

IRS Revises Form 8038-CP for 2022

January 14, 2022

The Internal Revenue Service (“IRS”) has released a revised Form 8038-CP, *Return for Credit Payments to Issuers of Qualified Bonds*, including new Schedule A, *Specified Tax Credit Bonds Interest Limitation Computation* and related instructions. The form and instructions were updated to accommodate electronic filing of Form 8038-CP in 2022.

Form 8038-CP is used by issuers to claim payments from the federal government representing all or a portion of interest payable on direct pay bonds, including Build America Bonds (BABs), Recovery Zone Economic Development Bonds (RZEDBs), Qualified School Construction Bonds (QSCBs), Qualified Zone Academy Bonds (QZABs), New Clean Renewable Energy Bonds (NCREBs) and Qualified Energy Conservation Bonds (QECBs).

The changes made in the new Form 8038-CP include the following:

- The new Form 8038-CP limits when an amended return can be filed and includes new requirements for filing an amended return.
- Filers will be required to enter the report number for the bonds on line 10; the report number is chosen by the issuer using the methodology and parameters in the instructions.
- A new line has been added to report the type of direct pay bond using its unique 3-digit code.
- New Schedule A will be required to be completed for NCREBs, QECBs, QZABs, and QSCBs.
- NCREBs and QECBs with multiple maturities are no longer reported on separate Forms 8038-CP.
- Explanation codes that are three digits will need to be filled out if there was an adjustment to a prior credit payment (Line 21), if there has been a change to the debt service schedule (Line 23) or if not all of the interest for which the credit payment is being sought has been or will be paid on or before the interest payment date (Line 24).

According to the instructions, electronic filing of Form 8038-CP is expected to be available later in 2022, and the IRS will announce the specific date of availability of electronic filing when the programming comes online. Until that time, issuers should continue to file paper returns.

Issuers should use the January 2022 version of Form 8038-CP for submissions received by the IRS on or after January 1, 2022. Using a prior version of Form 8038-CP after 2021 may cause a delay in processing a request for credit payment. The Form 8038-CP is available at <https://www.irs.gov/pub/irs-pdf/f8038cp.pdf>, Schedule A to Form 8038-CP is available at <https://www.irs.gov/pub/irs-pdf/f8038cpa.pdf> and the Instructions to Form 8038-CP are available at <https://www.irs.gov/pub/irs-pdf/i8038cp.pdf>.

For More Information

If you would like further information concerning the matters discussed in this article, please contact the Chapman attorney with whom you regularly work.

This document has been prepared by Chapman and Cutler LLP attorneys for informational purposes only. It is general in nature and based on authorities that are subject to change. It is not intended as legal advice and no attorney-client relationship is created. Accordingly, readers should consult with, and seek the advice of, their own counsel with respect to any individual situation that involves the material contained in this document, the application of such material to their specific circumstances, or any questions relating to their own affairs that may be raised by such material.

To the extent that any part of this summary is interpreted to provide tax advice, (i) no taxpayer may rely upon this summary for the purposes of avoiding penalties, (ii) this summary may be interpreted for tax purposes as being prepared in connection with the promotion of the transactions described, and (iii) taxpayers should consult independent tax advisors.

© 2022 Chapman and Cutler LLP. All rights reserved. Attorney Advertising Material.