paid or will you pay all the interest from line 19a on or before the date from line 18? See instructions	Yes <input type="checkbox"/> No <input type="checkbox"/>
25 Is this the final interest payment date?	Yes <input type="checkbox"/> No <input type="checkbox"/>
26 If the entity identified in Part I is not the issuer, check this box <span style="float:right">▶ <input type="checkbox"/></span>	

**Direct Deposit**

27 Enter direct deposit information below:

a Routing number   ▶ b Type:  Checking  Savings

c Account number  

**Signature and Consent**

Under penalties of perjury, I declare that I have examined this return, and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I authorize the IRS to send the requested refundable credit payment to the entity identified in Part I, and I consent to the disclosure of the issuer's return information, as necessary to process the refundable credit payment, to the designated contact person(s) listed above in Parts I and II, as applicable.

Signature of issuer   Date   Type or print name and title  

**Paid Preparer Use Only**

Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
Firm's name ▶	Firm's EIN ▶			
Firm's address ▶	Phone no.			



# Instructions for Form 8038-CP

(Rev. January 2020)

## Return for Credit Payments to Issuers of Qualified Bonds

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

### Future Developments

For the latest information about developments related to Form 8038-CP and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form8038CP](https://www.irs.gov/Form8038CP).

### What's New

The Form 8038-CP includes a new question, line 24, confirming you have already paid or reasonably expect to pay all of the interest payable to bondholders on or before the reported interest payment date. There is also a question, line 23, that now asks whether the debt service schedule has changed to help determine whether or not you have provided the IRS the latest version of the debt service schedule.

### Reminders

A direct deposit box on Form 8038-CP allows issuers of bonds the choice of having their credit payment directly deposited into their account. The issuer must enter the correct Automated Clearing House (ACH) routing and account numbers on Form 8038-CP to receive a direct deposit.

The IRS issued Rev. Proc. 2018-26, 2018-18 I.R.B. 546, on April 30, 2018, which provides various remedial actions, including remedial actions for bonds providing refundable tax credits under section 6431 payable to the issuer ("direct pay bonds") that allow an issuer to reduce its claimed refundable tax credit in proportion to the amount of bonds affected by nonqualified use. See Rev. Proc. 2018-26, available at [IRS.gov/pub/irs-irbs/irb18-18.pdf](https://www.irs.gov/pub/irs-irbs/irb18-18.pdf).

### General Instructions

#### Purpose of Form

The American Recovery and Reinvestment Act of 2009 (ARRA) created build America bonds and recovery zone economic development bonds. The Hiring Incentives to Restore Employment Act (HIRE Act) provided an option for issuers of new clean renewable energy bonds, qualified energy conservation bonds, qualified zone academy bonds, and qualified school construction bonds to

elect to issue such bonds as specified tax credit bonds. The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the Tax Relief Act) discontinued the option to elect to issue qualified zone academy bonds as specified tax credit bonds for bonds issued pursuant to an allocation of the 2011 or later national zone academy bond limitation. The ARRA, the HIRE Act, and the Tax Relief Act are referred to throughout these instructions as the Acts.

**Note.** Only issuers of build America bonds and recovery zone economic development bonds issued before January 1, 2011, and specified tax credit bonds issued before January 1, 2018, that qualify for, and have elected to receive, a refundable credit under section 6431 may file Form 8038-CP. The authority to issue recovery zone economic development bonds and build America bonds expired on January 1, 2011. If an issuer takes action that results in a significant modification or reissuance of build America bonds or recovery zone economic development bonds after December 31, 2010, then the bonds may no longer be qualified bonds under the applicable section and the issuer may no longer be entitled to request a payment using Form 8038-CP.

The Tax Cuts and Jobs Act (P.L. 115-97) repealed the authority to issue tax credit bonds, including specified tax credit bonds. The repeal applies to qualified forestry conservation bonds, new clean renewable energy bonds, qualified energy conservation bonds, qualified zone academy bonds, and qualified school construction bonds issued after December 31, 2017. If an issuer takes action that results in a significant modification or reissuance of specified tax credit bonds after the effective date of the Tax Cuts and Jobs Act, then the bonds may no longer be qualified bonds under the applicable section and the issuer may no longer be entitled to request a payment using Form 8038-CP.

Form 8038-CP is used by issuers of build America bonds, recovery zone economic development bonds, and specified tax credit bonds who elect to receive a direct payment from the federal government equal to a percentage of the interest payments on these bonds. For

more information, see Notices 2009-26, 2009-16 I.R.B. 833, and 2010-35, 2010-19 I.R.B. 660.

**Note.** Each type of specified tax credit bond must be reported on a separate Form 8038-CP. For qualified energy conservation bonds and new clean renewable energy bonds with multiple maturities, each maturity must be reported on a separate Form 8038-CP.

Other tax credit bonds, including qualified zone academy bonds issued pursuant to an allocation of 2011 (or later) volume cap, qualified forestry conservation bonds, clean renewable energy bonds, and Midwestern tax credit bonds are not eligible for the election by the issuer to receive refundable credit payments under section 6431(f).



*This return is to be filed only if, as of the date filed, the issuer of the outstanding bonds for which this return is submitted has reasonably concluded that the bonds meet all applicable requirements for the payment of the requested credit.*

### Who Must File

Issuers of qualified build America bonds, recovery zone economic development bonds, and specified tax credit bonds must submit this return to request credit payments payable under the Acts.

### What To File

The payment requested on Form 8038-CP can only relate to the interest paid on a single bond issue. If the issue has both fixed rate bonds and variable rate bonds, file a separate Form 8038-CP for each type of bond. If a single bond issue constitutes both build America bonds (Direct Pay) and recovery zone economic development bonds, file a separate Form 8038-CP for each type of bond.

File a separate Form 8038-CP for each issue of qualified school construction bonds or qualified zone academy bonds and for each issue of qualified energy conservation bonds and new clean renewable energy bonds consisting of a single maturity. File a separate Form 8038-CP for each bond maturity of an issue of qualified energy conservation bonds and new clean renewable energy bonds with multiple bond maturities. If the information provided on the return relates

to more than one bond issue, or in the case of qualified energy conservation bonds or new clean renewable energy bonds with multiple maturities relates to more than one maturity, or if the return is not completed in full, the credit payment may be delayed. In order to process the refundable credit payment, the IRS will correspond with either the designated contact person of the entity listed in Part I at the address listed in Part I, or the issuer or its designee listed in Part II, as necessary.

## When To File

A Form 8038-CP filed for fixed rate bonds must be filed no later than 45 days before the relevant interest payment date. Form 8038-CP may not, however, be submitted earlier than 90 days before the relevant interest payment date.

For variable rate bonds, when the issuer knows the interest payment amount 45 days prior to the interest payment date, Form 8038-CP may be filed within the same timelines as fixed rate bonds (45 days before the relevant interest payment date but no earlier than 90 days before the relevant interest payment date).

For variable rate bonds when the issuer does not know the interest payment amount 45 days prior to the interest payment date, the issuer must aggregate all credit payments on a quarterly basis and file a Form 8038-CP for reimbursement in arrears no later than 45 days after the last interest payment date within the quarterly period the reimbursement is being requested.

Issuers of build America bonds, recovery zone economic development bonds, and specified tax credit bonds are required to submit the most recent revision of Form 8038-CP to request payment of a refundable credit. Form 8038-CP will be processed on receipt for build America bonds, recovery zone economic development bonds, and specified tax credit bonds.

## Where To File

File Form 8038-CP with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201-0050.

**Private delivery services.** Filers can use certain private delivery services (PDS) designated by the IRS to meet the “timely mailing as timely filing” rule for tax returns. Go to [IRS.gov/PDS](https://www.irs.gov/PDS) for the current list of designated services.

The PDS can tell you how to get written proof of the mailing date.

For the IRS mailing address to use if you're using PDS, go to [IRS.gov/PDSstreetAddresses](https://www.irs.gov/PDSstreetAddresses).



*PDS can't deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.*

## Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate. For reporting the issuance of all tax credit bonds, including specified tax credit bonds, use Form 8038-TC, Information Return for Tax Credit Bonds and Specified Tax Credit Bonds. For specified tax credit bonds, the Form 8038-TC associated with a Form 8038-CP filing must be filed at least 30 days prior to the submission of the first Form 8038-CP of the bond issue. For more information, see Notice 2010-35.

## Rounding to Whole Dollars

You may enter decimal points and cents when completing your return. However, you should round off cents to whole dollars on your return, forms, and schedules to make completing your return easier. You must either round off all amounts on your return to whole dollars, or use cents for all amounts. To round, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, \$8.40 rounds to \$8 and \$8.50 rounds to \$9. If you have to add two or more amounts to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

## Where the Requested Payment Will Be Sent

The credit payment on line 22 will be sent by check to the entity that is to receive payment listed in Part I at the address designated in Part I, unless the issuer has elected to have the payment deposited directly, in which case the payment will be directly deposited to the routing and account numbers listed on lines 27a and 27c.

**Note.** If the entity listed in Part I is not the issuer, the ACH routing and account numbers listed on lines 27a and 27c must be the account information of the entity listed in Part I. If the entity listed in Part I is the issuer, the account information must be the account information of the issuer. The issuer must enter the correct ACH routing and account numbers on Form 8038-CP to receive a direct deposit.



*If the amount of the credit payment requested is required to be offset against other outstanding taxes or obligations, then the credit payment to be received could be less than the amount requested. For more*

*information, see Notices 2009-26 and 2010-35.*

## Specific Instructions

### Part I—Information on Entity That Is To Receive Payment of Credit and Communications

**Amended return.** An amended return can only be filed to correct information in Parts I and II for Form 8038-CP (except as described in the *Note* below). An issuer may file an amended return to change or add to the information reported on a previously filed return for a single issue or single maturity, as applicable, for the same interest payment date. If you are filing to correct errors or change a previously filed return, check the *Amended Return* box in the heading of the return.

The amended return must provide all the information reported on the original return, in addition to the new or corrected information. Attach an explanation of the reason for the amended return and print or type across the top, “Amended Return Explanation.”

**Note.** Do not check the *Amended Return* box if you are correcting prior filings of Form 8038-CP by using line 21a or 21b. Any corrections to Part III must be corrected by using the net adjustment line 21a or 21b. Such corrections must only be submitted on a subsequent Form 8038-CP filed to request a credit payment. An amended return should only be filed:

1. To correct information in Parts I and II for Form 8038-CP; or
2. If you previously filed a final return and need to make subsequent corrections to line 21a or 21b only, then you should check the *Amended Return* box.

**Line 1.** Enter the name of the entity to which the requested refundable credit payment is to be paid. If the payment is to be made to the entity that issued the bonds, enter the name of that issuer. For build America bonds and recovery zone economic development bonds, the issuer's name should be identical to the name listed on Form 8038-B, Information Return for Build America Bonds and Recovery Zone Economic Development Bonds, Part I, line 1. For specified tax credit bonds, the issuer's name should be identical to the name listed on Form 8038-TC, Part I, line 1. If the issuer authorized another entity (for example, a trustee bank) to receive the requested refundable credit payment on its behalf, enter the name of that entity.

**Note.** The IRS will send payment only to the entity listed in Part I. By entering the name of an entity other than the issuer, the



issuer consents and authorizes the IRS to send the requested refundable credit payment directly to the entity listed in Part I. The issuer further consents and authorizes the IRS to communicate directly with the entity listed in Part I and to disclose its return information to that entity, as necessary, in order to process the refundable credit payment.

**Line 2.** Enter the employer identification number (EIN) of the entity identified in line 1. If the issuer is the entity listed in Part I, for build America bonds and recovery zone economic development bonds, the issuer's EIN should be identical to the EIN listed on Form 8038-B, Part I, line 2. If the issuer is the entity listed in Part I, for specified tax credit bonds, the issuer's EIN should be identical to the EIN listed on Form 8038-TC, Part I, line 2. An entity that does not have an EIN should apply online by visiting the IRS website at [IRS.gov/EIN](https://www.irs.gov/EIN). The organization may also apply for an EIN by faxing or mailing Form SS-4 to the IRS.

**Lines 5 and 6.** If the issuer is not the entity listed in Part I, enter on line 5 the name and title and on line 6 the phone number of the designated contact person for the entity named in Part I that is to receive payment of the credit (such as an employee of the trustee bank) that the IRS may call for more information. If the issuer is the entity listed in Part I, enter on line 5 the name and title and on line 6 the phone number of the designated contact person (such as an officer of the issuer, the legal representative of the issuer, or the paid preparer) whom the IRS may call for more information.

**Note.** If the issuer on line 5 authorizes the IRS to call a person other than an officer of the issuer for more information, by signing this return the issuer's authorized representative consents to the disclosure of the issuer's return information to such person, as necessary to process this return.

## Part II—Reporting Authority

Part II should be completed in full if the issuer authorized the IRS to pay the requested refundable credit payment to another entity on its behalf (for example, a trustee bank).

**Lines 7 and 8.** If the issuer's name is the same as line 1, enter "SAME" and skip lines 8, 9, 11, 15, and 16. If the issuer's name is not the same as line 1, enter the name, EIN, and complete address of the issuer of the bond issue. For build America bonds and recovery zone economic development bonds, the issuer's name and EIN should be identical to the name and EIN listed on Form 8038-B, Part I, lines 1 and 2, filed for the bond issue. For specified tax credit bonds,

the issuer's name and EIN should be identical to the name and EIN listed on Form 8038-TC, Part I, lines 1 and 2, filed for the bond issue.

**Line 10.** This line is for IRS use only. Do not make any entries in this box.

**Line 12.** Enter the issue date of the bond issue. For build America bonds and recovery zone economic development bonds, the issue date should be identical to the issue date listed on Form 8038-B, Part I, line 7. For specified tax credit bonds, the issue date should be identical to the issue date listed on Form 8038-TC, Part I, line 7.

**Line 13.** Enter the name of the bond issue. If the bond issue is not named, write "None." For build America bonds and recovery zone economic development bonds, the name of the bond issue should be identical to the name listed on Form 8038-B, Part I, line 8, filed for the bond issue. For specified tax credit bonds, the name of the bond issue should be identical to the name listed on Form 8038-TC, Part I, line 8, filed for the bond issue.

**Line 14.** Enter the Committee on Uniform Securities Identification Procedures (CUSIP) number on the bond with the latest maturity for which a refundable credit is being requested. For build America bonds and recovery zone economic development bonds, the CUSIP number should be identical to the CUSIP number listed on Form 8038-B, Part I, line 9, filed for the bond issue. For qualified school construction bonds and qualified zone academy bonds, and for qualified energy conservation bonds and new clean renewable energy bonds consisting of a single maturity, the CUSIP number should be identical to the CUSIP number listed on Form 8038-TC, Part I, line 9, filed for the bond issue. For qualified energy conservation bonds and new clean renewable energy bonds with multiple maturities, the CUSIP number should be the CUSIP number for the maturity reported on this form. If the bond issue was not publicly offered and there is no assigned CUSIP number, write "None."

**Lines 15 and 16.** If the issuer is not the entity listed in Part I, enter the name, title, and phone number of the officer of the issuer or other employee whom the IRS may call for more information. If the issuer is the entity listed in Part I, leave lines 15 and 16 blank.

**Note.** If the issuer authorizes, on line 15, the IRS to call a person other than an officer of the issuer for more information, by signing this form the issuer's authorized representative consents to the disclosure of the issuer's return information to such

person, as necessary to process this return.

**Line 17a.** Check the box that applies to the bonds of the issue for which this return is submitted.

**Line 17b.** For build America bonds and recovery zone economic development bonds, enter the total issue price for the bond listed on Form 8038-B, Part III, line 3, filed for the bond issue. For specified tax credit bonds, enter the total issue price for the bond listed on Form 8038-TC, Part III, line 1, filed for the bond issue.



*A failure to provide requested information will delay processing of this return. For build America bonds, recovery zone economic development bonds, and specified tax credit bonds, do not leave line 12, 13, 14, 17a, or 17b blank.*

## Part III—Payment of Credit

**Line 18.** Enter the interest payment date to which the requested refundable credit payment relates. An interest payment date is the date on which interest is payable by the issuer to the holders of the bonds. (For a variable rate issue, enter the last interest payment date applicable to the quarterly period to which this return relates.) For certain variable rate bonds, the remarketing date or the date the interest rate is reset may not be the same date the interest is paid.

**Line 19a.** Enter the amount of interest payable to the holders of the bonds on the interest payment date. The amount entered on line 19a can only relate to the interest payable on a single bond issue and the amount of interest allocable to a single bond type (build America bond, recovery zone economic development bond, or a single type of specified tax credit bond). Issuers of new clean renewable energy bonds or qualified energy conservation bonds with multiple maturities must file a separate Form 8038-CP for each bond maturity and should enter the amount of interest payable on the maturity for the refundable credit being requested. (See *What To File*, earlier.)

**Note.** Credit payments are not allowed for preissuance accrued interest.

**Line 19b.** For specified tax credit bonds only, enter the applicable credit rate. The applicable credit rate is the daily tax credit bond rate set by the Secretary under section 54A(b)(3), determined as of the first day on which there is a binding written contract for the sale or exchange of the bond. Carry the percent out to two decimal places, and do not round (for example, for credit rate 10.746%, write 10.74%). The tax credit bond rate is published by the

Bureau of Fiscal Service on its Internet site for State and Local Government Series Securities at [TreasuryDirect.gov](http://TreasuryDirect.gov). See Notice 2009-15, which is on page 449 of Internal Revenue Bulletin 2009-6 at [IRS.gov/pub/irs-irbs/irb09-06.pdf](http://IRS.gov/pub/irs-irbs/irb09-06.pdf).

**Line 19c.** For specified tax credit bonds with a single maturity only, enter the amount of interest that would be payable to the holders of the bonds on the interest payment date if figured using the applicable credit rate in the box on line 19b.

Issuers of qualified school construction bonds or qualified zone academy bonds with multiple maturities should enter the sum of all of the amounts each of which was determined for each bond to be the lesser of interest payable under the bond on the interest payment date or interest that would be payable under the bond on such date if such interest were determined at the applicable credit rate for such bond. This sum amount is the maximum allowable credit for all qualified school construction bonds or qualified zone academy bonds of the issue for the interest payment date.

Issuers of qualified energy conservation bonds and new clean renewable energy bonds with multiple maturities should enter the amount of interest payable to the holders of the bonds on the interest payment date figured using the applicable credit rate in the box on line 19b for the maturity for which a refundable credit is being requested on this Form 8038-CP under line 19a.

**Lines 20a and 20b.** For build America bonds and recovery zone economic development bonds, enter the amount of the requested credit payment relating to the interest paid on the interest payment date. The amount reported on line 20a must equal 35% (0.35) of the amount reported on line 19a, or the amount on line 20b must equal 45% (0.45) of the amount reported on line 19a.

For specified tax credit bonds, the amount of the refundable credit payment allowed under section 6431(f) for qualified zone academy bonds and qualified school construction bonds is the lesser of 100% of the amount of interest payable under the bond on such interest payment date or 100% of the amount of interest which would have been payable under such bond on such date if such interest were determined at the applicable tax credit bond rate determined under section 54A(b)(3). For new clean renewable energy bonds and qualified energy conservation bonds, the amount of the refundable credit payment allowed under section 6431(f) is the lesser of 100% of the amount of interest payable under the bond on such interest payment date or 70%

(0.70) of the amount of interest which would have been payable under such bond on such date if such interest were determined at the applicable tax credit bond rate determined under section 54A(b)(3).

For specified tax credit bonds, enter the amount of the requested credit payment as follows.

- Line 20c—New clean renewable energy bonds, enter the lesser of 100% of line 19a or 70% (0.70) of line 19c.
- Line 20d—Qualified energy conservation bonds, enter the lesser of 100% of line 19a or 70% (0.70) of line 19c.
- Line 20e—For qualified zone academy bonds consisting of a single maturity, enter 100% of the lesser of line 19a or 19c; and for qualified zone academy bonds consisting of multiple maturities, enter 100% of line 19c.

**Note.** Issuers issuing qualified zone academy bonds pursuant to an allocation of 2011 or later national zone academy bond limitation (volume cap) cannot make a valid election to issue such bonds as specified tax credit bonds and may not claim a refundable credit under section 6431 by filing Form 8038-CP.

- Line 20f—For qualified school construction bonds consisting of a single maturity, enter 100% of the lesser of line 19a or 19c; and for qualified school construction bonds consisting of multiple maturities, enter 100% of line 19c.

**Note.** You may not have more than one entry on line 20a, 20b, 20c, 20d, 20e, or 20f.

If the amount shown on line 20a, 20b, 20c, 20d, 20e, or 20f does not equal the amount of the credit payment shown on the debt service schedule attached to the information return for the bonds filed separately with the IRS (Form 8038-TC or Form 8038-B), or the latest revised debt service schedule subsequently filed with the IRS, you must attach an explanation and a revised debt service schedule (described below), and print or type "Revised Debt Service Schedule" across the top of the Form 8038-CP. For variable rate bonds, no explanation is required unless there is a change in previously reported interest payments or principal amortization. If the changes result from the issuer's nonqualified use of bond proceeds and taking a remedial action under section 6 of Rev. Proc. 2018-26, the issuer must provide an explanation and revised information to the IRS with the Form 8038-CP filed for the first interest payment date after the nonqualified use of the bond proceeds occurs. The issuer must print or type "Remedial Action under Section 6 of Rev. Proc. 2018-26" across the top of the Form 8038-CP. The issuer must also include an attachment that

provides (i) an explanation stating that a nonqualified use occurred and the date of the nonqualified use, and (ii) a revised debt service schedule (described below) reflecting the exclusion of amounts allocable to the nonqualified bonds beginning with the date of the nonqualified use.

The revised debt service schedule must contain the information described below for the bond issue. See the instructions for line 23 describing circumstances requiring a revised debt service schedule.

1. For fixed rate bonds, attach a revised debt service schedule through final maturity that provides a list of each interest payment date, the total interest payable on such date, the total principal amount of qualified bonds expected to be outstanding on such date, the interest rate(s), the refundable credit payment expected to be requested from the IRS as allowed under section 6431(f) on such date, and the earliest date that the qualified bonds can be called.

2. For variable rate bonds, attach a revised debt service schedule through final maturity that provides a list of each interest payment date, the total principal amount of qualified bonds expected to be outstanding on such date, and a description of how interest on the qualified bonds is figured. However, if the issuer knows the interest amount for a certain period, for that period the issuer should provide the refundable credit payment expected to be requested from the IRS as allowed under section 6431(f).

**Lines 21a and 21b.** Lines 21a and 21b are available to correct prior mistakes to credit payments related to prior filings of Form 8038-CP for the respective issue.

- If a prior credit payment amount was received that was less than the correct amount, then enter the amount on line 21a that relates to the corresponding increase to this payment request.
- If a prior credit payment amount was received that exceeded the correct amount for that payment, then enter the amount on line 21b that relates to the corresponding decrease to this payment request.
- If there are both increase and decrease adjustments related to multiple prior payments, then net the amounts and include the corresponding amount on either line 21a or 21b, as appropriate.

If any amount is entered on either line 21a or 21b, attach an explanation and print or type across the top, "Explanation for Adjustment - Line 21a/21b." The attachment must explain how the error occurred and what steps were taken to prevent similar errors from recurring. If an explanation is not attached, credit payment may be delayed.

**Line 22.** Enter the amount of the credit payment to be received. Combine the amount on line 20a, 20b, 20c, 20d, 20e, or 20f with the amount on either line 21a or 21b, as applicable.

**Note.** If an amount of the credit payment requested is required to be offset against other outstanding taxes or obligations, then the credit payment to be received could be less than the amount on line 22. For more information, see Notices 2009-26 and 2010-35.

**Line 23.** Check "Yes" or "No." If the debt service schedule has changed or been altered so that the debt service schedule you most recently filed with the IRS is incorrect, you must check "Yes" and attach a revised debt service schedule. The issuer must generally provide a revised debt service schedule when the amount of qualified principal outstanding or qualified interest payable on future dates will vary from amounts previously reported to the IRS, for example, as a result of an issuer retiring or defeasing bonds, treating a portion of the bonds as nonqualified under Rev. Proc. 2018-26, or due to reissuance because of a significant modification under Regulations section 1.1001-3 or other guidance applicable to the bonds. See the instructions under the second *Note* under *Lines 20a and 20b*, earlier, about how to submit a revised debt service schedule.

**Line 24.** Check "Yes" or "No." Check "Yes" if, as of the filing of this form, you have paid or reasonably expect to pay all of the interest payable to bondholders reported on line 19a on or before the date reported on line 18, representing the interest payment date to which this payment of credit relates. If you have paid or reasonably expect to pay all of the interest payable on the next business day because the interest payment date falls on a weekend or holiday, you should check "Yes" on the form. Check "No" if you do not reasonably expect to pay all of the interest payable to bondholders reported on line 19a on or before the date reported on line 18. Attach an explanation detailing the circumstances surrounding the nonpayment of interest, provide information on when you expect to resume interest payments, and print or type across the top, "Nonpayment Explanation."

**Line 25.** Check "Yes" or "No." Check "Yes" if the requested payment is the final payment of interest for the bond issue. The final payment of interest for either the single maturity or the bond issue, as applicable, relating to this request, is the last payment of interest prior to, or in conjunction with, the maturity, redemption, or significant modification of the bond issue. If a box is not checked, credit payments may be delayed.

**Line 26.** If the issuer completed Part I authorizing another entity (for example, a trustee bank) to receive the requested refundable credit payment on its behalf, check this box.

**Line 27.** Complete lines 27a through 27c if you want the amount shown on line 22 directly deposited into your checking or savings account. Otherwise, we will send a check to the entity listed in Part I.



*The IRS is not responsible for a lost credit payment if you enter the wrong account information. Check with your financial institution to get the correct ACH routing and account numbers and to make sure your direct deposit will be accepted. Other wire instructions or routing or account numbers other than ACH routing or account numbers are not acceptable substitutes for ACH routing and account numbers on Form 8038-CP.*

*If the direct deposit to your account is different from the amount you expected, you will receive an explanation in the mail about 2 weeks after your credit payment is deposited.*

**Line 27a.** The routing number must be nine digits. The first two digits must be 01 through 12 or 21 through 32. Otherwise, the direct deposit will be rejected and a check will be sent instead. If the entity listed in Part I is not the issuer (such as a trustee bank), ask that entity for the correct routing number. (See *Where the Requested Payment Will Be Sent*, earlier.)

**Line 27b.** Check the appropriate box for the type of account. Do not check more than one box. If unknown, leave blank.

**Line 27c.** The account number can be up to 17 characters (both numbers and letters). Include hyphens but omit spaces and special symbols. Enter the number

from left to right and leave any unused boxes blank.

## Signature and Consent

An officer of the issuer with authority to bind the issuer must sign Form 8038-CP and any applicable certification. If the entity listed in Part I is not the issuer, the authority of the person signing this return must include the authority to bind the issuer, the authority to request that the IRS send the refundable credit payment to the entity identified in Part I, and the authority to consent to the disclosure of return information necessary to process the refundable credit payment to the designated contact person(s) listed in Parts I and II on Form 8038-CP, as applicable. Also print the name and title of the person signing Form 8038-CP.

**Note.** If the issuer designates on line 5 of Part I or line 15 of Part II a person other than an officer of the issuer as a contact person for the IRS to call for more information, by signing this return the issuer's authorized representative consents to the disclosure of the issuer's return information to such person, as necessary to process the refundable credit payment.

## Paid Preparer

If an authorized officer of the issuer filled in this return, the paid preparer block should remain blank. Anyone who prepares the return but does not charge the issuer should not sign the return. Certain others who prepare the return should not sign. For example, a regular, full-time employee of the organization, such as a clerk, secretary, etc., should not sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return. A paid preparer cannot use a social security number in the preparer tax identification number (PTIN) box. The paid preparer must use a PTIN. If the paid preparer is self-employed, the preparer should enter his or her address in the box.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature, and
- Give a copy of the return to the issuer.

---

**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.

However, certain returns and return information of tax-exempt organizations and trusts are subject to public disclosure and inspection, as provided by section 6104. The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for tax-exempt organizations filing this form is approved under OMB control number 1545-0047 and is included in the estimates shown in the instructions for their information return.

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 send us comments through [IRS.gov/FormComments](https://www.irs.gov/FormComments).

Or you can write to:

Internal Revenue Service  
Tax Forms and Publications  
1111 Constitution Ave. NW, IR-6526  
Washington, DC 20224

Although we can't respond individually to each comment received, we do appreciate your feedback and will consider your comments as we revise our tax forms, instructions, and publications. We can't answer tax questions sent to the above address. **Do not** send the form to this address. Instead, see *Where To File*, earlier.

---