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Clean Energy Tax Credits Q&A Panel

Meet the Presenters



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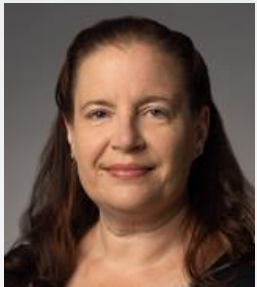
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IRA – History & Significance

- **History of the Act:**

- Based on the Build Back Better framework
- Originally included in the Biden Administration's policy goals
- Signed into law on 8/16/22 by President Biden

- **Significance of the IRA for TEOs:**

- Leveling the playing field for clean-energy investment
- Opportunities to offset the cost of deferred maintenance/planned capital investments
- Alignment with ESG objectives & goals

IRA – Clean Energy Credits

CAPITAL EXPENDITURES

- Clean energy property
- Construction/renovation

MANUFACTURING

- Manufacture of clean energy property
- Re-equip/expand manufacturing facility of clean energy property

CARBON SEQUESTRATION

- Capture – Dispose or Utilize

ALTERNATIVE FUELS

- Clean Nuclear
- Biodiesel & others
- Clean Hydrogen
- Aviation Fuels

ELECTRIC VEHICLES

- Vehicles
- Charging stations
- Mobile machinery

ENERGY PRODUCTION

Qualifying Property – Examples

CAPITAL EXPENDITURES

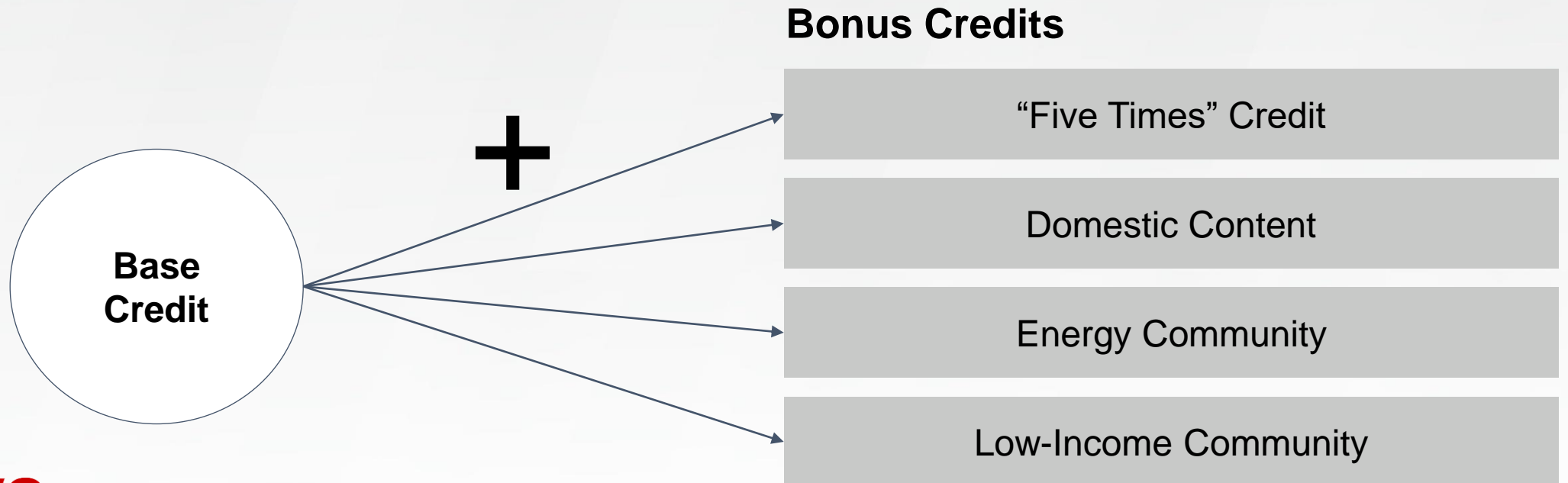
- Clean energy property
 - Construction/renovation
-
- Solar panels
 - Combined heat and power systems
 - Dynamic glass
 - Battery storage
 - Heating/cooling equipment using ground or ground water
 - Improvements: HVAC, lighting, hot water systems, building envelope

ELECTRIC VEHICLES

- Vehicles
 - Charging stations
-
- Vans
 - Emergency vehicles
 - Vehicle fleets
 - Electric charging stations
 - Alternative fuel charging stations

Credit Mechanics

- General framework: “base” with “bonus” opportunities
- Once all is considered, IRA provides for higher credit amount opportunities
 - “Old” credit base generally cut 80% starting 1/1/2023



Bonus Credits

- “Five Times” Bonus Credit – Either:
 - Project less than 1 megawatt, OR
 - Prevailing wage and apprenticeship requirements (PWA)

BASE X 5

Prevailing Wage Requirement

- Pay at least prevailing wage to all laborers and mechanics on project
 - Employed by taxpayer, contractor, or subcontractor
 - Consider including in contracts
- Wage determination: <http://www.sam.gov>
- Recordkeeping requirements
- Cost/benefit analysis of increased pay versus credit benefit

Apprenticeship Requirement

- If four (4) workers, must have at least one qualifying apprentice
- Request from qualifying apprenticeship programs
- Recordkeeping requirements
 - Daily “proof” required

2023 Clarifications – Prevailing Wage and Apprenticeship (PWA)

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- **Proposed Regs– Prevailing Wage and Apprenticeship (PWA)**
 - General guidance
 - Good Faith Exception (apprenticeship requirement)
 - Acknowledgement of request meets requirement
 - Follow-up request required within 120 days
 - Partial denial not full denial
 - Documentation and Retention
 - Supplemental wage determination requests
 - Recordkeeping
 - Penalty, interest, and correction payments
 - “Cure” now available – penalty and correction payments, allows for increased credit despite not meeting PWA requirements
 - “Cure” responsibility of transferor

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Bonus Credits

DOMESTIC CONTENT

10%

- Content requirements:
 - Steel & Iron– 100% U.S. Sources
 - Manufactured product – 40% US components

ENERGY COMMUNITY

10%

- Defined as:
 - Brownfield Site
 - Statistical area– specific requirements
 - Census tract with (or adjoining) closed coal mine
- Website/map available

LOW-INCOME HOUSING

10%-20%

- Only available for certain:
 - Solar facilities
 - Wind facilities

IRA – Example

- Company X placed a solar panel in service in 2023. The basis of the property is \$100,000. Assuming all bonus credit requirements are met, the credit calculation would be:

Pre IRA

Description	Rate/ Calculation	Credit Amount
Base credit	30%	<u>\$30,000</u>

Post IRA

Description	Rate/Calculation	Credit Amount (Cumulative)
Base credit	6%	\$6,000
5 times bonus	x5	\$30,000
Domestic content	10%	\$40,000
Energy community	10%	\$50,000

Inflation Reduction Act of 2022 (IRA)

Applicable
Credits for
Elective
Payments

Credit	Code Section
Alternative Fuel Vehicle Refueling Property Credit	30C
Renewable Energy Production Credit	45
Carbon Oxide Sequestration Credit	45Q
Zero-Emission Nuclear Power Production Credit	45U
Clean Hydrogen Production Credit	45V
Credit for Qualified Commercial Clean Vehicles	45W
Advanced Manufacturing Production Credit	45X
Clean Electricity Production Credit	45Y
Clean Fuel Production Credit	45Z
Renewable Energy Investment Credit	48
Qualifying Advanced Energy Project Credit	48C
Clean Electricity Investment Credit	48E

Elective Payments

- Cash payment available instead of credit
- **Benefit:**
 - Tax-exempt entities
 - + For example, State or political subdivisions, TVA, Indian Tribal governments, Alaska Native Corporations, certain corporate co-ops that provide electric energy
 - Taxable entities (45V, 45Q, and 45X only)
- Elective Payments available through 12/31/32
- Election is irrevocable for tax year once made
- For some credits, only 90% of credit available if domestic content not met **&** the maximum net output is 1MW or greater (after 12/31/2023)

2023 Clarifications – Registration

- **Registration requirements (T.D. 9975 & FAQs)**
 - Registration required to transfer credits or make direct pay election
 - Register on [IRS electronic portal](#)
 - [Publication 5884](#) provides step-by-step guide to using the portal
 - Property must be placed in service prior to registration
 - Credits registered should be reported on the correct Forms within the annual tax return filings
 - Pub 5884 includes chart with listing of credits/Forms
 - Note: Taxpayers not normally required to file an annual tax return (such as state or local governments) would file a Form 990-T with the registration number to claim direct pay

2023 Clarifications – Registration

“Bulk” uploads allowable: Sections 30C, 45, 45W, 48

- Separate registration number required for each facility/property
- Multiyear credits require renewed registration numbers

IRS reviews registration submissions in order it receives them

- IRS has stated to expect a 120 day “lag” from submission to receipt of registration number

Changes to submission, or additional submissions, only allowed after processed

2023 Clarifications – Registration

- **Information needed for pre-registration:**
 - General
 - For example: EIN, address, type of entity, bank account info
 - Credit specific, for example:
 - Project information: coordinates, date construction began, date placed in service, source of funds used, etc.
 - Permits
 - Engineer certification, commissioning report
 - Evidence of ownership
 - Life cycle analysis

Claiming the Credit

- **How do I make the election & receive payment?**
 - The elective payment election is then made on the annual tax return, along with any form(s) required to claim the credit, & a completed Form 3800 General Business Credit
 - Additional information, including supporting calculations, may be required
 - The election can only be made on an original, timely filed return (including extensions)
 - Election can only be made for the full credit
 - Election is irrevocable once made

Direct Pay Election

- **My organization/institution is not required to file a tax return—what do I do?**
 - Entities not normally required to file a return must file a tax return to make the elective payment election
 - For tax-exempt organizations – Form 990-T
 - Ensure extensions are not missed for initial returns

Investment/Production Tax Credit

	Section 48-Investment Tax Credit	Section 45- Production Tax Credit
How is it calculated?	<ul style="list-style-type: none"> Credit is a % of cost 	<ul style="list-style-type: none"> Credit per unit of energy produced
How much is the credit?	<ul style="list-style-type: none"> 6% base Bonus credits eligible (50% possible) 	<ul style="list-style-type: none"> 0.3 cents/kWh Bonus credit eligible (1.8 cents/kWh possible) Adjust for inflation
When can I take the credit?	<ul style="list-style-type: none"> Taken when property placed in service Construction to begin before 1/1/25 for some property (then Section 48E) 	<ul style="list-style-type: none"> Credit over 10-year period Construction to begin before 1/1/25 for some property (then Section 45Y)
Examples	<ul style="list-style-type: none"> Battery storage Heating/cooling equipment using ground or ground water Combined heat and power system Dynamic glass Solar panels 	<ul style="list-style-type: none"> Closed or open-loop biomass facilities Qualified hydropower facilities Gas or trash facilities Wind facilities Solar or geothermal facilities

Questions to Ask...

Indicators of Section 45 (PTC) / 48 (ITC) Credits:

- Are you experiencing increasing energy prices greater than national average?
- Are you planning for new construction or capital improvements to buildings?
- Do you have vacant land or available roof space? Land could include undeveloped lots or parking lots

Client Examples

- A chain of hospital clinics installed solar panels on the roofs of its buildings
- A client incorporated dynamic glass and new heat pumps into its office building
- A client in Hawaii analyzed new solar projects due to escalating energy prices provided by the “grid”

Electric Vehicles Related Credits

Section 45W– Qualified Commercial Electric Vehicle Credit

- Electric vehicle OR mobile machinery
- Credit limits: \$7,500 (GVWR <14,000 lbs.) or \$40,000 (all other)
- **Examples:**
 - Electric emergency vehicles & transport vans
 - Electric vehicle fleet

Section 30C– Alternative Fuel Vehicle Refueling Property

- “Charging stations”
 - Recharges electric vehicles
 - Stores or dispenses clean-burning fuel to a motor vehicle tank
- 6% base, bonus eligible up to 30%
- \$100,000 credit limit per item of property
- Non-urban or low-income area required
- **Examples:**
 - Electric charging stations
 - Clean fuel recharging stations

Building & Construction

- **Section 179D – Energy Efficient Commercial Buildings Deduction**
 - Deduction for construction and improvement of buildings
 - Property reduces energy costs by 25% or more vs. building meeting ASHRAE standards
 - Available for improvements or new construction
 - Building envelope, HVAC, hot water systems, interior lighting
 - **Changes made by IRA:**
 - Now a permanent credit
 - “Max” potential deduction \$1 or \$5 per square foot (subject to inflation)
 - Annual rather than lifetime cap
 - Lower ASHRAE standards target
 - Tax-exempt entities can “transfer” credit to designer

179D

Background

Why

What

Benefit

- ❑ Established by the Energy Policy Act of 2005
 - Goal was to entice building owners and designers into building energy efficient buildings.
 - ❑ HVAC
 - ❑ Lighting
 - ❑ Envelope

- ❑ **Old Rules - apply to property PIS before 12/31/2022**
 - ❑ Applies to qualified energy efficient commercial property
 - ❑ Allows for a deduction up to \$1.80 per square foot
 - ❑ *Partial Deduction* of \$0.60 Per Square Foot for Lighting, HVAC, or Building Envelope

- ❑ **Limited to the cost of the energy efficient property**

179D Deduction Changes in 2023

- Maximum Deduction Changes to Either \$1.00 or \$5.00 per Square Foot
- Must show reduction of energy –
 - If **25% more efficient** * = base deduction is **\$0.50** per square foot (NO A&PW REQ MET)
 - + For every percentage point over 25% efficiency, the deduction is increased \$0.02 per square foot up to \$1.00 per square foot,
 - If you meet apprenticeship and prevailing wage requirements, **base deduction is \$2.50** per square foot
 - + For every percentage point over 25% efficiency, the deduction increases of \$0.10 per square foot up to \$5.00 per square foot,
 - If **50% more efficient** * = deduction is **\$1.00** per square foot (NO A&PW REQ MET)
 - If you meet apprenticeship and prevailing wage requirements, **deduction is \$5.00** per square foot

*Added layer of requirements to get to the higher deduction amounts
relies on meeting the Apprenticeship & Prevailing Wage (A&PW)*

- Partial Deduction Eliminated

179D Deduction

- No Lifetime Cap on Deduction
 - *Previously* a lifetime cap of \$1.80 per square foot
 - + Deduction cap will now reset every four (4) years
- Not only Government entities – Expanded to tax-exempt organizations, Indian tribal governments and Alaska Native corporations

- **Allocation process**

179D is a tax deduction, not a credit. A NFP can't take the deduction for themselves / use it, nor can they "sell it." However, starting with buildings placed in service from 1/1/2023 and forward, the NFP building **owner can sign an allocation letter to the "designer" of the energy efficient property for that designer to take the deduction on their tax return.**

Allocation

1. Name, address, and telephone number of authorized representative of the owner of the government/Indian tribal/Alaska Native Corp./tax-exempt-owned building:
2. Name, address, and telephone number of authorized representative of the designer receiving the allocation of the §179D deduction:
3. Name and address of subject government/Indian tribal/Alaska Native Corp./tax-exempt-owned building on or in which the property is installed:
4. Cost of the qualifying or partially qualifying energy-efficient commercial building property installed
5. Date the property is placed in service:
6. The amount of the §179D deduction allocated to the designer:
7. Signatures of the authorized representatives

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- Pursuant to Section 179D(d)(4) and Notice 2008-40 Section 3, in the case of energy-efficient commercial building property (or partially qualifying commercial building property for which a deduction is allowed under §179D) that is installed on or in property owned by a federal, state, or local government or a political subdivision thereof, the owner of the property may allocate the §179D deduction to the person primarily responsible for designing the property (the designer). The deduction will be allowed to the designer for the taxable year that includes the date on which the property is placed in service.
- Beginning January 1, 2023 (per the *Inflation Reduction Act of 2022*), eligibility for the deduction is expanded to include designers of energy-efficient commercial building property installed in buildings owned by government entities, Indian tribal governments, Alaska Native Corporations, and tax-exempt organizations.
- **A designer is a person who creates the technical specifications for installation of energy-efficient commercial building property.** A designer may include, for example, an architect, engineer, contractor, environmental consultant, or energy services provider who creates the technical specifications for a new building or an addition to an existing building that incorporates energy-efficient commercial building property. A person who merely installs, repairs, or maintains the property is not a designer.
- If more than one designer is responsible for creating the technical specifications for installation of energy-efficient commercial building property on or in a government/Indian tribal/Alaska Native Corp./tax-exempt-owned building, the owner of the building shall: 1) determine which designer is primarily responsible and allocate the full deduction to that designer or 2) at the owner's discretion, allocate the deduction among several designers.

Questions

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- When should our organization start the analysis for potential opportunities?
- We are building a new building – what credit opportunities should we consider?
- We are investing in EV charging stations – where do we go to determine if our location is eligible?

- We don't normally file a tax return – what do we need to consider?
- What documentation should we expect to maintain?
- Do we need to have UBI or taxable income in order to claim these credits?

- How can we monetize 179D if we determine we have an eligible project?
- We are considering using tax-exempt bond financing – how will that impact our ability to claim these credits?

Questions?

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