

# Instructions for Form 8038-CP

(Rev. January 2010)



Department of the Treasury  
Internal Revenue Service

## Return for Credit Payments to Issuers of Qualified Bonds

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

### What's New

A direct deposit box was added to the Form 8038-CP to allow issuers of governmental bonds the choice of having their credit payment directly deposited into their account.

### General Instructions

#### Purpose of Form

The American Recovery and Reinvestment Act of 2009 created build America bonds and recovery zone economic development bonds.

Form 8038-CP is used by issuers of build America bonds and recovery zone economic development 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 Notice 2009-26.

**Note.** This form is to be filed only if, as of the date the form is filed, the issuer of the outstanding obligation or obligations with respect to which this form is submitted has reasonably concluded that the obligation or obligations meet all applicable requirements for the payment of the requested credit.

#### Who Must File

Governmental issuers of qualified build America bonds and recovery zone economic development bonds must submit this form to request credit payments payable under the American Recovery and Reinvestment Act of 2009.

#### 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 and variable rate bonds, file a separate 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 8038-CP for each type of bond. If the information provided on the form relates to more than one bond issue or if the form 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, the issuer, or its designee listed in Part II, as necessary.

#### When To File

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

With respect to variable rate bonds when the issuer knows the interest payment amount 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 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 for which reimbursement is being requested.

#### Where To File

File Form 8038-CP with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201-0020.

**Private delivery services.** You can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These private delivery services include only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.

### 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 the issuance of all qualified build America bonds and recovery zone economic development bonds, use Form 8038-B, Information Return for Build America Bonds and Recovery Zone Economic Development Bonds. The Form 8038-B 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 2009-26.

### Rounding to Whole Dollars

You may show amounts on this return as whole dollars. To do so, drop amounts less than 50 cents and increase amounts from 50 cents through 99 cents to the next higher dollar.

### 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 25b and 25d.

**Note.** If the entity listed in Part I is not the governmental issuer, the account information (routing and account numbers listed on lines 25b and 25d) must be the account information of the entity listed in Part I. If the entity listed in Part I is the governmental issuer, the account information must be the account information of the governmental issuer.

### Questions on Filing Form 8038-CP

For specific questions on how to file Form 8038-CP send an email to the IRS at: [TaxExemptBondQuestions@irs.gov](mailto:TaxExemptBondQuestions@irs.gov) and put "Form 8038-CP Question" in the subject line. In the email include a description of your question, a return email address, the name of a contact person, and a telephone number.

## Specific Instructions

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

**Amended return.** An issuer may file an amended return to change or add to the information reported on a previously filed return, with respect to a single issue 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 form.

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 write 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 lines 21a or 21b. However, if you previously filed a final return and need to make subsequent corrections to lines 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 governmental entity that issued the bonds, enter the name of that governmental issuer. The issuer’s name should be identical to the name listed on Form 8038-B, Part I, line 1. If the governmental 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 governmental issuer, the governmental issuer consents to and authorizes the IRS to send the requested refundable credit payment directly to the entity listed in Part I. The governmental issuer further consents to 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, the issuer’s EIN should be identical to the EIN listed on Form 8038-B, Part I, line 2. An entity that does not have an EIN should apply for one on Form SS-4, Application for Employer Identification Number. You can get this form on the IRS website at [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORM (1-800-829-3676). You may receive an EIN by telephone by following the instructions for Form SS-4.

**Lines 5 and 6.** If the governmental issuer is not the entity listed in Part I, enter the name, title, and 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 governmental issuer is the entity listed in Part I, enter the name, title, and 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 line 5 authorizes 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 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 governmental 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 governmental issuer of the bond issue. The issuer’s name and EIN should be identical to the name and EIN listed on the Form 8038-B, Part I, lines 1 and 2 filed with respect to 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. The issue date should be identical to the issue date listed on the Form 8038-B, Part I, line 7.

**Line 13.** Enter the name of the bond issue. The name of the bond issue should be identical to the name listed on the Form 8038-B, Part I, line 8, filed with respect to the bond issue. If the bond issue is not named write “None.”

**Line 14.** Enter the Committee on Uniform Securities Identification Procedures (CUSIP) number on the bond with the latest maturity. The CUSIP number should be identical to the CUSIP number listed on Form 8038-B, Part I, line 9, filed for the bond issue. If the bond issue was not publicly offered and there is no assigned CUSIP number, write “None.”

**Lines 15 and 16.** If the governmental issuer is not the entity listed in Part I, enter the name, title, and phone number of the officer of the issuer or other person (including legal representative or paid preparer) whom the IRS may call for more information. If the governmental issuer is the entity listed in Part I, leave lines 15 and 16 blank.

**Note.** If the governmental 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.

**Lines 17a and 17b.** Enter the type of issue that was identified in Part III of Form 8038-B, for example, education, health and hospital, transportation, public safety, environment (including sewage bonds), housing, utilities, or other (with description). Also enter the total issue price for the bond listed on Form 8038-B, Part III, line 3 filed for the bond issue.

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



*Do not leave lines 12, 13, 14, 17a, 17b, and 17c blank. If these lines are left blank it will delay processing of this form.*

### 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 governmental 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 19.** Enter the amount of interest payable to the holders of the bonds on the interest payment date. The amount entered on line 19 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 or recovery zone economic development bond). (See *What To File*.)

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

**Lines 20a and 20b.** 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% of the amount reported on line 19 or the amount on line 20b must equal 45% of the amount reported on line 19. You may not have entries on both lines 20a and 20b on the same return. If the amount shown on line 20a or 20b 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-G, Information Return for Tax-Exempt Governmental Obligations or Form 8038-B) please attach an explanation and write across the top, “Explanation for difference in scheduled credit payment.” For variable rate bonds, no explanation is required.

**Lines 21a and 21b.** Lines 21a and 21b are available to correct prior mistakes with respect 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 in either line 21a or 21b as appropriate.

If any amount is entered on either line 21a or 21b, attach an explanation and write across the top, "Explanation for Adjustment - Line 21a/21b" as to 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 in line 20a or line 20b with the amount in line 21a or line 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 Notice 2009-26.

**Line 23.** Check "Yes" or "No." Check "Yes" if the requested payment is the final payment of interest with respect to the bond issue. The final payment of interest is the last payment of interest prior to, or in conjunction with, the maturity or redemption of the bonds. If a box is not checked, credit payments may be delayed.

**Line 24.** If the governmental 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 25a.** There is no entry in this line. Complete lines 25b through 25d 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 routing and account numbers and to make sure your direct deposit will be accepted.*

*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 25b.** 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 governmental issuer (such as a trustee bank), ask that entity for the correct routing number. (See *Where the Requested Payment Will Be Sent.*)

**Line 25c.** Check the appropriate box for the type of account. Do not check more than one box. If unknown, leave blank.

**Line 25d.** 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 governmental issuer, the authority of the person signing this form 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 governmental 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 form 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

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's Use Only* area of the return.

The paid preparer must:

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

**Note.** A paid preparer may sign original or amended returns by rubber stamp, mechanical device, or computer software.

### Privacy Act and 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. Section 6109 requires paid preparers to provide their identifying number.

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 average time is:

<b>Recordkeeping</b> . . . . .	6 hr., 13 min.
<b>Learning about the law or the form</b> . . . . .	12 min.
<b>Preparing, copying, assembling, and sending the form to the IRS</b> . . . . .	18 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the form to this address. Instead, see *Where To File* on page 1.