

2001 Manufacturers' Investment Credit

3535

Attach to your California tax return. Social security, California corporation, or entity identification (ID) number. Name(s) as shown on return. FEIN. Secretary of State file number. Qualified Taxpayer's SIC Code Activity. Caution: See instructions.

Part I Credit Computation. See instructions before completing.

Property Type

Enter a code number in column (b) for each type of property.

- 1 = Tangible personal property (IRC 1245(a))
2 = Computers and computer peripheral equipment
3 = Special purpose buildings and foundations
4 = Computer software

Primary Use Code - See General Information G, Definitions

Enter a code letter in column (b) for each item of property. Property must be primarily used for one of the following activities:

- A = Manufacturing B = Research and Development C = Pollution Control D = Maintenance, repair, measurement, or testing of qualified property
E = Recycling F = Fabricating G = Refining H = Processing
I = Develop or manufacture prepackaged software or custom software J = Special manufacturing/research (see instructions)

Qualified Costs. See Specific Line Instructions.

Table with 10 columns: (a) Description of property, (b) Property Type and Primary use code, (c) SIC code for property's primary use, (d) Property leased? Y / N, (e) Date placed in service (mo./yr.), (f) Amount of California sales or use tax paid, (g) Cost of property Do not include sales or use tax paid, (h) Capitalized direct labor costs allocated to property, (i) Total costs Add col. (g) and col. (h), (j) Mandatory adjustments.

2 Add the amounts in column (i) and column (j) ... 2
3 Total tax year 2001 qualified costs. Subtract the amount on line 2, column (j) from line 2, column (i) ... 3
4 Multiply line 3 by 6% (.06) ... 4
5 Pass-through manufacturers' investment credit(s) from Schedule(s) K-1 (100S, 541, 565, or 568). See instructions.

Table with 3 columns: (a) Name of pass-through entity, (b) Entity ID no., California corporation number, FEIN, etc., (c) Amount of pass-through credit.

6 Add line 4 and line 5. This is your current year manufacturers' investment credit. S corporations: Go to line 7 below. All others: Skip line 7, and go to line 8 below ... 6
7 S corporations only: Multiply line 6 by 1/3. See instructions ... 7
8 Credit carryover from prior year(s). See instructions ... 8
9 Total available credit. S corporations: Add line 7 and line 8. All others: Add line 6 and line 8 ... 9
10 Enter the amount of credit claimed on current year tax return. Caution: Your credit may be limited. See instructions ... 10
11 Credit carryover available for future years. Subtract line 10 from line 9 ... 11

Part II Credit Use and Carryover Periods. See instructions.

8-Year Carryover Period

(a) Year	(b) Credit generated in current year	(c) Prior year(s) carryover amount	(d) Amount used in 2001	(e) Credit carryover to future years
1 1994 & 1995				
2 1996				
3 1997				
4 1998				
5 1999				
6 2000				
7 2001				

10-Year Carryover Period (Small businesses only)

(a) Year	(b) Credit generated in current year	(c) Prior year(s) carryover amount	(d) Amount used in 2001	(e) Credit carryover to future years
8 1994 & 1995				
9 1996				
10 1997				
11 1998				
12 1999				
13 2000				
14 2001				
15 Total				

Part III Credit Recapture. See instructions.

(a) Property description	(b) Recapture code	(c) Credit recapture
1		
2 Total recapture amount. Add the amounts in column (c). See instructions		2

Instructions for Form FTB 3535

Manufacturers' Investment Credit

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 1998**, and to the California Revenue and Taxation Code (R&TC).

What's New

Forms

For the 2001 tax year, a new form is available for nonresidents and part-year residents: Short Form 540NR, California Nonresident or Part-year Resident Income Tax Return. The Short Form 540NR is for nonresident and part-year taxpayers who have limited income sources and deductions. The Form 540NR name has been changed to Long Form 540NR, California Nonresident or Part-year Resident Income Tax Return. References to the Form 540NR in this form mean the Long Form 540NR.

Bank and Corporation Tax Law vs. Corporation Tax Law

For taxable years beginning on or after January 1, 2001, the "Bank and Corporation Tax Law" (B&CTL) has been renamed as the "Corporation Tax Law" (CTL). The term "Bank" in the title is no longer needed because banks are included in the definition of a corporation.

Credit Recapture

For taxable years beginning on or after January 1, 2001, taxpayers making the federal election to treat a stock purchase as an asset purchase under Internal Revenue Code Sections 338(g) or 338(h)(10) will not trigger a recapture of the Manufacturers' Investment Credit.

General Information

Federal/State Conformity

In general, California tax law conforms to the Internal Revenue Code (IRC) as of January 1, 1998. However, there are continuing differences between California and federal law. California has not conformed to most of the changes made to the IRC by the federal Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206) and the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170). California has not conformed to any of the changes made by the Tax and Trade Relief Extension Act of 1998 (Public Law 105-277), the Miscellaneous Trade and Technical Corrections Act of 1999 (Public Law 106-36), the FSC Repeal and Extraterritorial Income Exclusion Act of 1999 (Public Law 106-36), the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 (Public Law 106-519), the Consolidated Appropriations Act of 2001 (Public Law 106-554), and the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16).

Classification

The codes for Principal Business Activity (PBA) are based on the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 1997 Edition. The R&TC still refers to the Standard Industrial Classification (SIC) for purposes of qualifying for the manufacturers' investment credit (MIC). Accordingly, the PBA and NAICS codes cannot be used for purposes of eligibility for the MIC.

A Purpose

Use form FTB 3535 to figure and claim a credit for qualified costs paid or incurred by qualified taxpayers for acquiring, constructing, or reconstructing qualified property. You can also use this form to claim pass-through manufacturers' investment credit (MIC) received from S corporations, estates or trusts, partnerships, or limited liability companies (LLCs) classified as partnerships.

S corporations, estates or trusts, partnerships, and LLCs classified as partnerships should complete form FTB 3535 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 Schedules K-1 (100S, 541, 565, or 568).

Special rules apply in the case of qualified property that is leased. See General Information F, Special Rules for Leased Property.

B Description

The MIC is generated in the taxable year the qualified property is placed in service in California.

Investments in qualified property made on or after January 1, 1994, can qualify for the MIC. The qualified property must be placed in service in California and must be used for qualified purposes (generally manufacturing or research and development).

For more information on the MIC, get FTB 1113, California Manufacturers' Investment Credit Frequently Asked Questions, and the California Code of Regulations, Title 18, Sections 17053.49-0 through 17053.49-11 for Personal Income Tax Law and Sections 23649-0 through 23649-11 for Corporation Tax Law.

C Qualified Taxpayer

A qualified taxpayer may be an individual, partnership, corporation, LLC, estate, or trust. A qualified taxpayer must be engaged in at least one line of business that is properly classified as an operating establishment under Division D (SIC Codes 2011 through 3999) or under SIC Codes 7371 through 7373 (for taxable years beginning on or after January 1, 1998) of the SIC Manual published by the United States Office of Management and Budget, 1987 Edition. A list of the qualified SIC codes is reproduced at the end of these instructions, along with the address of where to purchase the manual. You must determine your SIC code(s) according to the rules and methods described in the SIC Manual, 1987 Edition. Any SIC code assignment made by any federal, state (other than the California Franchise Tax Board (FTB)), regional, or local government agency is not controlling.

An establishment is an economic unit (as distinguished from subunits such as departments), generally at a single physical location, where business is conducted or where services, manufacturing, or other industrial operations are performed. Examples of establishments are included in the information for determining SIC classifications on page 6.

D Qualified Property

Qualified property includes only property, whether new or used, that is placed in service in California. Qualified property is any of the following:

1. Tangible personal property that is characterized as depreciable or amortizable under IRC Section 1245(a).

The property must be used by a qualified taxpayer in one of the taxpayer's establishments classified under SIC Codes 2011 through 3999 and used primarily in any of the following qualified activities:

- Manufacturing, processing, refining, fabricating, or recycling;
- Research and development;
- Maintaining, repairing, testing, or measuring other qualified property; or
- Pollution control meeting or exceeding established state or local standards.

For taxable years beginning on or after January 1, 1998, qualified property may be used by a qualified taxpayer in one of the taxpayer's establishments classified under SIC Codes 7371 through 7373 and used primarily to develop or manufacture prepackaged software or custom software prepared to the special order of the purchaser who uses the program to produce and sell or license copies of the program as prepackaged software.

Primarily means that the qualified property is used 50% or more of the time in a qualified activity.

2. The value of any direct capitalized labor costs that is directly allocable to the construction or modification of qualified property described in 1 above.
3. "Off-the-shelf" computer software used by a qualified taxpayer in one of the taxpayer's establishments classified under SIC Codes 2011 through 3999 and used primarily in any of the qualified activities described in number 1 above.
4. Special purpose buildings and foundations that are constructed or modified by qualified taxpayers engaged in one of the following activities:
 - The manufacturing of space vehicles and parts (SIC Codes 3761 through 3769) or space satellites and communications satellites and equipment (SIC Codes 3663 and 3812, but only for "qualified property" placed in service on or after January 1, 1996);
 - The manufacturing of semiconductor equipment (SIC Code 3559, but only for "qualified property" placed in service on or after January 1, 1997);
 - The manufacturing of computer and office equipment (SIC Codes 3571 through 3579) or electronic components and accessories (SIC Codes 3671 through 3679);
 - Commercial physical and biological research and development on a contract or fee basis (SIC Code 8731); or
 - The manufacturing, fabricating, or processing of medicinal chemicals and pharmaceutical products (SIC Codes 2833 through 2836) in a biopharmaceutical activity.
5. The value of any capitalized direct labor costs that are directly allocable to the construction or modification of qualified property described on page 1, number 4.

The special purpose building or foundation must be used by a qualified taxpayer:

- For manufacturing, processing, refining, or fabricating; or
- As a research or storage facility used primarily in connection with a manufacturing process.

To be qualified as a special purpose building, the specific machinery and equipment for which the building is designed must also have a special purpose. Accordingly, buildings and foundations which do **not** meet the definition of special purpose buildings and foundations include, but are not limited to, general purpose manufacturing and industrial or commercial buildings. Additionally, research or storage facilities that are used primarily before and/or after a manufacturing process are not special purpose buildings and foundations.

Property That Does Not Qualify

Qualified property does not include any of the following: furniture, inventory, warehouse facilities used for storage after completion of the manufacturing process, equipment used to store finished products after completion of the manufacturing process, property used in administration, general management, or marketing, equipment used in the extraction process, or any vehicle for which the former low-emission vehicle credit has been claimed.

E Qualified Costs

1. Qualified costs are costs that satisfy **all** of the following requirements.

Note: For qualified taxpayers engaged in those lines of business under SIC Codes 7371 through 7373, substitute "the first taxable year beginning on or after January 1, 1998," for "January 1, 1994," in each place that it appears.

Costs must be:

- Paid or incurred on or after January 1, 1994, for the acquisition, construction, or reconstruction of qualified property;
- Amounts upon which California sales or use tax has been paid, either directly or indirectly by the taxpayer (except those under number two below); and

- Amounts properly chargeable to the capital account of the qualified taxpayer (generally depreciable), except in the case of certain operating leases. See General Information F, Special Rules for Leased Property.
2. Qualified costs may also include the value of any direct capitalized labor that is either directly allocable to the construction or modification of qualified property or is a direct cost for constructing or modifying a special purpose building or foundation.

Note: For guidelines to determine when capitalized costs paid to a third-party contractor qualify, get FTB Legal Ruling 2000-1 and when engineering and design services will be considered capitalized direct labor costs, get FTB Legal Ruling 98-1.

For additional information on the above legal rulings, go to our Website at: www.ftb.ca.gov

F Special Rules for Leased Property

The following rules apply in the case of any qualified property that is leased by a qualified taxpayer:

- The credit is not allowed to the lessor (title-holder) of qualified property, whether or not the lessor is otherwise a qualified taxpayer. Only a lessee-user (renter or purchaser) can claim the MIC on the leased asset.
- Lease agreements are treated as binding contracts for purposes of applying the binding contract allocation rules.
- Property leased under an **operating (true) lease** does not have to be chargeable to the qualified taxpayer's capital account, while property leased under a **finance (capital) lease** must be chargeable to the qualified taxpayer's capital account.

For property leased under an operating (true) lease, the lessor must pay the sales or use tax when the property is acquired. The sales or use tax paid by the lessor must be based on the lessor's acquisition price for the qualified property. For example, if the lessor pays \$100 for an item of qualified property, plus \$7 in California sales or use tax on that item, the lessee (qualified taxpayer) may claim the MIC on the cost of \$100. For property leased under a finance (capital) lease, the lessor or the lessee may pay the sales or use tax when the property is acquired by the lessee. The California sales or use tax paid by either the lessor or lessee must be based on the lessee's acquisition price. For example, on January 1, 2000, G, which is engaged in the equipment leasing business, purchases two items of qualified property for \$200. On January 1, 2001, G leases the two items of qualified property to F, a qualified taxpayer. The total cost under the terms of the finance lease is \$100, plus \$7 California sales or use tax. If either G (the lessor) or F (the lessee) pays the \$7 sales or use tax, then F would be allowed to claim the MIC on purchase price of \$100, assuming all other requirements for claiming the MIC were met.

- The credit cannot be claimed for costs paid or incurred by a lessee who pays sales or use tax on the property to the lessor on a periodic basis, such as monthly ("pay-as-you-go") leases.
- For any lease treated as an operating lease, within 45 days after the close of the taxable year of the lessee for which the MIC is allowable, the lessor should provide a statement to the lessee specifying the amount of the lessor's cost upon which sales or use tax has been paid in full by the lessor and the amount eligible for the credit. The lessee must retain a copy of this statement and make it available to the FTB upon request.

Determining Qualified Costs for Leased Property

The credit to be allowed to the lessee-user is computed using the lessor's original cost of the qualified property, which is generally determined using the rules under General Information E, Qualified Costs.

- The credit may only be claimed for the taxable year the qualified property is placed in service in California.
- The lessor's original cost basis is generally equal to the lessor's cost for depreciation purposes (less any California sales or use tax paid

that is included in such cost basis). However, only amounts upon which California sales or use tax has been paid, either directly or indirectly by the lessor, plus any directly allocable capitalized labor costs, qualify for the MIC and may be included in the lessor's original cost.

- The original cost to the lessor of the qualified property must be reduced by the amount of any original cost used in computing the MIC by any predecessor lessee in a previous lease of the qualified property. However, this reduction is not required to the extent that a predecessor lessee was required to recapture the MIC.
- If a lessor acquires qualified property that was previously leased from another lessor in a transaction that is not treated as a sale for California sales or use tax purposes, the original cost to the new lessor for MIC purposes must be reduced by the amount of the original cost used in computing the MIC by any predecessor lessee. Generally, this will result in the new lessor having no original cost for MIC purposes unless the new lessor pays California sales or use tax on the acquisition.

G Definitions

The following definitions apply for purposes of credit qualification:

Fabricating — Making, building, creating, producing, or assembling components or property to work in a new or different manner.

Manufacturing — Converting or conditioning property by changing its form, composition, quality, or character ultimately for retail sale or use in the manufacturing of another product intended for retail sale.

Pollution Control — Activity that results in the abatement, reduction, or control of water, land, or air pollution or contamination by removing, altering, disposing, storing, or preventing the creation or emission of pollutants, contaminants, wastes, or heat, but only to the extent that such activity meets or exceeds local, regional, or state standards.

Process — The period beginning when raw materials are received and introduced into the manufacturing, processing, refining, fabricating, or recycling activity of the qualified taxpayer and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling activity has altered tangible personal property to its completed form, including packaging, if required.

Processing — Physical application of materials and labor needed to change the characteristics of property.

Recycling — Process of modifying, changing, or altering the physical properties of manufacturing, processing, refining, or fabricating secondary or postconsumer waste which results in the reduction, avoidance, or elimination of the generation of waste.

Refining — Conversion of a natural resource to an intermediate or finished product.

Research and Development — Those activities described in IRC Section 174.

Small Business — Any taxpayer that as of the last day of the taxable year in which the credit is allowed, has either:

- Gross receipts of less than \$50 million;
- Net assets of less than \$50 million;
- A total MIC of less than \$1 million; **or**
- Engaged in biopharmaceutical activities or other biotechnology activities (SIC Codes 2833 through 2836) and has not received regulatory approval for any product from the United States Food and Drug Administration (for taxable years beginning on or after January 1, 1997).

The determination of whether a taxpayer is a small business shall be made on a separate entity basis, and, in the case of any taxpayer engaged in multiple lines of business or that has multiple establishments, shall be made by aggregating all of the taxpayer's business activities.

H Limitations and Special Rules

The MIC is not refundable.

The credit will not be allowed for any property for which a whole or partial sales or use tax exemption or refund has been claimed.

S corporations may claim only 1/3 of the credit against the 1.5% entity-level tax (3.5% for financial S corporations).

S corporations can pass through 100% of the credit to their shareholders according to their ownership interest(s). Partnerships must allocate the credit among the partners according to the partner's distributive share as determined in a written partnership agreement (R&TC Section 17039(e)).

If a taxpayer owns an interest in a disregarded business entity, the amount of the credit that can be utilized is limited to the difference between the taxpayer's regular tax computed with the income of the disregarded entity, and the taxpayer's regular tax computed without the income of the disregarded entity. For more information on disregarded business entities, get Form 568, Limited Liability Company Tax Booklet.

This credit can reduce regular tax below tentative minimum tax (TMT). However, it cannot reduce the alternative minimum tax (corporations, exempt organizations, individuals, and fiduciaries).

This credit cannot reduce the minimum franchise tax (corporations and S corporations), the annual tax (partnerships, LLCs classified as partnerships, and QSub), the built-in gains tax (S corporations), or the excess net passive income tax (S corporations).

The cost basis of the qualified property for depreciation purposes is not reduced by the amount of the credit.

Taxpayers operating a business establishment in a Local Agency Military Base Recovery Area (LAMBRA) or the Targeted Tax Area (TTA), cannot claim the LAMBRA or the TTA sales or use tax credit and the MIC for the same property. For more information about LAMBRA, get FTB 3807, Local Agency Military Base Recovery Area Business Booklet. For more information about the TTA, get FTB 3809, Targeted Tax Area Business Booklet.

Taxpayers operating a business establishment in an enterprise zone may claim the enterprise zone sales or use tax credit and the MIC for the same property. For more information about enterprise zones, get FTB 3805Z, Enterprise Zone Business Booklet.

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. For example, a subsidiary corporation that generates a MIC cannot allocate the credit to the parent corporation.

A separate Form 3535 must be filed for each entity claiming the credit.

I Credit Carryover and Limitation

Any part of the credit exceeding the tax liability in the taxable year may generally be carried over for a maximum of eight years. However, if the qualified taxpayer meets the definition of a small business as of the last day of the taxable year in which year the credit is first allowed, then the credit may be carried over for 10 years. In no event can the credit be carried back and applied against a prior year's tax.

J Credit Recapture

If within one year from the date the property is first placed in service in California, the qualified property for which the MIC was allowed is:

- Removed from California;
- Used primarily for a nonqualifying purpose;
- Disposed of to an unrelated party as defined in IRC Sections 267, 318, or 707; **or**
- Acquired by a lessee (or acquired by a party related to the lessee) that is being leased by such lessee;

then the credit must be recaptured. The credit is recaptured by adding the amount of credit previously claimed to the qualified taxpayer's tax liability for the taxable year in which the recapture event occurs. Any MIC carryover should first be reduced to the full extent before adding any recaptured credit to the current year tax liability. Any recapture amount remaining after the reduction of the carryover should be added to tax.

Example: In May 2001, within one year of placing qualified property in service in California, K disposes of qualified property for which a \$150 MIC was previously allowed. K is required to recapture the entire \$150 MIC. Assume K had \$100 in available MIC carryovers. K would reduce its available MIC carryovers to zero and would then increase its tax liability for 2001 by \$50 (\$150 recapture amount less \$100 used to reduce available MIC carryovers).

If the recapture event occurs in the same taxable year in which the qualified property is first placed in service, then no MIC can be claimed for that property.

For taxable years beginning on or after January 1, 2001, taxpayers making the federal election to treat a stock purchase as an asset purchase will not trigger a recapture of the Manufacturers' Investment Credit.

Specific Instructions

Qualified Taxpayer's SIC Code Activity — Enter the SIC code of the establishment that qualifies you to take this credit. If your enterprise has more than one establishment, and if more than one of the establishments qualifies you to take this credit, enter the SIC code that best represents the primary qualifying establishment.

Do not enter the PBA code from your state or federal tax return. PBA codes are based on the NAICS and they are not the same as SIC codes. See General Information C, Qualified Taxpayer.

Specific Line Instructions

Part I — Credit Computation

Line 1— Attach an additional schedule(s) for the qualified costs information, if necessary.

Line 1, column (b) – Enter the numeric code from those listed that represents the type of property described in column (a). Property type code 3 can be used only when the primary use code is J. Enter the letter from those listed that represents the primary activity (used 50% or more of the time) in which the qualified property was used. The primary use codes are listed in form FTB 3535, Part I. Code J should be used for the following activities:

- The manufacturing of space vehicles and parts (SIC Codes 3761 through 3769) or space satellites and communications satellites and equipment (SIC Codes 3663 and 3812, but only for "qualified property" placed in service on or after January 1, 1996);
- The manufacturing of semiconductor equipment (SIC Code 3559, but only for "qualified property" placed in service on or after January 1, 1997);
- The manufacturing of computer and office equipment (SIC Codes 3571 through 3579) or electronic components and accessories (SIC Codes 3671 through 3679);
- Commercial physical and biological research and development on a contract or fee basis (SIC Code 8731); or
- The manufacturing, fabricating, or processing of medicinal chemicals and pharmaceutical products (SIC Codes 2833 through 2836) in a biopharmaceutical activity.

Note: If the primary use Code J is selected, the property type code cannot be 4. The computer software primary use Code I should be selected only if the SIC code is 7371, 7372, or 7373. See General Information G, Definitions.

Line 1, column (c) – Enter the four-digit SIC code for the primary activity in which the property was used. The property's SIC code activity is not necessarily the same as the qualified taxpayer's SIC code activity. See the list of SIC codes on pages 6 through 8.

Line 1, column (d) – Enter "N" if the property was not leased. If the property was leased, enter "Y" and see General Information F, Special Rules for Leased Property.

Note: If you are the lessor of the qualified property, you do not qualify for this credit.

Line 1, column (f) – Enter the amount of California sales or use tax paid. In general, the California sales or use tax must be paid (directly or indirectly) on the qualified costs (except for costs paid or incurred on certain direct capitalized labor). See General Information E, Qualified Costs.

Line 1, column (g) – For leased property under an operating lease, the lessee must enter the lessor's original cost less any California sales or use tax paid by the lessor. For leased property under a finance lease, the lessee must enter the lessee's acquisition cost less any California sales or use tax paid by the lessor or lessee.

Note: "Pay-as-you-go" leases do not qualify for the MIC because the lessor has not paid California sales or use tax on the lessor's acquisition of the property. See General Information F, Special Rules for Leased Property.

Line 1, column (h) – Enter the total amount of capitalized direct labor costs associated with the qualified property. Qualified capitalized direct labor costs are all direct costs of labor (as defined in IRC Section 263A and regulations thereunder) that can be clearly identified or associated with the construction, modification, or installation of qualified property. Indirect capitalized labor costs (such as training costs, officers compensation, pension costs, and employee benefit expenses) cannot be claimed. In addition, if the qualified property is type code 4, computer software, no capitalized labor costs may be claimed.

Line 1, column (j) – Only costs that are properly chargeable to a taxpayer's capital account except for operating leases, may be claimed as qualified costs; therefore, appropriate adjustments should be made to the qualified cost of the property for purposes of the MIC. Enter the total of accelerated deductions such as the IRC Section 179 deduction and the business expense deduction allowed for enterprise zones, LAMBRA's, and the TTA, and the partial sales or use tax exemption claimed for each item of property. Also, enter any unrecognized gain resulting from an IRC Section 1031 or 1033 exchange of this item for the item being replaced.

Line 5 – Enter any pass-through credit(s) received from S corporations, estates or trusts, partnerships, or LLCs passed through on Schedules K-1 (100S, 541, 565, or 568). Attach additional schedules if necessary.

Line 7 – S corporations may use the amount reported on this line (1/3 of the credit) to offset the 1.5% entity-level tax (3.5% for financial S corporations). The S corporation can then pass through 100% of the credit to its shareholders.

Line 8 – Enter the total available credit carryover from prior year(s) from the 2000 form FTB 3535, Part I, line 11.

Line 10 – The amount of this credit that 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. Use credit code number **199** when you claim this credit.

Credits generated by a pass-through entity must be determined at the entity level. Once the amount of total credit has been determined by the pass-through entity, it is then passed through to the shareholders, beneficiaries, partners, or members and claimed on each recipient's individual or entity tax return.

Note: Except as explicitly described in the paragraph above, the credit may not be allocated to other affiliated entities. For example, if one corporation is entitled to the credit but has no tax liability, it cannot allocate the unused credit amount to another member of the same unitary group.

Part II — Credit Use and Carryover Periods

The length of the credit carryover period is determined by whether or not the business meets the definition of a small business as of the last day of the taxpayer's taxable year in which the credit is first allowed. Therefore, the determination of whether the business meets the definition of a small business in subsequent years (years after the credit carryover is generated) has no bearing on the original determination of the length of the credit carryover period. If the business meets the definition of a small business as described in General Information G, Definitions, the credit carryover period is ten years. A business that is not a small business can carry over the credit for eight years.

The length of the credit carryover period for a credit generated by a pass-through entity (S corporation, estate or trust, partnership, or LLC classified as a partnership) is determined at the pass-through entity level.

Line 7, column (b) and line 14, column (b) – Enter the amount from Part I, line 6 or Part I, line 7 on either Part II, line 7 or Part II, line 14, as appropriate.

Part III — Credit Recapture

Any credit amounts previously claimed must be added back to your tax liability if any of the events listed below have occurred within one year of the date the qualified property was placed in service in California. The recapture codes listed to the left of each event that caused recapture of the MIC should be used to complete Part III, line 1, column (b), for each item of qualified property for which the credit must be recaptured.

Recapture Code	Event Causing Recapture
1	Qualified property is physically moved out of California.
2	Qualified property is primarily used in a non-qualified activity. See General Information D, Qualified Property, for more information on qualified activities.
3	Qualified property is sold or otherwise transferred to an unrelated party as defined in IRC Sections 267, 318, or 707.
4	Qualified leased property is acquired by the lessee-user (or party related to the lessee-user) who claimed the MIC for such leased property prior to acquiring the property.

If the recapture event occurs in the same taxable year in which the qualified property is first placed in service, then no MIC should be claimed for that property.

Line 1, column (a) – List each item of property that caused recapture.

Line 1, column (b) – Enter the recapture reason code from the list above that corresponds to the event that caused recapture of the MIC.

Line 1, column (c) – Enter the amount of recapture for each item of property entered in column (a).

Any MIC carryover should first be reduced to the full extent before adding any recaptured credit to the current year tax liability. Any recapture amount remaining after the reduction of the carryover should be added to tax and reported here (Part III, line 1, column (c)). See the instructions for line 2 below for where to report the recapture amounts on your California tax return. Also see the example in General Information J, Credit Recapture.

Line 2, column (c) – Add the amounts in column (c). Enter the total here and on your California tax return or schedule as follows:

- Form 100, Schedule J, line 5;

- Form 100S, Schedule J, line 5 and Schedule K-1 (100S), line 23. See note below;
- Form 100W, Schedule J, line 5;
- Form 109, Schedule K, line 4;
- Form 540, line 36;
- Form 540NR, line 45;
- Form 541, line 21b and Schedule K-1 (541), line 11e;
- Schedule K (565), line 22 and Schedule K-1 (565), line 22; or
- Schedule K (568), line 22 and Schedule K-1 (568), line 22.

Indicate that you included the MIC recapture on the tax return by writing "FTB 3535" in the space to the left of the amount on the schedule or form.

Shareholders, beneficiaries, partners, and members of S corporations, estates or trusts, partnerships, or LLCs classified as partnerships must recapture the portion of the credit that was previously claimed.

S corporations, estates or trusts, partnerships, and LLCs classified as partnerships must show the recapture amount for each shareholder, beneficiary, partner, or member on Schedules K-1 (100S, 541, 565, or 568) as provided above.

Note: For an S corporation, the recapture amount for the shareholder(s) will differ from the amount recaptured by the S corporation on Form 100S, Schedule J, line 5, since S corporations can only claim 1/3 of the credit.

Where to Get Tax Forms

By Internet – You can download, view, and print California tax forms and publications. Go to our Website at: www.ftb.ca.gov

Other state agencies' information can be accessed through the State Agency Index located on the California State Website at: www.ca.gov.

By phone – To order California tax forms, publications, and the individual current year federal booklets, call our automated telephone service. To order a form:

- Refer to the list in your tax booklet and find the code number for the form you want to order.
- Call (800) 338-0505 and follow the instructions.

Please allow two weeks to receive your order. If you live outside California, please allow three weeks to receive your order.

In person – Many libraries, post offices, and banks provide free California tax booklets during the filing season. Most libraries and some quick print businesses have forms and schedules for you to photocopy (a nominal fee may apply). Note that employees at libraries, post offices, banks, and quick print businesses cannot provide tax information or assistance.

By mail – Write to:

TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307

Standard Industrial Classification Manual, 1987 Edition (Partial Listing)

You must determine your SIC code(s) according to the rules and methods described in the Standard Industrial Classification Manual, 1987 Edition. Any SIC code assignment made by any federal, state (other than the California Franchise Tax Board (FTB)), regional or local government agency is not controlling.

The Standard Industrial Classification (SIC) Manual is organized using a hierarchical structure, first by division, then by two-digit major groups within each division, then by three-digit industry groups within each major group, and finally by four-digit industry codes within each industry group.

Classification of business activities is based upon establishments, which are defined in the SIC Manual as an economic unit, generally at a single physical location, where business is conducted, or where services or industrial operations are performed. A taxpayer's enterprise may consist of more than one establishment. The SIC Manual provides the following examples of establishments: a factory, mill, store, hotel, movie theater, mine, farm, ranch, bank, railroad depot, airline terminal, sales office, warehouse, or central administrative office. Where distinct and separate economic activities are performed at a single physical location (such as construction activities operated out of the same physical location as a lumber yard), each activity should be treated as a separate establishment where: (1) no one industry description in the SIC Manual includes such combined activities; (2) the employment in each economic activity is significant; and (3) separate reports are prepared on the number of employees, their wages and salaries, sales or receipts, property and equipment, and other types of financial data, such as financial statements, job costing, and profit center accounting.

For purposes of this form, the following SIC codes are listed since only taxpayers with establishments in these industry codes qualify for the MIC:

- SIC Codes 2011 through 3999; and
- SIC Codes 7371 through 7373 (for taxable years beginning on or after January 1, 1998).

In addition, special purpose buildings and foundations of taxpayers engaged in the following industry codes qualify for the MIC and are also included in the listing:

- Biotech activities classified under SIC Code 8731;
- Biopharmaceutical only activities classified under SIC Codes 2833-2836;
- Space vehicles and parts activities classified under SIC Codes 3761-3769;
- Space satellites and communications satellites and equipment activities classified under SIC Codes 3663 and 3812, on or after January 1, 1996;
- Semiconductor equipment manufacturing classified under SIC Code 3559, on or after January 1, 1997.

The complete Standard Industrial Classification (SIC) Manual, 1987 Edition, is available for purchase from:

NATIONAL TECHNICAL INFORMATION SERVICE
5285 PORT ROYAL ROAD
SPRINGFIELD VIRGINIA 22161

Order No. PB 87-100012

The manual is also available on the Internet at:

www.osha.gov/oshstats/sicser.html

The four-digit industry codes within Division D of the SIC Manual are: (*nec* means "not elsewhere classified")

3291 Abrasive products	3991 Brooms & brushes	3351 Copper rolling & drawing	3499 Fabricated metal products, nec
2891 Adhesives & sealants	3995 Burial caskets	3366 Copper foundries	3443 Fabricated plate work (boiler shops)
2879 Agricultural chemicals, nec	3578 Calculating & accounting equipment	2298 Cordage & twine	3498 Fabricated pipe & fittings
3563 Air & gas compressors		2653 Corrugated & solid fiber boxes	3069 Fabricated rubber products, nec
3728 Aircraft parts & equipment, nec	2064 Candy & other confectionery products	3961 Costume jewelry	3441 Fabricated structural metal
3724 Aircraft engines & engine parts		2074 Cottonseed oil	2399 Fabricated textile products, nec
3721 Aircraft	2062 Cane sugar refining	2021 Creamery butter	3523 Farm machinery & equipment
2812 Alkalies & chlorine	2033 Canned fruits & vegetables	3466 Crowns & closures	3965 Fasteners, buttons, needles, & pins
3354 Aluminum extruded products	2091 Canned & cured fish & seafood	3643 Current-carrying wiring devices	2875 Fertilizers, mixing only
3355 Aluminum rolling & drawing, nec	2032 Canned specialties	2391 Curtains & draperies	2655 Fiber cans, drums & similar products
3365 Aluminum foundries	2394 Canvas & related products	3087 Custom compound purchased resins	2262 Finishing plants, manmade
3353 Aluminum sheet, plate, & foil	3955 Carbon paper & inked ribbons	3281 Cut stone & stone products	2261 Finishing plants, cotton
3363 Aluminum die-casting	2895 Carbon black	3421 Cutlery	2269 Finishing plants, nec
3483 Ammunition, except for small arms, nec	3624 Carbon & graphite products	2865 Cyclic crudes & intermediates	3211 Flat glass
	3592 Carburetors, pistons, rings, & valves	2034 Dehydrated fruits, vegetables, & soups	2087 Flavoring extracts & syrups, nec
3826 Analytical instruments	2273 Carpets & rugs	3843 Dental equipment & supplies	2041 Flour & other grain mill products
2077 Animal & marine fats & oils	2823 Cellulosic manmade fiber	2675 Die-cut paper products	3824 Fluid meters & counting devices
2387 Apparel belts	3241 Cement, hydraulic	2085 Distilled & blended liquors	3492 Fluid power valves & hose fittings
2389 Apparel & accessories, nec	3253 Ceramic wall & floor tile	2047 Dog & cat food	2026 Fluid milk
3446 Architectural metal work	2043 Cereal breakfast foods	3942 Dolls & stuffed toys	3594 Fluid power pumps & motors
3292 Asbestos products	2022 Cheese, natural & processed	2591 Drapery hardware & blinds & shades	3593 Fluid power cylinders & actuators
2952 Asphalt felts & coatings	2899 Chemical preparations, nec	2023 Dry, condensed, & evaporated dairy products	2657 Folding paperboard boxes
2951 Asphalt paving mixtures & blocks	2067 Chewing gum	2079 Edible fats & oils, nec	2099 Food preparations, nec
3581 Automatic vending machines	2131 Chewing & smoking tobacco	3641 Electric lamps	3556 Food products machinery
2396 Automotive & apparel trimmings	2066 Chocolate & cocoa products	3634 Electric housewares & fans	3131 Footwear cut stock
3465 Automotive stampings	2111 Cigarettes	3699 Electrical equipment & supplies, nec	3149 Footwear, except rubber, nec
2673 Bags: plastic, laminated, & coated	2121 Cigars	3629 Electrical industrial apparatus, nec	2092 Fresh/frozen prepared fish/seafood
2674 Bags: uncoated paper & multiwall	3255 Clay refractories	3845 Electromedical equipment	2053 Frozen bakery products, except bread
3562 Ball & roller bearings	2295 Coated fabrics, not rubberized	3313 Electrometallurgical products	2038 Frozen specialties, nec
2063 Beet sugar	3316 Cold finishing of steel shapes	3679 Electronic components, nec	2037 Frozen fruits & vegetables
2836 Biological products except diagnostic substances	2754 Commercial printing, gravure	3678 Electronic connectors	2371 Fur goods
2782 Blankbooks & looseleaf binders	2752 Commercial printing, lithographic	3671 Electron tubes	2599 Furniture & fixtures, nec
3312 Blast furnace & steel mills	2759 Commercial printing, nec	3675 Electronic capacitors	3944 Games, toys, & children's vehicles
3564 Blowers & fans	3582 Commercial laundry equipment	3676 Electronic resistors	3053 Gaskets, packing, & sealing devices
3732 Boat building & repairing	3646 Commercial lighting fixtures	3677 Electronic coils & transformers	3569 General industrial machinery, nec
3452 Bolts, nuts, rivets, & washers	3669 Communication equipment	3571 Electronic computers	2369 Girls' & children's outerwear, nec
2731 Book publishing	3577 Computer peripheral equipment, nec	3534 Elevators & moving stairways	2361 Girls' & children's dresses, blouses
2732 Book printing	3575 Computer terminals	3694 Engine electrical equipment	3221 Glass containers
2789 Bookbinding & related work	3572 Computer storage devices	2677 Envelopes	3321 Gray & ductile iron foundries
2086 Bottled & canned soft drinks	3271 Concrete block & brick	3822 Environmental controls	
2342 Bras, girdles, & allied garments	3272 Concrete products, nec	2892 Explosives	
2051 Bread, cake, & related products	3531 Construction machinery	2381 Fabric dress & work gloves	
3251 Brick & structural clay tile	2679 Converted paper products, nec		
2211 Broadwoven fabric mills, cotton	3535 Conveyors & conveying equipment		
2221 Broadwoven fabric mills, manmade	2052 Cookies & crackers		
2231 Broadwoven fabric mills, wool			

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2771	Greeting cards	3829	Measuring & controlling devices, nec	3085	Plastic bottles	3559	Special industry machinery, nec
3764	Guided missile & space vehicle parts	2011	Meat packing plants	3086	Plastic foam products	3566	Speed changers, drives, & gears
3769	Guided missile & space vehicle parts, nec	3061	Mechanical rubber goods	2821	Plastic materials & resins	3949	Sporting & athletic goods, nec
3761	Guided missiles & space vehicles	2833	Medicinal & botanicals	3084	Plastic pipe	2678	Stationery products
2861	Gum & wood chemicals	2325	Men's & boys' trousers & slacks	3088	Plastic plumbing fixtures	3493	Steel springs, except wire
3275	Gypsum products	3143	Men's footwear, except athletic	3089	Plastic products, nec	3315	Steel wire & related products
3423	Hand & edge tools, nec	2323	Men's & boys' neckwear	2796	Platemaking service	3317	Steel pipe & tubes
3996	Hardsurface floor coverings, nec	2329	Men's & boys' clothing, nec	3471	Plating & polishing	3325	Steel foundries, nec
2429	Hardware, nec	2321	Men's & boys' shirts	2395	Pleating & stitching	3324	Steel investment foundries
2426	Hardwood dimensions & flooring mills	2322	Men's & boys' underwear & nightwear	3432	Plumbing fixture fittings & trim	3691	Storage batteries
2435	Hardwood veneer & plywood	2326	Men's & boys' work clothing	2842	Polishes & sanitation goods	3259	Structural clay products, nec
2353	Hats, caps, & millinery	2311	Men's & boys' suits & coats	3264	Porcelain electrical supplies	2439	Structural wood members, nec
3433	Heating equip, except electric	2514	Metal household furniture	2096	Potato chips & similar snacks	2843	Surface active agents
3536	Hoists, cranes, & monorails	3549	Metalworking machinery, nec	3269	Pottery products, nec	3841	Surgical & medical instruments
2252	Hosiery, nec	3398	Metal heat treating	2015	Poultry slaughtering & processing	3842	Surgical appliances & supplies
2392	House furnishings, nec	3411	Metal cans	3568	Power transmission equipment, nec	3613	Switchgear & switchboard apparatus
3142	House slippers	3412	Metal barrels, drums, & pails	3546	Power-driven handtools	2822	Synthetic rubber
3651	Household audio & video equipment	3431	Metal sanitary ware	3448	Prefabricated metal buildings	3795	Tanks & tank components
3635	Household vacuum cleaners	3497	Metal foil & leaf	2452	Prefabricated wood buildings	3661	Telephone & telegraph apparatus
3631	Household cooking appliances	3479	Metal coating & allied services	2045	Prepared flour mixes & doughs	3552	Textile machinery
3633	Household laundry equipment	3469	Metal stampings, nec	2048	Prepared feeds, nec	2393	Textile bags
3639	Household appliances, nec	3442	Metal door, sash, & trim	3652	Prerecorded records & tapes	2299	Textile goods, nec
2519	Household furniture, nec	2431	Millwork	3229	Pressed & blown glass, nec	2284	Thread mills
3632	Household refrigerators & freezers	3296	Mineral wool	3399	Primary metal products, nec	2282	Throwing & winding mills
2024	Ice cream & frozen desserts	3295	Minerals, ground or treated	3339	Primary nonferrous metals, nec	2296	Tire cord & fabrics
3491	Industrial valves	3532	Mining machinery	3334	Primary aluminum	3011	Tires & inner tubes
2819	Industrial inorganic chem, nec	2741	Misc publishing	3331	Primary copper	2141	Tobacco stemming & redrying
3599	Industrial machinery, nec	3449	Misc metal work	3692	Primary batteries, dry & wet	2844	Toilet preparations
2869	Industrial organic chem, nec	3496	Misc fabricated wire products	3672	Printed circuit boards	3612	Transformers, except electronic
3537	Industrial trucks & tractors	2451	Mobile homes	2893	Printing ink	3799	Transportation equipment, nec
2813	Industrial gases	3716	Motor homes	3555	Printing trades machinery	3792	Travel trailers & campers
3543	Industrial patterns	3711	Motor vehicles & car bodies	3823	Process control instruments	3713	Truck & bus bodies
3567	Industrial furnaces & ovens	3621	Motor & generators	3231	Products of purchased glass	3715	Truck trailers
2816	Inorganic pigments	3714	Motor vehicle parts & accessories	2531	Public building & related furniture	3511	Turbines & turbines generator sets
3825	Instruments to measure electricity	3751	Motorcycles, bicycles & parts	2611	Pulp mills	2791	Typesetting
3519	Internal combustion engines, nec	3931	Musical instruments	3561	Pumps & pumping equipment	3082	Unsupported plastic profile shapes
2835	In Vitro & In Vivo Diagnostic substances	2441	Nailed wood boxes & shook	3663	Radio & TV & communications equipment	3081	Unsupported plastic film & sheet
3462	Iron & steel forging	2241	Narrow fabric mills	3743	Railroad equipment	2512	Upholstered household furniture
3915	Jewelers' materials & lapidary work	2711	Newspapers	2061	Raw sugar cane	3494	Valves & pipe fittings, nec
3911	Jewelry, precious metal	2873	Nitrogenous fertilizers	3273	Ready-mixed concrete	2076	Vegetable oil mills, nec
2253	Knit outerwear mills	3297	Nonclay refractories	2493	Reconstituted wood products	3647	Vehicular lighting equipment
2254	Knit underwear mills	3644	Noncurrent-carrying wiring devices	3585	Refrigeration & heating equipment	3261	Vitreous plumbing fixtures
2259	Knitting mills, nec	3369	Nonferrous foundries, nec	3625	Relays & industrial controls	3262	Vitreous china table & kitchenware
3821	Laboratory apparatus & furniture	3364	Nonferrous die-casting, exc. aluminum	3645	Residential lighting fixtures	3873	Watches, clocks, & parts
2258	Lace & warp knit fabric mills	3357	Nonferrous wiredrawing & insulating	2044	Rice milling	2385	Waterproof outerwear
3083	Laminated plastic plate & sheet	3356	Nonferrous rolling & drawing, nec	2095	Roasted coffee	2257	Weft knit fabric mills
3524	Lawn & garden equipment	3341	Nonferrous metals	2384	Robes & dressing gowns	3548	Welding apparatus
3952	Lead pencils & art goods	3463	Nonferrous forgings	3547	Rolling mill machinery	2046	Wet corn milling
3199	Leather goods, nec	3463	Nonferrous forgings	3052	Rubber & plastic hose & belting	2084	Wines, brandy, & brandy spirits
2386	Leather & sheep-lined clothing	3299	Nonmetallic mineral products, nec	3021	Rubber & plastic footwear	3495	Wire springs
3111	Leather tanning & finishing	2297	Nonwoven fabrics	2068	Salted & roasted nuts & seeds	2337	Women's & misses' suits & coats
3151	Leather gloves & mittens	3579	Office machines, nec	2656	Sanitary food containers	2335	Women's, juniors', & misses' dresses
3648	Lighting equipment	2522	Office furniture, except wood	2676	Sanitary paper products	2341	Women's & children's underwear
3274	Lime	3533	Oil & gas field machinery	2013	Sausages & other prepared meats	2251	Women's hosiery, except socks
2411	Logging	3851	Ophthalmic goods	3425	Saw blades & handsaws	2339	Women's & misses' outerwear, nec
2992	Lubricating oils & greases	3827	Optical instruments & lenses	2421	Sawmills & planing mills, general	2331	Women's & misses' blouses & shirts
3161	Luggage	3489	Ordnance & accessories, nec	3596	Scales & balances, except laboratory	3171	Women's handbags and purses
2098	Macaroni, spaghetti, & noodles	2824	Organic fibers, noncellulosic	2397	Schiffli machine embroideries	3144	Women's footwear, except athletic
3541	Machine tools, metal cutting types	3565	Packaging machinery	3451	Screw machine products	2491	Wood preserving
3545	Machine tool accessories	2851	Paints & allied products	3812	Search & navigation equipment	2499	Wood products, nec
3542	Machine tools, metal forming type	3554	Paper industries machinery	3674	Semiconductors & related devices	2434	Wood kitchen cabinets
3695	Magnetic & optical recording media	2621	Paper mills	3263	Semivitreous table & kitchenware	2541	Wood partitions & fixtures
3322	Malleable iron foundries	2671	Paper coated & laminated, packaging	3589	Service industry machinery, nec	2521	Wood office furniture
2083	Malt	2672	Paper coated & laminated, nec	2652	Setup paperboard boxes	2517	Wood TV & radio cabinets
2082	Malt beverages	2631	Paperboard mills	3444	Sheet metal work	2449	Wood containers, nec
2761	Manifold business forms	2542	Partitions & fixtures, except wood	3731	Ship building & repairing	2511	Wood household furniture
2097	Manufactured ice	3951	Pens & mechanical pencils	3993	Signs & advertising specialties	2448	Wood pallets & skids
3999	Manufacturing industries, nec	2721	Periodicals	3914	Silverware and plate ware	3553	Woodworking machinery
3953	Marking devices	3172	Personal leather goods, nec	3484	Small arms	3844	X-ray apparatus & tubes
2515	Mattresses & bedsprings	2911	Petroleum refining	3482	Small arms ammunition	2281	Yarn spinning mills
3586	Measuring & dispensing pumps	2999	Petroleum & coal products, nec	2841	Soap & other detergents		
		2834	Pharmaceutical preparations	2436	Softwood veneer & plywood		
		2874	Phosphatic fertilizers	2075	Soybean oil mills		
		3861	Photographic equipment & supplies	3769	Space vehicle equipment & parts		
		2035	Pickles, sauces, & salad dressing	3764	Space propulsion units & parts		
				2429	Special product sawmills, nec		
				3544	Special dies, tools, jigs, & fixtures		

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The four-digit industry codes within Division I of the SIC Manual are: (*nec* means "not elsewhere classified")

- 8731 Commercial physical and biological research
- 7373 Computer integrated systems design
- 7371 Computer programming services
- 7372 Prepackage software