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Clean Energy Tax Credits for State and Local Governments

FGFOA

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Polling Question 1

Have you utilized elective/direct pay under the Inflation Reduction Act?

A. Yes
B. No
C. Not yet, but planning on it
D. Not sure

The Inflation Reduction Act

IRA Snapshot

Created and modified a number of renewable energy credits as well as financing programs

Created new monetization options for tax-exempt and taxable entities

Section 6417 provides an elective pay option (i.e., cash refund) for:

- Tax-exempt organizations
- State and local governments (all levels)
- Tribal governments
- Rural electric cooperatives

Section 6418 provides a transferability option for for-profit organizations

- Taxpayers can buy and sell credits for cash

IRS is actively processing refunds

Future of the IRA?

Opportunities for Govt Entities

New building construction and renovations

Fleet electrification and charging infrastructure

HVAC improvements

Solar panel installations

Pricing leverage for Section 179D allocations

Capital project forecasting

Refundable/Transferable Credits

§30C Alternative fuel vehicle refueling property credit
§45 Electricity produced from certain renewable resources, etc.
§45Q Credit for carbon oxide sequestration
§45U Zero-emission nuclear power production credit
§45V Credit for production of clean hydrogen
§45W Credit for qualified commercial clean vehicles (elective pay only)
§45X Advanced manufacturing production credit
§45Y Clean electricity production credit
§45Z Clean fuel production credit
§48 Energy credit
§48C Advanced energy project credit
§48E Clean electricity investment credit

Know Your Dates

- IRA is effective for assets PIS on or after Jan. 1, 2023
- Credits may be claimed once property is placed in service
- Construction start date is important under the IRA
  - Construction generally starts when:
    - 5% or more of the cost of the property is incurred, or
    - Physical work of a significant nature begins
- Fiscal year end will determine period in which property is placed in service and tax return due dates (discussed later)

Specific Credit Opportunities

Investment Tax Credit (ITC) – Sections 48 and 48E

Tax credit based on a percentage of the cost of qualified property

6% base credit

30% base credit if:

- Prevailing wage and apprenticeship (PWA) is met,
- Construction started prior to Jan. 29, 2023, or
- System is less than 1 megawatt (does not apply to all ITC property)

Examples of ITC Eligible Property

- Solar (rooftop, car port, ground-mounted)
- Geothermal HVAC
- Wind
- Biogas
- Battery energy storage systems
- Combined heat and power systems
- Hydropower

Section 30C Alternative Fuel Refueling Credit

6% of the cost of any single item of qualified property not meeting PWA, up to $100,000

30% of the cost of qualified property if PWA is met, up to $100,000

Qualified property must be installed in locations that meet one of the following census tract requirements:

- The census tract is not an urban area,
- A population census tract where the poverty rate is at least 20%, or
- Metropolitan and non-metropolitan area census tract where the median family income is does not exceed 80% of the state median family income level

Section 45W Clean Vehicle Credit

Applies to clean commercial vehicles and mobile machinery acquired or leased after 2022 and before 2033

Credit equals the lesser of:

- 15% of the vehicle’s basis (30% if fully electric) or
- Incremental cost of the vehicle

Max credit is:

- $7,500 for vehicles less than 14,000 GVWR, and
- $40,000 for all others

Polling Question 2

How much does your governmental entity focus on renewable energy and energy efficient improvements?

A. A significant amount
B. A moderate amount
C. Not enough
D. Not at all

Bonus Credits

Prevailing Wage And Apprenticeship (PWA)

- Increases base credit by 5X (from 6% to 30%) – if project meets 1-MW or construction date exceptions, PWA is not needed
- Requires that all laborers and mechanics employed on an energy construction project are paid at least the prevailing wage rates for the type of work performed in the geographic area of the facility as determined by the Department of Labor in accordance with the Davis-Bacon Act
- Must maintain strict recordkeeping of each laborer or mechanic’s hourly rates, hours worked, deductions from wages, and actual wages paid, among other records.

PWA Cont’d

- A taxpayer and its contractors and subcontractors who employ four or more workers on an energy construction project (including repair work) must hire at least one qualified apprentice
- For construction beginning in 2023, at least 12.5% of the total labor hours on a construction project (including repair work) must be performed by a qualified apprentice from a registered apprenticeship program
    - This percentage increases to 15% for projects beginning in 2024 or after
- Good faith exception for apprenticeship requirements if qualified apprentices have been requested from a registered apprenticeship program and either (i) the request was denied for reasons other than the taxpayer, contractor, or subcontractor’s refusal to comply with the program’s standards and requirements, or (ii) the program failed to respond within five business days of receiving a request

Domestic Content Bonus

- Projects are eligible for an additional bonus credit of 10% (2% if 5X multiplier not met) if the following conditions are met:
  - 100% of any steel or iron that is a component of the facility is manufactured in the United States
  - Not less than the applicable percentage of the manufactured components of the facility are manufactured in the United States:
    - 40% in 2024
    - 45% in 2025
    - 50% in 2026
    - 55% in 2027

100% of steel and iron

Applicable percentage of manufactured products

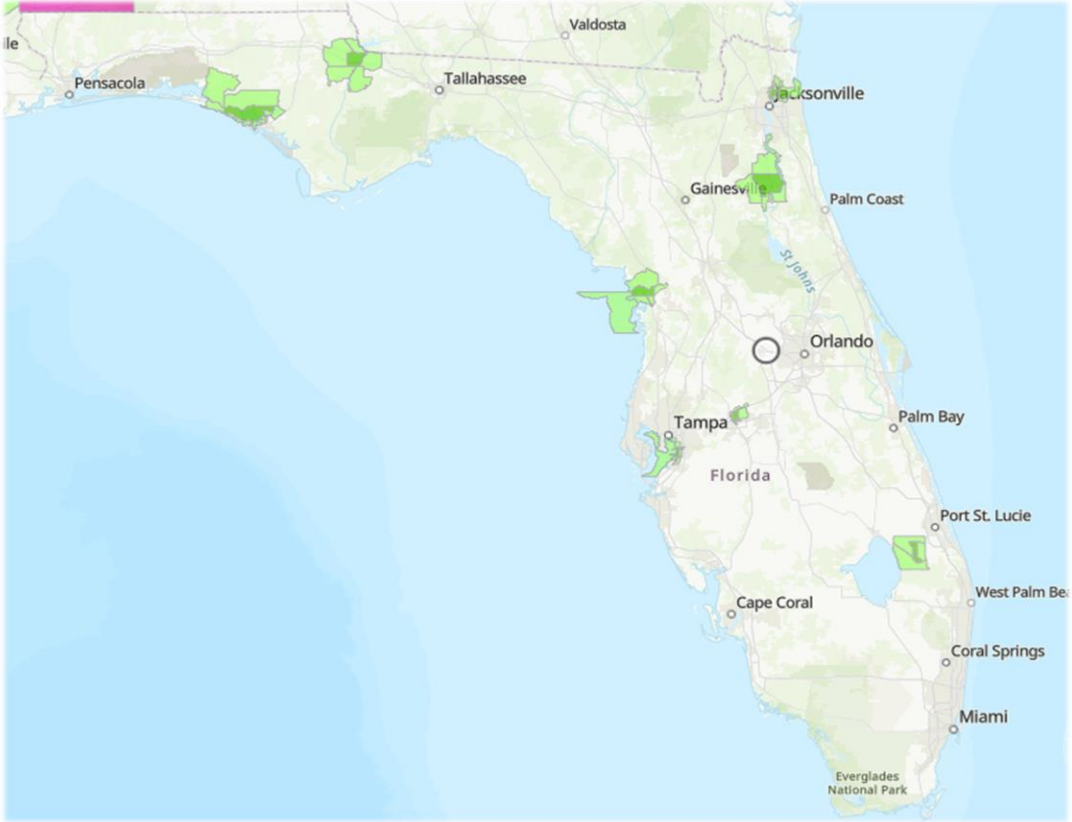
Domestic Content Cont'd

- Credits are reduced beginning in 2024 if DC isn't met (unless exception applies)
  - 90% of base amount in 2024
  - 85% of base amount in 2025, and
  - 0% for projects that begin construction after Dec. 31, 2025
- Exceptions to domestic content claw-back
  - Projects less than 1 MW
  - Increased cost exception (increases overall project cost by more than 25%)
  - Non-availability exception
- IRS notices provide elective safe harbor for solar, land-based wind, and battery energy storage systems
  - Use assigned cost percentages for applicable projects
  - If elected, must use in its entirety for that project

Energy Community Bonus

- Projects are eligible for an additional bonus credit of 10% (2% if 5X multiplier not met) if the facility is located in any of the following:
  - A brownfield site, or
  - An area that:
    - Has (or, at any time during the period beginning after December 31, 2009, had) 0.17% or greater direct employment or 25% or greater local tax revenues related to the extraction, processing, transport, or storage of coal, oil, or natural gas,
    - Has an unemployment rate above the national average for the previous year, or
    - Has a census tract or a census tract that is adjoining a census tract in which a coal mine has closed after 1999 or a coal-fired electric generating unit was retired after 2009

Energy Community Map of FL



Low-Income Community Bonus

Project is built in a low-income community as defined by the New Markets Tax Credit or on Indian Land can receive an increased tax credit of 10%

Project associated with a low-income residential building project, or a low-income economic benefit project, can receive an increased tax credit of 20%

Polling Question 3

What is the highest possible credit percentage available under the IRA (base credits plus bonus credits)?

A. 30%
B. 50%
C. 60%
D. 70%

Grants and Tax-Exempt Bonds

Grant Funding

- Grant funding **may** reduce otherwise allowable credits
- Excess benefit rule
    - If a grant, forgivable loan, or other exempt income is received for the specific purpose of purchasing or constructing ITC property, and the sum of such amounts plus the applicable credit otherwise determined with respect to that property exceeds the cost of the property, then the amount of the applicable credit is reduced so that the total amount of applicable credit plus the amount of any restricted tax-exempt amounts equals the cost of investment-related credit property

Grant Funding Cont’d

- The determination of whether a tax-exempt grant is made for the specific purpose of purchasing, constructing, reconstructing, erecting, or otherwise acquiring ITC property is made at the time the grant is awarded to the applicable entity
- A tax-exempt grant awarded after the property is purchased, constructed, etc. is generally not a restricted tax-exempt amount unless approval of the grant was perfunctory and the amount of the grant was virtually assured at the time of application
- Examples of tax-exempt amounts that are not restricted tax-exempt amounts are:
  - A tax-exempt amount from the organization’s general funds is not a restricted tax-exempt amount, and
  - A tax-exempt amount’s use that is not restricted to the purpose of purchasing, constructing, reconstructing, erecting, or otherwise acquiring ITC property (such as purchasing an electric vehicle) and could be used for any of several different applicable credit properties (such as purchasing an electric vehicle or purchasing solar panels) or can be put to other purposes (such as purchasing an electric vehicle or making a building more energy efficient)

Tax-Exempt Bonds

- ITC property acquired using proceeds from a tax-exempt bond issuance must be reduced by the lesser of:
  - 15% of the pre-reduction ITC, or
  - The product of the pre-reduction ITC and a fraction
    - The numerator of which is the amount of current and all prior taxable years' tax-exempt bond proceeds used to finance the ITC energy property, and
    - The denominator of which is the aggregate amount of the additions to the capital account for the ITC property for the current taxable year and all prior taxable years
- Tax-exempt bond credit reduction rule applies before the application of Section 6417
- Thus, any tax credit reduction that is required for tax-exempt grants and forgivable loans under the Section 6417 excess benefit rule is computed after application of the tax-exempt bond issuance credit reduction rule discussed above

Credit Monetization

Claiming Direct Payments

Pre-filing registration

- Must be completed prior to filing the tax return where a direct pay election is made
- Must provide certain information about organization, the credits you intend to claim, and details regarding the property giving rise to the credit
- A registration number will be issued that will be required when making the election on tax return
- IRS will issue a separate registration number for each applicable credit property

Making the election on a tax return

- Must be made on a timely filed return (including extensions) → cannot be made on an amended return
- Must be filed on Form 990-T by due date along with:
  - Form 3800 (General Business Credit)
  - Applicable credit form and registration info from above
  - State and local governments that do not file a tax return will need to file a Form 990-T for this limited purpose
  - Govt entities can elect calendar year or different fiscal year

Section 179D Deduction Allocations

Section 179D Energy Efficient Building Deduction

How it works

- Per square foot deduction for the construction or renovation of energy efficient buildings
- Sliding scale up to $5.35 per sq. ft. if prevailing wage/apprenticeship requirements are met
- Based on ASHRAE energy efficiency standards
- Buildings must be modeled and certified by third-party engineer

Opportunity for Governmental Entities

- Deduction can be allocated by SLGs to designers of building systems (often this will be the architect)
- Allocation process is simple (standard letter template)
- Could mean indirect benefit to through pricing negotiations
- Plan for it during bid and proposal phase of projects

Polling Question 4

Have you ever allocated a Section 179D deduction to a designer of a building?

A. Yes
B. No
C. Not sure

Process and Case Studies

Process Flow

Planning

- Identify potential eligible projects
- Gather planning information

Construction

- Monitor prevailing wage and apprenticeship, if applicable
- Gather documentation needed for credit calculations
- Apply for Low-Income Community Bonus, if applicable, when project is in progress and **before project is completed**.

Credit Monetization

- Detailed cost segregation study and credit calculations
- Pre-register with the IRS
- File 990-T and supporting credit forms prior to filing deadline

Case Study – County in the Southeast

Large solar projects across multiple municipal buildings.

All over 1 MW.

Some projects were exempt from PWA and DC reduction due to BOC date; some were not.

Two solar projects submitted for YE Sept. 30, 2024 totaling $1.8 million.

EV credits also claimed.

IRS has approved solar credits but not issued the refunds → EV credits are being scrutinized per IRS feedback.

Case Study – City in the Southwest

City with multiple projects, some outside current fiscal year

Several solar projects, charging infrastructure, EV purchases

One project was in service prior fiscal year and filing deadline had passed

No grant or tax-exempt funding

Results - $1.2M claimed

Elected a different year end for 990-T filing, able to capture project that would have been outside current fiscal year

Case Study – State Community College

$3.3M geothermal and $1M solar system, part of $19M project

Construction started in 2021

Partially funded by a $1M grant

Both systems under 1MW

Client had done own cost segregation and needed assistance with filing

Results - $1.3M claimed

Assessed impact of grant funding – no excess benefit

Performed full cost segregation study

Total credit of $1.3M – increased credit by $60K as compared to client calculation

Legislative Update

Polling Question 5

What legislative change would impact you most?

A. Termination of EV and EV charger credits
B. Accelerated phase-down and termination of solar investment tax credit
C. Termination of Section 179D deduction
D. None

"One Big Beautiful Bill"

- Passed the House on May 22, 2025
- Senate released its version of the bill on June 16, 2025
- House and Senate versions differ from an energy credit perspective
- Bills need to be reconciled before they can go to the president

OBBB Key Energy Credit Comparison

Credit	House Version	Senate Version
Section 45W – Commercial Clean Vehicles	Repeals credit for vehicles acquired after December 31, 2025, except for vehicles placed-in-service before 2033 if acquired pursuant to a written binding contract entered into before May 12, 2025.	Repeals credit for vehicles acquired more than 180 days after the date of enactment (DOE). Vehicles under 14,000 lbs. must now comply with the critical mineral and battery component restrictions in 30D effective for vehicles acquired after June 16, 2025.
Section 30C – Alternative Fuel Refueling Credit	Repeals credit for property placed in service after December 31, 2025.	Repeals the credit for property placed in service more than 12 months after DOE.
Section 48E – Clean Electricity Investment Credit	Except for advanced nuclear facilities, no credit is allowed for any qualified facility for which the construction begins after the date which is 60 days after enactment of the bill or which is placed in service after December 31, 2028.	Phases out credit for wind and solar facilities that begin construction in 2026 (60%), 2027 (20%), and after 2027 (0%).

OBBB Key Energy Credit Comparison Cont'd

Credit	House Version	Senate Version
Section 45Y – Clean Electricity Production Credit	Termination of the credit for facilities that have not begun construction 60 days after DOE and have not been placed in service by December 31, 2028.	Phases out credit for wind and solar facilities that begin construction in 2026 (60%), 2027 (20%), and after 2027 (0%).
Section 45Z – Clean Fuel Production Credit	Repeals transferability for fuel produced after December 31, 2027; extends the credit through 2031; requires fuel to be produced from feedstocks produced or grown in the U.S., Mexico or Canada for fuel sold after December 31, 2025.	Extends the credit through 2031; restricts access to credit for certain foreign entities; prevents double-dipping for entities claiming SAF credit and eliminates Sec. 6426(k) SAF credits after 9/30/2025. For fuels produced after 2025: imposes 20% haircut on credit value for fuels produced from non-domestic feedstocks.
Section 179D – Energy Efficient Commercial Building Deduction	Silent	Terminates the deduction for property that begins construction more than 12 months after DOE.

Questions…

Thank you!

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