

Internal Revenue Code §45G

As enacted in the American Jobs Creation Act of 2004ⁱ and amended by the Gulf Opportunity Zone Act of 2005, the Tax Relief and Health Care Act of 2006, the Emergency Economic Stabilization Act of 2008ⁱⁱ, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, the Tax Increase Prevention Act of 2014, and the Protecting Americans from Tax Hikes Act of 2015.

26 USC SEC. 45G. RAILROAD TRACK MAINTENANCE CREDIT.

- (a) **GENERAL RULE.**—For purposes of section 38, the railroad track maintenance credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified railroad track maintenance expenditures paid or incurred by an eligible taxpayer during the taxable year.
- (b) **LIMITATION.**—
- (1) The credit allowed under subsection (a) for any taxable year shall not exceed the product of—
- (A) \$3,500, multiplied by
- (B) The sum of—
- (i) the number of miles of railroad track owned or leased by the eligible taxpayer as of the close of the taxable year, and
- (ii) the number of miles of railroad track assigned for purposes of this subsection to the eligible taxpayer by a Class II or Class III railroad which owns or leases such railroad track as of the close of the taxable year.
- (2) **ASSIGNMENTS.**—With respect to any assignment of a mile of railroad track under paragraph (1)(B)(ii)—
- (A) such assignment may be made only once per taxable year of the Class II or Class III railroad and shall be treated as made as of the close of such taxable year,
- (B) such mile may not be taken into account under this section by such railroad for such taxable year, and
- (C) such assignment shall be taken into account for the taxable year of the assignee which includes the date that such assignment is treated as effective.ⁱⁱⁱ
- (c) **ELIGIBLE TAXPAYER.**—For purposes of this section, the term ‘eligible taxpayer’ means—
- (1) any Class II or Class III railroad, and
- (2) any person who transports property using the rail facilities of a Class II or Class III railroad or who furnishes railroad-related property or services to a Class II or Class III railroad, but only with respect to miles of railroad track assigned to such person by such Class II or Class III railroad for purposes of subsection (b).^{iv}
- (d) **QUALIFIED RAILROAD TRACK MAINTENANCE EXPENDITURES.**— For purposes of this section, the term ‘qualified railroad track maintenance expenditures’ means gross^v expenditures (whether or not otherwise chargeable to capital account) for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2015^{vi} [caution: please read note on date], by a Class II or Class III railroad (determined without regard to any consideration for such expenditures given by the Class II or Class III railroad which made the assignment of such track).^{vii}

(e) OTHER DEFINITIONS AND SPECIAL RULES.—

- (1) CLASS II OR CLASS III RAILROAD.—For purposes of this section, the terms ‘Class II railroad’ and ‘Class III railroad’ have the respective meanings given such terms by the Surface Transportation Board.
- (2) CONTROLLED GROUPS.—Rules similar to the rules of paragraph (1) of section 41(f) shall apply for purposes of this section.
- (3) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any railroad track, the basis of such track shall be reduced by the amount of the credit so allowed.

(f) APPLICATION OF SECTION.—This section shall apply to qualified railroad track maintenance expenditures paid or incurred during taxable years beginning after December 31, 2004, and before January 1, 2017.^{viii}

- End -

Note: This document is unofficial. Taxpayers should confirm the statute text by consulting Title 26 of the United States Code.

ⁱ 26 USC 45G was created by §245 of Pub. L. 108-357

ⁱⁱ The Emergency Economic Stabilization Act of 2008, Pub. L. 110-343, also made a major change impacting the application of the 45G credit under the Alternative Minimum Tax. Section 316 of that law provides: “(b) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4), as amended by this Act, is amended— (1) by redesignating clauses (v), (vi), and (vii) as clauses (vi), (vii), and (viii), respectively, and (2) by inserting after clause (iv) the following new clause: “(v) the credit determined under section 45G, ”.” Paragraph (c)(2) of §316 provides: “The amendments made by subsection (b) shall apply to credits ... in taxable years beginning after December 31, 2007, and to carrybacks of such credits.”

ⁱⁱⁱ Prior to an amendment made by Pub. L. 109-135 §403(f), subsection (b) read as follows: (b) *Limitation.*—The credit allowed under subsection (a) for any taxable year shall not exceed the product of—(1) \$3,500, and (2) the number of miles of railroad track owned or leased by the eligible taxpayer as of the close of the taxable year. A mile of railroad track may be taken into account by a person other than the owner only if such mile is assigned to such person by the owner for purposes of this subsection. Any mile which is so assigned may not be taken into account by the owner for purposes of this subsection.

^{iv} Prior to an amendment made by Pub. L. 109-135 §403(f), paragraph (c)(2) read as follows: (c)(2) *any person who transports property using the rail facilities of a person described in paragraph (1) or who furnishes railroad-related property or services to such a person.*

^v The word “gross” was added after “means” in subsection (d) by Pub. L. 109-432 §423

^{vi} Subsection (d) was amended by §162 of H.R. 2029 (114th Cong., signed into law on 12/18/2015). Prior to that change qualified expenditures were limited to those made to track “...owned or leased as of January 1, 2005, by a Class II or Class III railroad...” §162(c)(2) of H.R. 2029 limited this change to the **2016 tax year** and beyond: “(c)(2) *Modification.*—The amendment made by subsection (b) shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2015.”

^{vii} “(determined without regard to any consideration for such expenditures given by the Class II or Class III railroad which made the assignment of such track)” was added to subsection (d) by Pub. L. 109-432 §423.

^{viii} The change from 1/1/2008 to 1/1/2010 in §316 of Pub. L. 110-343; §316(c). The change from 1/1/2010 to 1/1/2012 in §734 of Pub. L. 111-312; §734(b). The change from 1/1/2012 to 1/1/2014 in §306 of Pub. L. 112-240; §306(b). The change from 1/1/2014 to 1/1/2015 in §316(a) of Pub. L. 113-295; §316(b). The change from 1/1/2015 to 1/1/2017 in §162(a) of H.R. 2029 (114th Cong.) signed by the President on 12/18/2015 but not assigned a PL No. as of this writing.