September 2022

Inflation Reduction Act of 2022: Summary of Clean Energy Credits

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The Inflation Reduction Act of 2022 (the "Act") was signed into law by President Biden last month. Below is summary of certain tax benefits for clean energy production.

Extension of the PTC

- Extends the production tax credit (PTC), which allows energy producers to claim a credit based on electricity produced from renewable energy resources through 2024. (Projects placed in service prior to January 1, 2022 remain subject to the prior PTC phase-out.).
  - The provision provides a base credit rate of 0.3 cents/kilowatt hour, or a bonus credit rate of 1.5 cents/kilowatt hour if prevailing wage and apprenticeship requirements are met.
  - 10% increase in credit for facilities that meet domestic content requirements or if the project is located in an "energy community" (that also meets the prevailing wage and apprenticeship requirements).
    - An "energy community" includes a "brownfield site" as defined in CERCLA ("real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant," followed by a number of exceptions).
  - Reduction in credit for facilities financed using tax exempt bonds.

Extension of the ITC

- Extends the investment tax credit (ITC), which allows taxpayers to claim a tax credit for the cost of energy property for ten years and then begins to step-down in 2033.
  - Base credit rate of 6% of the basis of energy property or a bonus credit rate of 30% of the basis of energy property if prevailing wage and apprenticeship requirements are met.
  - 10% increase in credit for facilities that meet domestic content requirements or if the project is located in an "energy community" (that also meets the prevailing wage and apprenticeship requirements).
  - Reduction in credit for property financed using tax exempt bonds

Clean Electricity Production Credit

- Replaces the PTC for qualifying facilities placed in service after December 31, 2024 that produce electricity and have a greenhouse gas emissions rate of zero.
  - The provision provides a base credit rate of 0.3 cents/kilowatt hour, or a bonus credit rate of 1.5 cents/kilowatt hour if prevailing wage and apprenticeship requirements are met.
  - 10% increase in credit for facilities that meet domestic content requirements or if the project is located in an "energy community" (that also meets the prevailing wage and apprenticeship requirements).

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Clean Electricity Investment Credit

- The Clean Electricity Investment Credit is available for any investment in a qualified facility and storage facility that is placed in service after December 31, 2024, and produces or stores electricity with a greenhouse gas emissions rate of zero. However, a qualified facility does not include any facility that is eligible for credits under sections 45 (including PTC and ITC), 45J, 45Q, 45U, 48A, or 45Y.
  - Base credit rate of 6% of the basis of energy property or a bonus credit rate of 30% of the basis of energy property if prevailing wage and apprenticeship requirements are met.
  - 10% increase in credit for facilities that meet domestic content requirements or if the project is located in an "energy community" (that also meets the prevailing wage and apprenticeship requirements).

Direct Pay

- A tax-exempt entity such as a state or local government, the Tennessee Valley Authority, an Indian tribal government, or any Alaska Native corporation (an "applicable entity"), may elect a direct pay option for the ITC, PTC, clean electricity production credit, clean energy investment credit, carbon capture and sequestration credit, advanced manufacturing production credit, clean fuel production credit, zero-emission nuclear power production credit, clean hydrogen production credit, and other energy related credits covered in the Act.
- The direct pay option treats the tax credits as a payment.

Transferability

- Taxpayers may elect to transfer the ITC, PTC, clean electricity production credit, clean electricity investment credit, carbon capture and sequestration credit, advanced manufacturing production credit, clean fuel production credit, zero-emission nuclear power production credit, and other energy related credits covered in the Act to an unrelated taxpayer.
- The transferred credit must be exchanged for cash that is not included in the transferor's income, nor deducted by the transferee. The Transferee also cannot further transfer any credits it received in a transfer.
- "Applicable entities," (tax-exempt entity such as a state or local government, the Tennessee Valley Authority, an Indian tribal government, or any Alaska Native corporation) may not transfer credits.
- The election to transfer the credits must be made by the due date of the return (including extensions) for the taxable year for which the credit is determined.

For more information or to discuss how changes to tax laws and regulations will impact you or your business, please call or email:

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