

1998 Enhanced Oil Recovery Credit

3546

Attach to your California tax return.

Social security or California corporation number

Name(s) as shown on return

FEIN

Part I Credit Computation

1	Qualified enhanced oil recovery costs. See instructions	1	
2	Current year credit. Multiply line 1 by 5% (.05)	2	
3	Pass-through enhanced oil recovery credit(s) from Schedule(s) K-1 (100S, 541, 565 or 568). See instructions	3	
4	Total current year enhanced oil recovery credit. Add line 2 and line 3	4	
5	Credit carryover from a prior year(s). See instructions	5	
6	Total available enhanced oil recovery credit. Add line 4 and line 5	6	
7	Enter the amount of credit claimed on the current year tax return	7	
Caution: This amount may be less than the amount on line 6 if your credit is limited by tentative minimum tax (TMT) or your tax liability. See the instructions for line 7.			
8	Credit carryover available for future years. Subtract line 7 from line 6	8	

Part II Credit Carryover

15 Year Carryover Period (See specific line instructions).

(a) Year	(b) Credit generated in the current year	(c) Credit carryover from a prior year(s)	(d) Amount used in 1998	(e) Credit carryover to future years
1 1996				
2 1997				
3 1998				
4 Total				

General Information

California allows an enhanced oil recovery credit which is similar to the federal enhanced oil recovery credit under Internal Revenue Code (IRC) Section 43, with exceptions. Unless specifically identified otherwise, references in these instructions are to the IRC as of January 1, 1998, and to the California Revenue and Taxation Code (R&TC).

A Purpose

Use form FTB 3546 to figure and claim the enhanced oil recovery credit for enhanced oil recovery projects located within California. Also use this form to claim pass-through enhanced oil recovery credits received from S corporations, estates or trusts, partnerships or limited liability companies (LLCs) taxed as partnerships.

S corporations, estates or trusts, partnerships and LLCs taxed as partnerships should complete form FTB 3546 to figure the amount of credit to pass through to shareholders, beneficiaries, partners or members. Attach this form to Form 100S, Form 541, Form 565 or Form 568. Show the pass-through credit for each shareholder, beneficiary, partner or member on Schedule K-1 (100S, 541, 565 or 568).

B Description

The California enhanced oil recovery credit is available for taxable or income years beginning on or after January 1, 1996. The tentative enhanced oil recovery credit is equal to 5% (representing 1/3 of the federal enhanced oil recovery credit) of the qualified enhanced oil recovery costs for qualified oil recovery projects located within California. See General Information F for further limitations on the enhanced oil recovery credit.

C California and Federal Differences

The federal enhanced oil recovery credit under IRC Section 43 and the California enhanced oil recovery credit under R&TC Sections 17052.8 and 23604 are generally the same, except that:

1. The California credit is equal to **5%** of the qualified enhanced oil recovery costs for qualified oil recovery projects **located within California**, as opposed to the federal credit which is equal to 15% of the qualified enhanced oil recovery costs for qualified oil recovery projects located within the United States, including the seabed and subsoil adjacent to the territorial waters of the United States as defined under IRC Section 638(1).

2. California **does not allow** the enhanced oil recovery credit for the following taxpayers:

- Taxpayers who are **retailers of oil or natural gas** that directly (or through a related person) sell oil or natural gas, excluding bulk sales of aviation fuels to the Department of Defense. See IRC Sections 613A(d)(2) and 613A(d)(3) for more information.
- Taxpayers (or related persons) who are **refiners of crude oil and, on any day during the taxable or income year, whose daily refinery output exceeded 50,000 barrels.**

3. The California credit may be carried over for 15 years and is subject to limitations described in General Information F. The federal credit is part of the general business credit subject to the limitations imposed by IRC Section 38.

D Definitions

Qualified enhanced oil recovery costs means:

1. Any amount paid or incurred during the taxable or income year for tangible property located within California:
 - That is an integral part of a qualified enhanced oil recovery project in California; and

- For which depreciation (or amortization) is allowable.
- Any intangible drilling and development costs:
 - That are paid or incurred in connection with a qualified enhanced oil recovery project located within California; and
 - For which the taxpayer may make an election to capitalize and amortize such costs under IRC Section 263(c) and R&TC Sections 17201 and 24423.
 - Any qualified tertiary injectant expenses paid or incurred in connection with a qualified enhanced oil recovery project located within California. **Note:** For California Personal Income Tax Law and Bank and Corporation Tax Law purposes, tertiary injectant costs must be capitalized and deducted through depreciation because California has not conformed to the provisions of IRC Section 193.

Qualified enhanced oil recovery project means any project located within California involving the application of one or more tertiary recovery methods defined in IRC Section 193(b)(3), and mentioned below, that can reasonably be expected to result in more than an insignificant increase in the amount of crude oil recovery.

Tertiary recovery methods qualifying for the credit include miscible fluid displacement, steam drive injection, microemulsion flooding, in situ combustion, polymer-augmented water flooding, cyclic-steam injection, alkaline (or caustic) flooding, carbonated water flooding, immiscible nonhydrocarbon gas displacement or any other method approved by the Secretary of the Treasury.

E Basis

If any of the allowable credit is due to capitalized enhanced oil recovery costs, the basis of the property must be reduced by the amount of the credit attributable to that property. Such a basis adjustment must be made for the taxable or income year in which the credit is allowed.

F Limitations

Federal election. If a taxpayer has no federal enhanced oil recovery credit due to making an election for an item of property under IRC Section 43(e), which is an election not to apply IRC Section 43 for federal tax purposes, the election is binding and irrevocable for California purposes and the California enhanced oil recovery credit with respect to that item of property is zero.

Ineligible taxpayers. Taxpayers that are not permitted to compute their depletion allowance under IRC Section 613 because they are retailers of oil or natural gas, certain related parties and certain refiners of crude oil also cannot claim the California enhanced oil recovery credit. See IRC Sections 613A(d)(2) through 613A(d)(4) for more information on ineligible taxpayers.

Reduced credit. The credit is reduced when the reference price, determined under IRC Section 29(d)(2)(C), exceeds \$28 per barrel. The \$28 value is adjusted for inflation for years after 1991. If the reference price exceeds the base value of \$28 (as adjusted by inflation) by more than \$6, the credit is zero. For 1998, there is no reduction of the credit.

Corporate members of a unitary or combined group. This credit cannot be allocated or otherwise transferred to another taxpayer, even if the other taxpayer is a member of a unitary or combined group or otherwise affiliated with the taxpayer that earned the credit.

Other limitations.

- In the case where an item of property qualifies the taxpayer to take the enhanced oil recovery credit as well as any other California credit (such as the manufacturers' investment credit), the taxpayer must make an election on the original return for each year stating which one credit is being claimed. Such an election cannot be revoked except with the written consent of the Franchise Tax Board (FTB).
- S corporations may claim only 1/3 of the credit against the 1.5% entity-level tax (3.5% for financial S corporations). In addition, S corporations can pass through 100% of the credit to their shareholders.
- If a taxpayer owns an interest in a disregarded business entity, the credit amount received from the disregarded entity that can be utilized is limited to the difference between the taxpayer's regular tax figured with the income of the disregarded entity, and the taxpayer's regular tax figured without the income of the disregarded entity. **Note:** If the disregarded entity reports a loss, the taxpayer may not claim the credit this year but can carry over the credit amount received from the disregarded entity.
- This credit cannot reduce the minimum franchise tax (corporations, limited partnerships, limited liability partnerships, LLCs and S corporations), the alternative minimum tax (corporations, exempt organizations, individuals and fiduciaries), the built-in gains tax (S corporations) or the excess net passive income tax (S corporations). This credit cannot reduce regular tax below TMT. See Schedule P (100, 540, 540NR or 541) for more information.
- This credit is taken in lieu of any deduction otherwise allowable for the same costs. Therefore, any deduction allowed for the same costs must be reduced by the amount of credit claimed for the current taxable or income year (the amount shown on line 7).
- This credit is not refundable.

G Carryover

If the available credit exceeds the current year tax, the unused credit may be carried over to succeeding years. The maximum carryover period is 15 years. Apply the carryover to the earliest taxable or income year(s) possible. In no event can the credit be carried back and applied against a prior year's tax.

Specific Line Instructions

Part I – Credit Computation

Line 1 – Enter the total qualified enhanced oil recovery costs paid or incurred during the taxable or income year beginning on or after January 1, 1998, for qualified enhanced oil recovery projects located within California.

Line 3 – If you received more than one pass-through credit from S corporations, estates or trusts, partnerships or LLCs taxed as partnerships, add the amounts and enter the total on line 3. Attach a schedule showing the names and identification numbers of the entities from which the credit(s) were passed through to you.

Line 5 – Enter the amount from your 1997 form FTB 3546, Part II, Line 3, column (e).

Line 7 – The amount of this credit you can claim on your tax return may be limited further. Refer to the credit instructions in your tax booklet for more information. These instructions also explain how to claim this credit on your tax return. You must use credit code number **203** when you claim this credit. Also see General Information F, Limitations.

Part II – Credit Carryover

Line 1, column (c) – Enter the amount from your 1997 form FTB 3546, Part II, line 1, column (e), if any.

Line 2, column (c) – Enter the amount from your 1997 form FTB 3546, Part II, line 2, column (e), if any.

Line 1 and Line 2, column (e) – Subtract the amounts in column (d) from the amounts in column (c). Enter the results in column (e).

Line 3, column (b) – Enter the amount from Part I, line 4.

Line 3, column (e) – Subtract the amount in column (d) from the amount in column (b). Enter the result in column (e).

Line 4, column (d) – Add the amounts in column (d). Enter the result in Part II, line 4, column (d). **Note:** The total amount in column (d) should equal the amount on Part I, line 7.

Line 4, column (e) – Add the amounts in column (e). Enter the result in Part II, line 4, column (e). **Note:** The total amount in column (e) should equal the amount on Part I, line 8.