

Advanced Energy Gross Receipts Tax Deduction (Report A)

AS REPORTED ON THE ATTACHED TAX RETURN ON WHICH THE DEDUCTION WAS TAKEN

Name	New Mexico Business Tax Identification Number (NMBTIN)	First and last day of the report period (mm/dd/yyyy through mm/dd/yyyy)
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AMOUNT OF ADVANCED ENERGY DEDUCTION CLAIMED THIS REPORT PERIOD

Enter the Buyer's NMBTIN as listed on the Type 10 NTTC.	Enter the location code.	Tax deduction claimed

I declare that I have examined this return including any accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete.

Signature of Taxpayer or Agent _____ Title _____ Date _____

(PLEASE CUT ALONG DOTTED LINE)

Advanced Energy Compensating Tax Deduction (Report B)

AS REPORTED ON THE ATTACHED CRS-1 FORM ON WHICH THE DEDUCTION WAS TAKEN

Name	New Mexico Business Tax Identification Number (NMBTIN)	First and last day of the report period (mm/dd/yyyy through mm/dd/yyyy)
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AMOUNT OF ADVANCED ENERGY DEDUCTION CLAIMED THIS REPORT PERIOD

Enter the number of the certificate issued by EMNRD to the interest owner of the eligible qualified generating facility.	Enter the value of the tangible personal property deducted when computing the compensating tax due.

I declare that I have examined this return including any accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete.

Signature of Taxpayer or Agent _____ Title _____ Date _____

Advanced Energy Deduction Report Instructions

WHO MUST REPORT. Taxpayers reporting an advanced energy deduction from either gross receipts tax or compensating tax must file Form RPD-41349-Report A, *Advanced Energy Gross Receipts Tax Deduction Report*, or RPD-41349-Report B, *Advanced Energy Compensating Tax Deduction Report*, as an informational attachment to the tax return.

File **Report A, *Advanced Energy Gross Receipts Tax Deduction Report***, if you accepted a Type 10 Nontaxable transaction certificate (NTTC) from an interest owner for the purchase or lease of tangible personal property or services that are eligible generation plant costs. Receipts from selling or leasing tangible personal property or services that are eligible advanced energy generation plant costs to a person that holds an interest in a qualified generating facility are deductible from gross receipts taxes. The seller or lessor must attach a completed Form RPD-41349-Report A to their tax return for the report period in which the deduction is taken.

File **Report B, *Advanced Energy Compensating Tax Deduction Report***, if you are the interest owner and you purchased or leased tangible personal property that are eligible advanced energy generation plant costs (services do not qualify). The value of eligible generation plant costs from the sale or lease of tangible personal property to a person that holds an interest in a qualified generating facility may be deducted in computing the compensating tax due. The interest owner must attach a completed Form RPD-41349-Report B to their return for the report period in which the deduction is taken.

ADVANCED ENERGY TAX CREDITS: An interest owner may also be eligible to claim a tax credit for purchases of eligible expenses for a qualified generating facility in lieu of the Advanced Energy Deduction. See Forms RPD-41333, *Advanced Energy Tax Credit Application*, and RPD-41334, *Advanced Energy Tax Credit Claim Form*, for details.

About the Gross Receipts Tax Deduction: The owner of the interest in the eligible qualified generating facility must execute a Type 10 NTTC to the seller or lessor. In order to obtain a Type 10 NTTC, the interest owner must first obtain a certificate of eligibility from the New Mexico Environment Department (NMED). The Type 10 NTTCs may only be obtained by the interest owner who has been issued the certificate of eligibility. The seller or lessor that accepts the Type 10 NTTC must report the deduction on the TRD-41413, *Gross Receipts Tax Return*, and if this deduction is taken also attach Form RPD-41349- Report A, *Advanced Energy Gross Receipts Tax Deduction Report*, stating the amount of advanced energy deductions taken.

About the Compensating Tax Deduction: The owner of the interest in the eligible qualified generating facility must first obtain a certificate of eligibility from the NMED to claim the advanced energy compensating tax deduction. The interest owner must report any compensating tax deduction due on the TRD-41412, *Compensating Tax Return*, and also attach Form RPD-41349-Report B, *Advanced Energy Compensating Tax Deduction Report*, stating the amount of advanced

energy deductions reported on the return. The amount of the advanced energy deduction taken prior to calculating compensating tax reduces the final compensating tax amount due. Report deductions for tangible personal property only. Services do not qualify for the advanced energy compensating tax deduction.

Restrictions: These deductions are available for a ten-year period for purchases and 25-year period for leases, from the year development of the qualified generating facility begins and expenditures are made or until the maximum combined benefit allowed has been taken. The maximum combined benefit allowed from approved advanced energy tax credits, advanced energy gross receipts tax deductions and advanced energy compensating tax deductions for a qualified generating facility may not exceed \$60,000,000. You must track the deductions taken and advanced energy tax credits approved. Once your deductions and approved tax credits have reached the \$60,000,000 maximum benefit, you must stop making tax free purchases of eligible generation plant costs using the advanced energy gross receipts tax deductions and advanced energy compensating tax deductions. The interest owner who has obtained Type 10 NTTCs must then return those NTTCs to the Department.

Expenditures for which an advanced energy gross receipts or compensating tax deduction were claimed are not eligible for any other deduction or credit against personal income tax, corporate income tax, compensating tax, gross receipts tax or withholding tax.

How to Complete the Form: Cut along the dotted line and submit the completed top portion of the page if filing Report A, or the completed bottom portion of the page if filing Report B, with your tax return and any applicable payment by the 25th of the month following the end of the report period. The information at the top of Report A or Report B, must be the information for the business reporting the deduction. Mail to Taxation and Revenue Department, P.O. Box 25128, Santa Fe, New Mexico 87504-5128. For further assistance call (505) 476-3683.

RECAPTURE: If the New Mexico Environment Department (NMED) issues a certificate of eligibility to a taxpayer stating that the taxpayer holds an interest in a qualified generating facility and the taxpayer does not sequester or control carbon dioxide emissions to the extent required by January 1, 2017, or 18 months after the commercial operation date of the qualified generating facility, the taxpayer's certification as a qualified generating facility shall be revoked by NMED and the taxpayer shall refund to the state tax deductions granted. If the taxpayer demonstrates to the NMED that the taxpayer made every effort to sequester or control carbon dioxide emissions to the extent feasible and the facility's inability to meet the sequestration requirements of a qualified generating facility was beyond the facility's control, NMED shall determine, after a public hearing, the amount of the tax

Advanced Energy Deduction Report Instructions

credit that should be refunded. NMED, in its determination, shall consider the environmental performance of the facility and the extent to which the inability to meet the sequestration requirements of a qualified generating facility was in the control of the taxpayer. The refund as determined by NMED shall be paid within 180 days following a final order by NMED.

IMPORTANT DEFINITIONS:

"Eligible generation plant costs" are expenditures for the development and construction of a qualified generating facility including permitting; site characterization and assessment; engineering; design; carbon dioxide capture, treatment, compression, transportation and sequestration; site and equipment acquisition; and fuel supply development used directly and exclusively in a qualified generating facility;

Value of "eligible generation plant costs" is the adjusted basis established for the qualified generating facility under the applicable provisions of the Internal Revenue Code of 1986.

For purposes of the advanced energy tax credit, eligible generation plant costs must be **"Subject to depreciation"**. "Subject to depreciation" means the taxpayer's federal income tax return must include a depreciation expense with respect to the eligible generation plant costs for which an advanced energy tax credit is sought or claimed. Equipment depreciated under the accelerated cost recovery system, Internal Revenue Code Section 168, and property for which the taxpayer makes an election under Internal Revenue Code Section 179, is "subject to depreciation".

"Qualified generating facility" is a facility that begins construction no later than December 31, 2015, and is:

1. a solar thermal electric generating facility that begins construction on or after July 1, 2010, and that may include an associated renewable energy storage facility;
2. a solar photovoltaic electric generating facility that begins construction on or after July 1, 2010, and that may include an associated renewable energy storage facility;
3. a geothermal electric generating facility that begins construction on or after July 1, 2010;
4. a recycled energy project if that facility begins construction on or after July 1, 2010; or
5. a new or repowered coal-based electric generating facility and an associated coal gasification facility.

"Recycled energy" is energy produced by a generation unit with a name-plate capacity of not more than fifteen megawatts that converts the otherwise lost energy from the exhaust stacks or pipes to electricity without combustion of additional fossil fuel.

"Sequester" means to store, or chemically convert, carbon dioxide in a manner that prevents its release into the atmosphere and may include the use of geologic formations and enhanced oil, coal bed methane or natural gas recovery techniques.

"Solar photovoltaic electric generating facility" means an electric generating facility with a name-plate capacity of one megawatt or more that uses solar photovoltaic energy to generate electricity.

"Solar thermal electric generating facility" means an electric generating facility with a name-plate capacity of one megawatt or more that uses solar thermal energy to generate electricity, including a facility that captures and provides solar energy to a preexisting electric generating facility using other fuels in part.

"Interest in a qualified generating facility" means title to a qualified generating facility; a lessee's interest in a qualified generating facility; and a county or municipality's interest in a qualified generating facility when the county or municipality uses an industrial revenue bond for construction of the qualified generating facility.

"Coal-based electric generating facility" means a new or repowered generating facility and an associated coal gasification facility, if any, that uses coal to generate electricity and that meets the following specifications:

- emits the lesser of:
 - 1) what is achievable with the best available control technology, or
 - 2) thirty-five thousandths pound per million British thermal units of sulfur dioxide, twenty five thousandths pound per million British thermal units of oxides of nitrogen and one hundredth pound per million British thermal units of total particulates in the flue gas;
- removes the greater of:
 - 1) what is achievable with the best available control technology, or
 - 2) 90% of the mercury from the input fuel;
- captures and sequesters or controls carbon dioxide emissions so that by the later of January 1, 2017, or 18 months after the commercial operation date of the coal-based electric generating facility, no more than one thousand one hundred pounds per megawatt-hour of carbon dioxide is emitted into the atmosphere,
- all infrastructure required for sequestration is in place by the later of January 1, 2017, or 18 months after the commercial operation date of the coal-based electric generating facility,
- includes methods and procedures to monitor the disposition of the carbon dioxide captured and sequestered from the coal-based electric generating facility, and
- does not exceed a name-plate capacity of 700 net megawatts.