

Instructions for Forms 6323 and 6324 2012 Alaska LNG Storage Facility Tax Credit

WHAT'S NEW

In 2012, the legislature passed SB 23 (AS 43.20.047), which provides a tax credit for a liquefied natural gas (LNG) storage facility. The credit is refundable if the claimant owes no other taxes, and owes no tax for the year the credit is claimed. See General Instructions below for more details.

GENERAL INSTRUCTIONS

Purpose of Form

Forms 6323 and 6324 are new forms developed to claim an income tax credit for a qualified LNG storage facility. This form is also used to give notice to the Department of Revenue of any cessation of operations required under AS 43.20.047(j), and to calculate the increase to tax for the cessation.

Form 6323 is designed to be attached to the corporate income tax return (Form 611, 611SF, or 650), or to be attached to the partnership information return (Form 6900). Form 6324 is provided to claim a refund by filing the form separately, directly with the DOR. Form 6324 is also used to separately report the tax due upon cessation of operations, if the original claim for refund was filed separately. See details below in How To Claim Credit and How To Report Increase To Tax For Early Cessation Of Operations.

The credit is available for a new LNG facility that commences commercial operation after December 31, 2010, and before January 1, 2020. If the facility was in operation as an LNG facility prior to January 1, 2011, then a credit is available for an expansion of the facility based on certain requirements. The credit may not exceed the lesser of \$15,000,000 or 50 percent of the costs incurred to establish or expand the facility. The facility must have a LNG storage volume of not less than 25,000 gallons of LNG, or for an existing facility, the expansion must increase capacity by not less than 25,000 gallons. The facility must be regulated under AS 42.05 as a utility. The law imposes certain other requirements for the credit.

How to Claim Credit

If the owner of the LNG facility is a corporation, or an LLC that is treated as a corporation for tax purposes, then the credit must be claimed on its Form 611, 611SF, or 650, as applicable. The credit is reported on Form 6323 and must be attached to the corporate income tax return.

If the owner of the LNG facility is a partnership, or an LLC that is treated as a partnership for tax purposes, then the credit may be claimed in one of two ways. (For brevity, these instructions use "partnership" to refer to either an entity organized as a partnership, or an LLC that is treated as a partnership for tax purposes. "Partner" is similarly used to refer to the partner, or LLC member, as applicable.)

- a) Claim by Partner. The credit may be allocated among partners, according to the partnership agreement. In this case, report the credit on Form 6323, and attach to Form 6900 Alaska Partnership Information Return. The credit will then flow through to the applicable Form 6900 Schedule K-1. The partnership must attach a copy of the Form 6323, and required attachments (see below) to the Form 6900

Schedule K-1 provided to the partner. This will allow the partner to claim the credit on its tax return.

- b) Direct Claim. Alternatively, the partnership may itself claim a refund of the credit, by filing Form 6324 directly with the DOR. The claim may be filed at any time after the facility commences commercial operations, up to the date that is three years after the date that commercial operations commenced. The Form 6324 must be signed and mailed to the following address:

TAX DIVISION
ALASKA DEPARTMENT OF REVENUE
PO BOX 110420
JUNEAU AK 99811-0420

Required Attachments For Credit

Along with Form 6323 or 6324, the claimant must attach the following items to the return:

- Certification of the capacity of the LNG facility measured in gallons, verified by a professional engineer licensed in the state with relevant experience
- Schedule of costs incurred to establish the facility or to expand the facility, with verification by an independent certified public accountant licensed in the state.

If the claimant does not attach the required information, the claim will be disallowed.

How To Report Increase To Tax For Early Cessation Of Operations

If the owner of the LNG storage facility is a corporation, or an LLC that is treated as a corporation for tax purposes, then the increase to tax under AS 43.20.047(h) must be reported on its Form 611, 611SF, or 650, as applicable. Form 6323 (Part II) must be completed and attached to the corporate income tax return.

If the owner of the LNG storage facility is a partnership, or an LLC that is treated as a partnership for tax purposes, then the reporting of the additional tax liability under AS 43.20.047(h) will depend on how the credit was originally claimed.

- a) Reported By Partner. If the original credit was allocated to, and claimed by, partners, then the increase to tax (recapture of credit) under AS 43.20.047(h) must be allocated on the same basis as the original credit. The increase to tax is reported on Form 6323 and attached to Form 6900. A copy of the Form 6323 must be attached to the applicable Form 6900 Schedule K-1. The partner must then report the increase in tax on its tax return.
- b) Direct Reporting. If the partnership originally claimed the credit directly from the DOR, then the partnership must report the increase in tax on Form 6324, and file the form, and pay the increase in tax to the DOR at the above address. This report is due by April 15 of the year following the year of the cessation of commercial

operations. The tax must be paid by March 15 of the year following the calendar year in which operations ceased. The tax due is subject to assessment of interest, if not paid by the due date.

SPECIFIC INSTRUCTIONS

The instructions below pertain to both Forms 6323 and 6324, unless otherwise stated.

Prepare one Form 6323 for each facility for which a credit is claimed, or a cessation of operations, is being reported.

Part I

Line 3: If the facility owner is a corporation, or an LLC treated as a corporation for tax purposes, then enter the amount from line 3 on Form 6300, line 21. Attach the Form 6323 to the corporation's net income tax return (Form 611, 611SF, or 650).

If the facility owner is a partnership, then enter the amount from line 3 on Form 6900, Schedule A, line 16. Attach Form 6323 to Form 6900.

Form 6324, line 3: This is the amount of refund claimed by the owner of the LNG storage facility.

Part II

Question h: Enter the date that the facility or expansion ceased operations in the following format: mm/dd/yyyy.

Line 8: If the facility owner is a corporation, or an LLC treated as a corporation for tax purposes, then enter the amount from line 8 on the Schedule E, line 5 of the Form 611 or 650, or on Schedule E, line 3 of the Form 611SF, as appropriate.

If the facility owner is a partnership, and the original credit was allocated to partners, then enter the amount from line 8 on Form 6900, Schedule A, line 18. Attach Form 6323 to Form 6900. See instructions for Form 6900.

Form 6324, line 8: This is the amount of tax that is due from the owner of the gas storage facility, for early cessation of operations.

Signature (Form 6324 only): Form 6324 must be signed by a general partner or LLC member manager.