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ELECTIVE PAYMENT "DIRECT PAY" GUIDE

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Monetizing Renewable & Clean Energy Tax Credits

Tax credits incentivize the development of renewable and clean energy projects by providing a dollar-for-dollar reduction in the amount of federal income tax owed by the project owner (also known as the sponsor), effectively lowering the overall cost of capital of the project. Traditionally, for-profit sponsors have been able to reduce their federal income tax liability by the amount of the credit or, if they have insufficient tax liability, monetize the credits by partnering with investors (commonly known as Tax Equity Financing). In 2022, the Inflation Reduction Act (IRA) added two new tax credit monetization options: (i) Transferability, which allows for-profit sponsors to sell certain credits for cash, and (ii) Elective Payment (also known as Direct Pay), which for the first time allows tax-exempt sponsors to monetize certain credits.

Monetization of Tax Credits

Tax Equity Financing	Transferability	(Direct Pay) Elective Payment
PARTNER WITH INVESTORS	**SELL CREDITS TO AN UNRELATED THIRD PARTY**	**RECEIVE A TAX REFUND IN THE AMOUNT OF THE CREDIT**
PROS ➔ Established market ➔ Monetization of depreciation ➔ No pre-registration **CONS** ➔ Limited to for-profits ➔ Sponsor keeps day-to-day decision-making, but gives up majority ownership (typically through the recapture period) ➔ Most complex option **BEST FOR** ➔ For-profits with projects/portfolios large enough & of sufficient credit quality to attract traditional tax credit investors ➔ Projects that need to monetize depreciation	**PROS** ➔ Sponsor may retain full ownership ➔ Less complex than Tax Equity Financing ➔ All or a portion of the credit can be sold **CONS** ➔ Limited to for-profits ➔ Requires pre-registration with IRS ➔ No monetization of depreciation **BEST FOR** ➔ For-profits with projects/portfolios that are not large enough or of sufficient credit quality to attract traditional tax credit investors	**PROS** ➔ Tax-exempts (nonprofits & units of govt) can access tax credits ➔ Credits may be accessed at full value ➔ No third-party investor/purchaser **CONS** ➔ Primarily limited to tax-exempts ➔ Requires pre-registration with IRS ➔ No monetization of depreciation ➔ Failure to meet domestic content standards may reduce the credit ➔ For tax-exempt entities, partnerships not permitted **BEST FOR** ➔ Tax-exempt entities ➔ For-profits accessing §45Q, §45V or §45X credits

Traditional Tax Equity Financing

For-profit sponsors can monetize tax credits by partnering with investors who would like to reduce their tax burden. While there are various tax equity financing structures (such as partnership flips, sale-leasebacks and inverted leases), in essence the investor makes an equity investment in the project and in return, receives ownership benefits, including depreciation, a portion of the project cash flow and the right to claim a portion of the tax credits. The sponsor and investor negotiate terms and pricing.

Pros:

- There is an established market for tax equity financing, with fairly settled expectations among sponsors, investors and lenders.
- In addition to monetizing the tax credits, tax equity financing allows for monetization of depreciation and some portion of project cash flow, allowing the sponsor to increase the total amount of capital raised from investors. As a result, this option will typically raise more equity than Transferability.
- There is no requirement for advance registration of the credits with the IRS.

Cons:

- While there is an established market, not all projects will meet the underwriting standards or needs of investors.
- Due to the complex structure of tax equity financing and the related accounting, consulting and legal fees (including the cost of obtaining a tax opinion), it can be expensive and time-consuming to syndicate and close this type of transaction.
- Depending on the timing of the investor's equity injection into the project, third-party bridge financing may be required.
- In addition to the time and financial outlays for closing these structures, there are ongoing reporting obligations and guarantees that the sponsor must provide to the tax equity investor. For example, the sponsor may be obligated to provide the investor with certain protections from acts or omissions that could trigger recapture.
- While the sponsor is responsible for day-to-day decision making, the sponsor is not the majority owner of the property until after the end of the recapture period.
- The sponsor cannot lease the project to a tax-exempt entity, although in States where power purchase agreements (PPAs) are authorized, tax-exempt entities are permitted to purchase the electricity.
- The financial accounting and reporting of these structures by the tax credit investor and the sponsor can be complex.
- This option is limited to for-profit sponsors (and certain not-for-profit entities whose corporate subsidiaries make an election to be taxed).

Unknowns: As yet, it is unclear how Transferability and Elective Payment will impact the tax equity financing market and pricing. Early indications are that these markets will co-exist, balancing the need to maximize the amount of equity raised with the relative ease and cost to execute.

Best for: For-profit sponsors with larger projects, or a portfolio of projects that can absorb higher transaction costs (e.g., projects with a minimum size of about $5 million); stronger projects that can attract tax credit investors; and/or projects that need to monetize both the credits and depreciation. Ex: utility scale projects; community solar projects; portfolios of distributed generation assets.

Transferability, IRC Section 6418

For eleven tax credits, Transferability allows for-profit sponsors to transfer all or a portion of the tax credit to unrelated third-party taxpayers in exchange for cash, allowing the purchasing taxpayer to claim the tax credit. The sponsor and purchasing taxpayer negotiate terms and pricing.

Pros:

- Transferability is a less complex (and therefore potentially less expensive) process than traditional tax equity financing.
- Sponsors can retain full ownership of the project.
- Transferability is expected to expand the pool of tax credit investors.
- Transferability provides an option for tax credit monetization for projects that may not be large enough or of sufficient credit quality to attract the investors that traditionally participate in tax equity financing. Similarly, Transferability provides an option for newer sponsors who have yet to establish a track record and sponsors with novel technologies.
- The financial accounting and reporting for the purchasing taxpayer is typically simpler with Transferability as compared to traditional tax equity financing.
- All or a portion of the tax credits can be sold, and portions can be sold to different buyers. Bonus credits cannot be separated from the underlying tax credit, however; the sale of a portion of the tax credit must include a proportional share of any bonus credit.
- Cash paid to the sponsor by the purchasing taxpayer is not treated as taxable income for federal income tax purposes.

Cons:

- The tax credit property must be registered with the IRS in advance of filing the tax return that makes the Transfer election.
- If the purchasing taxpayer conditions a portion of its payment on the filing of the sponsor’s tax return, relatively long-term bridge financing may be required.
- Transferability does not allow monetization of depreciation, so those deductions remain with the sponsor. For sponsors and projects with insufficient taxable income, the value of the depreciation deduction may go unrealized.

- A credit can only be transferred once; the purchasing taxpayer is not permitted to make any subsequent transfer of the purchased credit.
- Subject to limited exceptions, the purchasing taxpayer bears the financial responsibility for any post-transfer recapture event in the case of tax credits that have recapture provisions (i.e., the Investment Tax Credits under Sections 48 and 48E, the Advanced Energy Project Credit under Section 48C and the Carbon Oxide Sequestration credit under Section 45Q), and the sponsor may be obligated to provide the purchasing taxpayer with certain protections from acts or omissions that could trigger recapture.
- The sponsor cannot lease the project to a tax-exempt entity, although in States where power purchase agreements (PPAs) are authorized, tax-exempt entities are permitted to purchase the electricity.
- While the transaction costs are typically lower than a traditional tax equity financing, there are still costs to take into account (ex: obtaining a tax opinion from a law firm).
- Excessive transfers (claiming more tax credits than earned) are subject to a 20% penalty.
- Transferability and Elective Payment cannot be combined.

Unknowns:

- Final regulations are still being developed, and it is not yet clear how pricing will develop for transferable tax credits.
- Market standards have yet to develop with respect to the degree of underwriting the purchasing taxpayer will perform, or the guarantees and indemnities they will require the sponsor to provide.
- The market has not yet settled on the timing of payments for the tax credits, however early indications are that a portion of the purchase price likely will be deferred until the filing of the tax return reflecting the Transfer election.

Best for: For-profit sponsors, including newer sponsors, with projects or portfolios that are not large enough (e.g., under about $5 million), or are not of sufficient credit quality, to attract traditional tax credit investors. Ex: rooftop solar; smaller community solar projects.

Elective Payment (aka Direct Pay), IRC Section 6417

Elective Payment, also known as Direct Pay, allows eligible entities to treat twelve tax credits as a payment of tax and, to the extent it is an overpayment, the IRS will issue a refund.

Pros:

- For the first time, tax-exempt entities and units of government (“Applicable Entities”) will be able to receive the applicable tax credits for building qualifying clean energy projects or making qualifying investments.

- For-profit sponsors that elect to be treated as an Applicable Entity can make an Elective Payment election with respect to three credits (i.e., the Carbon Oxide Sequestration Credit under Section 45Q, the Clean Hydrogen Production Credit under Section 45V and the Advanced Manufacturing Production Credit under Section 45X).
- Elective Payment permits tax credits to be claimed at face value, rather than at a discounted amount.
- Tax credits can be monetized without entering a transaction with a third party.

Cons:

- The tax credit property must be registered with the IRS in advance of filing the tax return that makes the Elective Payment election.
- Because Applicable Entities and Electing Taxpayers can only receive the credits as a tax refund, relatively long-term bridge financing may be required.
- Elective Payment does not allow monetization of depreciation, so tax-exempt Applicable Entities cannot take advantage of this tax deduction. (Similarly, for-profit taxpayers electing to be treated as an Applicable Entity who have insufficient taxable income may not be able to realize the value of the depreciation deduction.)
- With respect to certain Investment Tax Credits (§48 and §48E) and Production Tax Credits (§45 and §45Y), projects that are not exempted from the requirement must meet domestic content requirements to avoid a reduction of the credit amount.
- Partnerships are not Applicable Entities, even if all of the partners are Applicable Entities. As a result, tax-exempt entities that form a legal partnership to own the underlying tax credit property are not eligible to make an Elective Payment election. (This restriction does not apply to for-profit taxpayers electing to be treated as an Applicable Entity to make an Elective Payment election with respect to the Carbon Oxide Sequestration Credit under Section 45Q, the Clean Hydrogen Production Credit under Section 45V and the Advanced Manufacturing Production Credit under Section 45X).
- Elective Payment and Transferability cannot be combined.

Unknowns: Elective Payment is a new option. As the IRS processes Elective Payment elections on 2023 tax returns, we will learn more about timing and best practices.

Best for:

- Tax-exempt sponsors with ownership of projects of any size or technology.
- For-profit sponsors eligible to make an Elective Payment election with respect to the Carbon Oxide Sequestration Credit under Section 45Q, the Clean Hydrogen Production Credit under Section 45V and the Advanced Manufacturing Production Credit under Section 45X).

Elective Payment (aka Direct Pay)

Elective Payment (often informally referred to as Direct Pay) is one of the provisions of The Inflation Reduction Act of 2022 (“IRA”) and is codified in Section 6417 of the Internal Revenue Code (“IRC”). Elective Payment allows applicable tax-exempt and governmental entities (“Applicable Entities”) to monetize any of twelve specified tax credits for projects that are “placed in service” in taxable years beginning after December 31, 2022. Although Applicable Entities typically do not owe federal income taxes, by filing an income tax return and electing to treat the applicable tax credits as a tax payment, the Applicable Entity will receive a tax-free cash refund (i.e., a “direct” payment) in the amount of the credit. In addition, for-profit entities may elect to be treated as an Applicable Entity (“Electing Taxpayers”) with respect to three of the applicable credits, and to the extent the amount of the credit is an overpayment of taxes, the Electing Taxpayer will receive a tax-free cash refund.

Applicable Entities

Only the following types of entities are eligible to make an Elective Payment election:

- **Nonprofit Entities.** Organizations described in §501 through §530 that meet the requirements to be recognized as exempt from tax under those sections are eligible to make an Elective Payment election. This includes all organizations described in §501(c), such as public charities, private foundations, social welfare organizations, labor organizations, business leagues and others; religious or apostolic organizations described in §501(d); and homeowners associations exempt from taxation under §528.
- **Government Units.** States and their political subdivisions such as local governments, federally recognized Indian Tribal governments, Alaska Native Corporations, the Tennessee Valley Authority, rural electric co-operatives (including §1381(a)(2)(C) taxable rural electric cooperatives and §501(c)(12) tax-exempt rural electric cooperatives), U.S. territories and their political subdivisions (provided, in the case of U.S. territories with mirror tax code systems, the territory elects to have Section 6417 treated as part of U.S. income tax law), and agencies and instrumentalities of state, local, Tribal, and U.S. territorial governments, are eligible for Elective Payment. This includes cities, counties, and other political subdivisions, as well as water districts, school districts, economic development agencies, and public universities and hospitals that are agencies and instrumentalities of states or political subdivisions.
- **For-Profit Entities.** While for-profit entities are generally ineligible for Elective Payment, they may elect to be treated as an Applicable Entity for three specific tax credits: (1) the Section 45Q Carbon Oxide Sequestration Credit, (2) the Section 45V Production of Clean Hydrogen Credit, or (3) the Section 45X Advanced Manufacturing Production Credit. For-profit entities that elect to be treated as an Applicable Entity are referred to as “Electing Taxpayers.” There are additional rules for partnerships and S-corporations.

Applicable Credits

An Elective Payment election can be made only for the following tax credits:

- **Investment Tax Credit (ITC) for Energy Property (§48).** A tax credit for investment in energy projects including fuel cell, certain solar property, geothermal, small wind, energy storage, biogas, microgrid controllers, waste energy recovery property and combined heat and power as well as dynamic glass and in some cases interconnection property. Projects must "begin construction" a before January 1, 2025. (Note that certain projects eligible for the §45 Production Tax Credit can elect to be treated as eligible for the §48 Investment Tax Credit.)
- **Clean Electricity ITC (§48E).** A technology-neutral credit for facilities that generate clean electricity and separately for qualified energy storage technologies for which the anticipated greenhouse gas emissions are not greater than zero. Section 48E replaces Section 48 for projects that are "placed in service" on or after January 1, 2025. There is a transition rule for Section 48 projects that "begin construction" before January 1, 2025.
- **Production Tax Credit (PTC) for Electricity from Renewables (§45).** A credit for electricity generated by eligible renewable sources and sold to unrelated persons, including wind, biomass, geothermal, solar, small irrigation power, municipal solid waste, hydropower, marine and hydrokinetic energy. Projects must "begin construction" before January 1, 2025.
- **Clean Electricity PTC (§45Y).** A technology-neutral credit for facilities that generate clean electricity for which the greenhouse gas emissions are not greater than zero. Section 45Y replaces Section 45 for projects that are "placed in service" on or after January 1, 2025. There is a transition rule for Section 45 projects that "begin construction" before January 1, 2025.
- **Alternative Fuel Vehicle Refueling Property Credit (§30C).** Alternative fuel vehicle refueling and charging property located in low-income and non-urban areas can earn a credit up to 30% of the cost capped at $100,000 per unit. Alternative fuels include electricity and fuel mixes where at least 85% of the volume consists of ethanol, compressed natural gas, liquefied natural gas, liquified petroleum gas or hydrogen, and certain mixes of biodiesel or kerosene.
- **Commercial Clean Vehicle Credit (§45W).** Purchasers of qualifying commercial clean vehicles can earn a credit of up to $40,000 (with a maximum of $7,500 for vehicles that weigh less than 14,000 lbs). Qualifying vehicles include passenger vehicles, buses, ambulances, and certain other vehicles for use on public streets, roads, and highways.
- **Zero-Emission Nuclear Power Production Credit (§45U).** For electricity from certain nuclear power facilities in operation prior to August 16, 2022.
- **Clean Fuel Production Credit (§45Z).** A technology-neutral tax credit for domestic production of clean transportation fuels, beginning in 2025.
- **Advanced Energy Project Credit (§48C) – by application only.** The Advanced Energy Project Credit is based on the cost of equipment used in advanced energy facilities. Because this credit has a $10 billion allocation (at least $4 billion of which will be allocated to projects in certain energy communities), it is only available to taxpayers that submit a successful application.
- **Carbon Oxide Sequestration Credit (§45Q).** A credit for carbon oxide sequestration coupled with permitted end uses. (For-profit entities may elect to be treated as an Applicable Entity and make an Elective Payment election with respect to this credit for the first five years of operations.)

- **Clean Hydrogen Production Tax Credit (§45V).** A production tax credit for clean hydrogen. (For-profit entities may elect to be treated as an Applicable Entity and make an Elective Payment election with respect to this credit for the first five years of operations.)
- **Advanced Manufacturing Production Credit (§45X).** A production tax credit for clean energy manufacturing of components, including certain solar and wind energy, inverters, battery components, and critical materials sold to unrelated persons. (For-profit entities may elect to be treated as an Applicable Entity and make an Elective Payment election with respect to this credit for the first five years of operations.)

Note that the terms “begin construction” and “placed in service” have specific meanings with respect to energy property and must meet IRS requirements. In general:

- **Begin construction.** A taxpayer may establish the beginning of construction by starting physical work of a significant nature (known as the Physical Work Test), or by paying or incurring 5% or more of the total cost of the energy property (known as the 5% Safe Harbor). To use either the Physical Work Test or the 5% Safe Harbor to determine the date that construction begins, the taxpayer must make continuous progress towards completion.
- **Placed in service.** A project is placed in service on the date the property is placed in a state of readiness and availability for its specifically assigned function. Generally, the IRS considers a five-factor test to determine whether an energy property is placed in service based upon the specific facts at hand, including approval of the required licenses and permits, the passage of control of the property to the taxpayer, the completion of critical tests, the commencement of regular operations, and the synchronization of the facility into a power grid for generating electricity to produce income.

Increases and Reductions to the Tax Credit Amount

The IRA includes "bonus" credits, also known as "adders," that may increase the amount of the tax credit if certain conditions are satisfied. These adders can be "stacked" to cumulatively increase the total amount of the credit. Note, however, that failure to meet certain requirements may result in a reduction of the amount of the tax credit.

Start of Construction 2023 to 2033

	CREDIT	DOMESTIC CONTENT BONUS	ENERGY COMMUNITY BONUS	TOTAL POTENTIAL CREDIT	LOW-INCOME COMMUNITIES BONUS	TOTAL POTENTIAL CREDIT WITH LICB
ITC (§48 & §48E) <1MW	30%	10%	10%	50%	By application only, additional 10% to 20%	Up to 70%
ITC (§48 & §48E) ≥1MW + PWA	30%	10%	10%	50%		
ITC (§48 & §48E) ≥1MW, no PWA	6%	2%	2%	10%	N/A	N/A
PTC (§45 & §45Y) <1MW	$2.75/kWh	$0.275/kWh	$0.275/kWh	$3.30/kWh	N/A	N/A
PTC (§45 & §45Y) ≥1MW + PWA	$2.75/kWh	$0.275/kWh	$0.275/kWh	$3.30/kWh		
PTC (§45 & §45Y) ≥1MW, no PWA	$0.55/kWh	$0.055/kWh	$0.055/kWh	$0.66/kWh		

Note: PTC rates assume no rounding of bonus amount, and do not include any potential future inflation adjustment factor.

PREVAILING WAGE AND APPRENTICESHIP (PWA)

For several tax credits, the tax credit will be increased by a bonus of five times the base credit amount if certain labor standards are satisfied. Subject to exceptions, this increase is available to projects that can document that (i) laborers and mechanics are paid the applicable prevailing wage (including fringe benefits) for all hours performing construction, alteration or repair on a qualified property, an energy project or a qualified investment with respect to a qualified facility or energy storage technology and (ii) certain apprenticeship requirements are satisfied.

Generally, for Investment Tax Credits, labor standards must be met during construction of the project and for the first five years after the project is "placed in service," while in the case of Production Tax Credits, labor standards must be met during construction and for any year for which the credit is claimed (a total of 10-12 years, depending on the type of production tax credit). Failure to meet prevailing wage and/or apprenticeship requirements can be cured by payment of amounts owed (plus interest) to laborers and mechanics and payment of penalties (with increased penalties for intentional disregard).

More information, including a Department of Labor webinar with detailed instructions, is available at [Prevailing Wage and the Inflation Reduction Act | U.S. Department of Labor (dol.gov).]

- **Applicable Credits:** Production Tax Credits under Sections 45 and 45Y, Investment Tax Credits under Sections 48 and 48E, the Alternative Fuel Vehicle Refueling Property Credit under Section 30C, the Carbon Oxide Sequestration Credit under Section 45Q, the Clean Hydrogen Production Credit under Section 45V, the Clean Fuel Production Credit under Section 45Z and the Advanced Energy Project Credit under 48C; in addition, prevailing wage (but not apprenticeship) requirements must be met for the Zero-Emission Nuclear Power Production Credit under Section 45U (and the Energy Efficiency Home Credit under Section 45L, which is not eligible for Elective Payment).

Exceptions:

- **Project Type:** The following projects are deemed to meet PWA requirements and therefore automatically qualify for the five times increase:
  - Projects that have a maximum net output of less than 1 MW (AC); or
  - Projects that “begin construction” prior to January 29, 2023.
- **Good Faith Effort:** If the taxpayer has requested qualified apprentices from a registered apprenticeship program, and is denied or does not receive a response within five business days, or if the taxpayer is unable to obtain apprentices, then the apprenticeship requirements are deemed to have been satisfied. The project remains subject to the rule, however, based on a recurring “best efforts” test.

DOMESTIC CONTENT BONUS/ADDER

For Investment Tax Credits under Sections 48 and 48E and Production Tax Credits under Sections 45 and 45Y, use of domestic content can impact the amount of the underlying credit.

- **Increase:** Applicable projects that meet steel, iron and manufactured products domestic content percentage requirements are eligible for the Domestic Content Bonus. With respect to Production Tax Credits under Sections 45 and 45Y, projects that meet domestic content percentage requirements and meet applicable PWA requirements qualify for a 10% increase to amount of tax credits (e.g., from $2.75/kWh to $3.025/kWh). With respect to Investment Tax Credits under Sections 48 and 48E, projects that meet domestic content percentage requirements and applicable PWA requirements qualify for a 10-point increase to the credit percentage (e.g., from 30% to 40%). Note that to be eligible for the full amount of the bonus, projects must meet domestic content requirements and applicable PWA requirements.
- **Decrease:** Only in the case of Elective Payment, projects with a maximum net output of 1 MW (AC) or more that “begin construction” in 2024 or later and fail to meet domestic content percentage requirements will not only be ineligible for the Domestic Content Bonus, but will also be ineligible for the full amount of the underlying credit. Projects of this size that “begin construction”: (i) in 2024 will only be eligible for 90% of the underlying credit; (ii) in 2025 will only be eligible for 85% of the underlying credit; and (iii) in 2026 or later will not be eligible for any of the underlying credit.

- **Applicable Credits:** Production Tax Credits under Sections 45 and 45Y, and Investment Tax Credits under Sections 48 and 48E.
- **Exceptions:** The IRS has published guidance to provide exceptions (which are likely to be amended and updated for future tax years), including:
  - **Non-Availability:** Situations where domestic content is not produced in the U.S. in sufficient quantities or of sufficient quality.
  - **Increased Cost:** Situations where domestic content would increase overall costs by more than 25%.

	CREDIT	DOMESTIC CONTENT BONUS*	CREDIT AMOUNT 2024	CREDIT AMOUNT 2025	CREDIT AMOUNT 2026 OR LATER
ITC (§48 & §48E) <1MW	30%	NO	30%	30%	30%
ITC (§48 & §48E) ≥1MW + PWA	30%	NO	27%	25.5%	0%
ITC (§48 & §48E) ≥1MW, no PWA	6%	NO	5.4%	5.1%	0%
PTC (§45 & §45Y) <1MW	$2.75/kWh	NO	$2.75/kWh	$2.75/kWh	2.75/kWh
PTC (§45 & §45Y) ≥1MW + PWA	$2.75/kWh	NO	$2.475/kWh	$2.3375/kWh	$0.00/kWh
PTC (§45 & §45Y) ≥1MW, no PWA	$0.55/kWh	NO	$0.495/kWh	$0.4675/kWh	$0.00/kWh

Note: For projects >1 MW (AC) that begin construction in 2024 or later, *failure to meet domestic content standards will reduce the amount of the credit* that can be claimed through Elective Payment by (i) 90% in 2024, (ii) 85% in 2025 & (iii) 0% thereafter!

ENERGY COMMUNITY BONUS/ADDER

- For Investment Tax Credits under Sections 48 and 48E and Production Tax Credits under Sections 45 and 45Y, energy projects and qualified facilities located in an “energy community” are eligible for the Energy Community Bonus. To be eligible for the full increase, projects must be in an energy community and must also meet applicable PWA requirements. With respect to Production Tax Credits under Sections 45 and 45Y, projects in an energy community that meet applicable PWA requirements qualify for a 10% increase to the amount of the tax credits (e.g., from $2.75/kWh to $3.025/kWh). With respect to Investment Tax Credits under Sections 48 and 48E, projects in an energy community that meet applicable PWA requirements qualify for a 10-point increase to the credit percentage (e.g., from 30% to 40%).

Energy Community is defined as:

- A **"brownfield site"** (as defined under CERCLA);
- A **"metropolitan statistical area"** or **"non-metropolitan statistical area"** that has (or had at any time after December 31, 2009) had either (i) 0.17% or greater direct employment or (ii) 25% or greater local tax revenues related to the extraction, processing, transport, or storage of coal, oil, or natural gas, and has an unemployment rate at or above the national average unemployment rate for the previous year; or
- A **census tract** (or directly adjoining census tract) in which either (i) a coal mine closed after December 31, 1999; or (ii) in which a coal-fired electric generating unit has been retired after December 31, 2009.

  The Department of Energy mapping tool at IRA Energy Community Tax Credit Bonus (doe.gov) identifies energy communities (other than brownfields sites) as of 2023, and will be updated each year to account for changes to annual unemployment rates. Resources at Brownfields Near You | US EPA can help identify brownfields sites.

- **Applicable Credits:** Production Tax Credits under Sections 45 and 45Y, and Investment Tax Credits under Sections 48 and 48E.

LOW-INCOME COMMUNITIES BONUS/ADDER

(aka Environmental Justice Solar & Wind Capacity Allocation) – by application only

Qualified solar and wind facilities with a maximum net output of less than 5 MW (AC) can apply and compete for a Low-Income Communities Bonus with respect to the Investment Tax Credits under Sections 48 and 48E if the project is located in (i) a low-income community, (ii) located on Indian land, (iii) installed on certain federal housing projects, or (iv) serving low-income households. (Note each category must meet IRC definitions.)

Unlike the other bonus or adder credits, the Low-Income Communities Bonus is capped at 1.8 GW (DC) of allocation per year, so entities must apply and be awarded a capacity allocation to receive this bonus. Successful applicants in low-income communities or on Indian land qualify for up to a 10-point increase to the credit percentage (e.g., from 30% to 40%), and successful applicants that are part of a qualified low-income residential building or a qualified low-income economic benefit project qualify for up to a 20-point increase to the credit percentage (e.g., from 30% to 50%). Facilities "placed in service" prior to being awarded an allocation, or that are not "placed in service" within 4 years of receiving the allocation, will not receive the increase.

The Department of Energy has tools to determine eligibility under each category and information on how to apply on its website at Low-Income Communities Bonus Credit Program | Department of Energy.

- **Applicable Credits:** Investment Tax Credits under Sections 48 and 48E.

Other Reductions to the Tax Credit Amount

Certain funding sources may result in a reduction of the amount of the tax credit available to Applicable Entities electing to make an Elective Payment.

RESTRICTED GRANT FUNDS & FORGIVABLE LOANS

Tax-exempt grants or forgivable loans for the specific purpose of purchasing, constructing, or acquiring investment tax credit qualifying property ("Restricted Tax-Exempt Amounts") may reduce the amount of the credit. In cases where the Restricted Tax-Exempt Amount plus the amount of the applicable credit exceeds the cost of the property, then the amount of the tax credit is reduced to the extent of that excess.

For example, assume a nonprofit receives a $400,000 restricted grant for the purchase of a $400,000 electric school bus. The nonprofit uses those funds to purchase the bus, which qualifies for a $40,000 credit under Section 45W. Because the combined amount of the restricted grant and the applicable tax credit exceeds the cost of the bus by $40,000, the credit is reduced to $0. If the nonprofit instead receives a $300,000 restricted grant to purchase the bus and uses $100,000 of unrestricted funds to cover the balance of the purchase price, the nonprofit can receive the full $40,000 credit. In this second scenario, the amount of the restricted grant plus the applicable tax credit does not exceed the purchase price of the bus.

- **Applicable Credits:** All tax credits eligible for Elective Payment.

EXAMPLE: Assume nonprofit purchases a $400,000 electric bus that qualifies for a $40,000 §45W credit. If the purchase is funded by a $400,000 restricted grant, the tax credit will be reduced to $0. If the purchase is instead funded with a $300,000 restricted grant (& $100,000 of unrestricted funds), the nonprofit can receive the full tax credit.

PURCHASE PRICE	$400,000	$400,000
RESTRICTED GRANT	$400,000	$300,000
UNRESTRICTED FUNDS	$0	$100,000
TAX CREDIT	$40,000	$40,000
RG + TC	$440,000	$340,000
EXCESS	$40,000	$0
TC - EXCESS = CREDIT AMT REC'D	$0	$40,000

TAX-EXEMPT BOND FINANCING

Tax-exempt bonds may result in a reduction of the underlying credit amount. The requirements of the underlying credit should be reviewed to make a determination. In cases where a reduction is applicable, the credits will be reduced by the lesser of (i) 15% or (ii) a fraction (a) the numerator of which is the sum, for the tax year and all prior tax years, of proceeds of an issue of any tax-exempt obligations and which is used to provide financing for the qualified facility, and (b) the denominator of which is the aggregate amount of additions to the capital account for the qualified facility for the tax year and all prior taxable years. The amounts under this analysis for any tax year are determined as of the close of the tax year.

SEQUESTRATION AND GROSS-UP

"Sequestration" refers to automatic reductions in certain types of government spending, which are required under the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended) when appropriations enacted for the fiscal year exceed statutory spending limits. In fiscal years where sequestration is necessary, IRS refunds of Elective Payment election amounts will be subject to sequestration. Currently, the applicable sequestration rate is set at 5.7% through September 30, 2030.

To offset any mandatory sequestration of Elective Payment refunds, Congress included a "gross-up" provision for Elective Payment. The gross-up provision requires the IRS to increase Elective Payment election amounts by 6.0445%.

Absent future legislative changes, each Elective Payment election the IRS processes through September 30, 2031 will be subject to sequestration and gross-up. The IRS notes that gross-up does not completely offset sequestration; however, as reflected in the example below, the difference should be minimal. You can find more information on the IRS website at FY 2024 Effect of Sequestration on Elective Payment Elections.

- **Example:** Assume a nonprofit earns a $100,000.00 tax credit and makes an eligible Elective Payment election in that amount. Based on the information currently available, when the IRS processes the nonprofit's 990T, the IRS should gross-up the credit amount by 6.0445%, increasing it to $106,044.50; then 5.7% of that grossed-up amount should be sequestered. As a result, the expected IRS refund to the nonprofit should be $99,999.96, slightly less than the full $100,000.00 tax credit earned.

Other Considerations

UNRELATED TRADE OR BUSINESS

For Elective Payment, credit amounts will be determined (i) without regard to the restrictions under IRC Section 50(b)(3) and (4)(A)(i) on use of property by tax-exempt and government entities, including Tribal governments, and (ii) by treating any property with respect to which such credit is determined as used in a trade or business of the Applicable Entity.

BASIS OF QUALIFYING PROPERTY

- **Investment Tax Credits.** Under Section 50(c) of the IRC, the tax credit reduces the owner’s tax basis in the qualifying property. In the case of most energy credits, the basis of the property is reduced by half the amount of the credit. For example, a Section 48 or Section 48E Investment Tax Credit in the amount of $50,000 would reduce the owner’s tax basis in the property by $25,000.
- **Production Tax Credits.** Production Tax Credits do not reduce the owner’s tax basis in the underlying property.

RECAPTURE RISK FOR INVESTMENT TAX CREDITS

Investment Tax Credits can be “recaptured” by the IRS under certain circumstances.

- **Recapture Events.** In general, any of the following events will trigger recapture if they occur before the end of the recapture period: (i) disposition of the investment credit property (whether by sale, foreclosure or other disposition), (ii) the property ceases to qualify as investment credit property, or (iii) in the case of a partnership, a reduction of more than one-third of the partner’s proportionate interest in the general profits of the partnership (or in the particular item of property) for the year in which such property was “placed in service.”
- **Recapture Period.** Generally, the recapture period is five full years from the date on which the property/facility is “placed in service.” The Investment Tax Credits vest at a rate of 20% per year during the recapture period. For example, if there is a recapture event such as an ownership change between the first and second anniversary of the “placed in service” date, 80% of the investment tax credit must be repaid to the IRS, potentially in addition to interest and penalties.
- **Disposition Planning.** Generally, there are no limitations on the disposition of energy property or facilities after the end of the recapture period. Extreme care should be taken, however, when planning a disposition. Practitioners often have concerns that plans for disposition are actually a foregone conclusion, which could call into question the initial right to the tax credits, even in cases where the disposition cannot occur until after the expiration of the recapture period.
- **Applicable Credits:** The only tax credits eligible for Elective Payment that include recapture provisions are the Investment Tax Credits under Sections 48 and 48E, the Advanced Energy Project Credit under Section 48C, and the Carbon Oxide Sequestration Credit under Section 45Q.

Process for Elective Payment of Applicable Credits

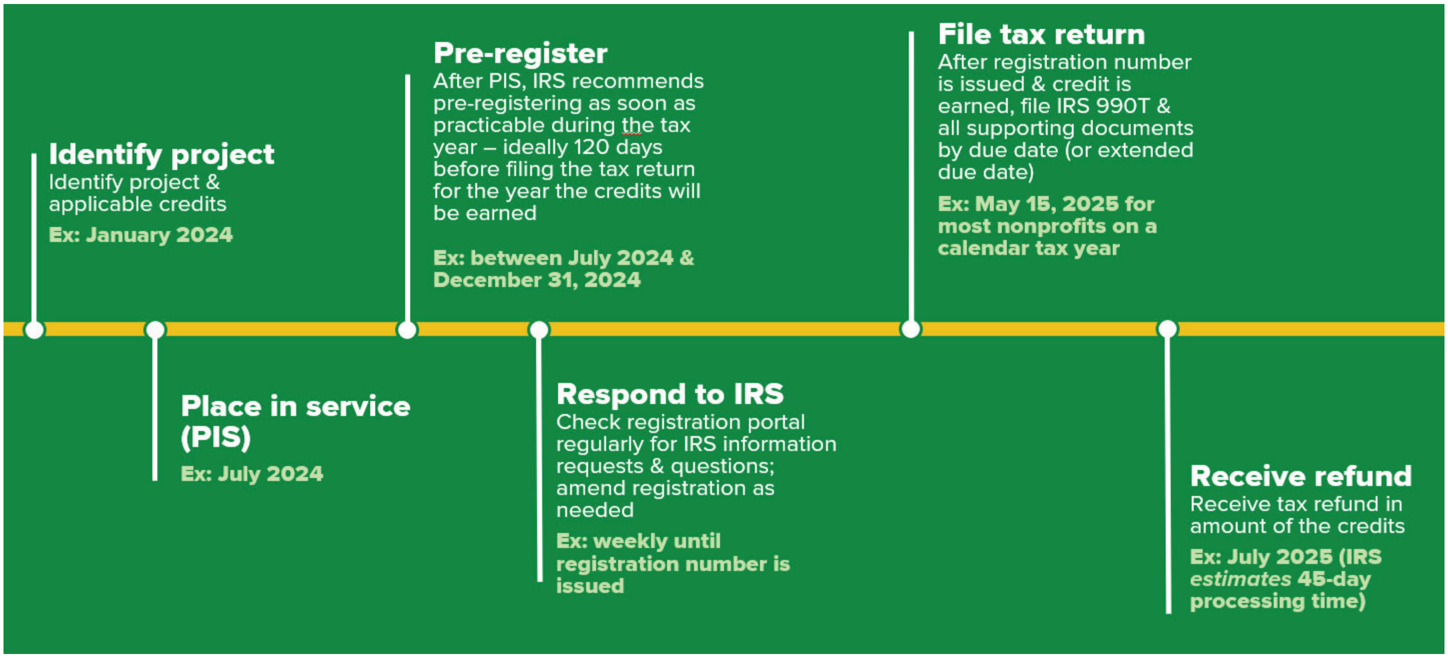
To benefit from Elective Payment, the Applicable Entity will need to take the following steps:

1. **Identify the project and the applicable credits to be earned.** Identify the project it will own confirm its eligibility for applicable credits.
2. **Determine ownership of the property.** In general, the Applicable Entity must own the underlying qualifying property. Ownership may be structured as direct ownership by the Applicable Entity, ownership through an entity that is disregarded for federal income tax purposes (such as a single-member limited liability company), or ownership through an undivided interest in an ownership arrangement treated as a tenancy-in-common or pursuant to a joint operating arrangement that has properly elected out of subchapter K under §761. (Note that Treasury published proposed regulations on March 11, 2024 that address election out of subchapter K by certain unincorporated organizations.) Partners of partnerships are not allowed to make an Elective Payment election. In addition, with respect to tax-exempt Applicable Entities, ownership cannot be structured as a partnership, even in cases where each partner would qualify as an Applicable Entity (this limitation does not apply to for-profit Electing Taxpayers that elect to be treated as an Applicable Entity).
3. **Place in service.** Prior to registration, the property must be "placed in service." As noted above, the term placed in service has a specific meaning for energy property.
4. **Register the project.** Complete electronic pre-filing registration with the IRS at Register for elective payment or transfer of credits | Internal Revenue Service (irs.gov) to receive a unique registration number for the project. The IRA/CHIPS Pre-Filing Registration Tool User Guide and Instructions (Registration Tool User Guide) can be found at Publication 5884 (irs.gov); a short and informative instructional video is also available. It is strongly recommended that you carefully review the instructions in Registration Tool User Guide.

- **Timing.** Registration of the election to use Elective Payment must be made after the energy project is "placed in service" and no earlier than the beginning of the tax year in which the Applicable Credit will be earned. To allow time for IRS review and issuance of a registration number, the IRS recommends making the registration submission as soon as reasonably practicable during the tax year, and at least 120 days prior to the date the tax return making the Elective Payment election will be filed. Note registration numbers are valid only for the taxable year in which they are obtained, and must be renewed each year as necessary. For example, in the case of Production Tax Credits, where credits are claimed over multiple years, registration must be renewed each year.
- **Clean Energy Business Account.** An authorized representative of the Applicable Taxpayer must first create (or sign in to) an ID.me account. The IRS uses ID.me to provide identity verification. Once the authorized representative is logged in to their ID.me account, they will create a Clean Energy Business Account for the Applicable Entity.

- **Employer Identification Number (EIN) of the registrant.** Each entity that will register its intent to file a return making an Elective Payment election must have its own unique EIN. In cases where the Applicable Entity owns the property through a subsidiary that is part of a consolidated group of corporations for which the parent files a consolidated return, the registrant is the parent. (Note the EIN of the subsidiary will also be needed to complete the registration process in this case, unless the subsidiary is a disregarded entity). *It is critical to enter the correct EIN to avoid any errors in the registration process.*
- **Number of registration numbers.** Each qualifying tax credit property will have a unique registration number. Refer to the IRS form for the underlying tax credit and IRS Form 3800 to determine how the credits must be computed and reported for each property.
- **Number of registration packages.** Each Applicable Entity can have only one registration package per taxable year. The package can include as many properties and Elective Payment elections as the registrant is eligible to make for that taxable year. If additional properties become eligible for the same taxable year after the registration package has been submitted, the registrant can amend the package. (Note there is an option for bulk upload of property information.)
- **Amending the registration package.** Until the registration package has been submitted for IRS review, it will remain in “draft” status. While the package is in “draft” status, the authorized representative may continue to enter information and make changes to the package. Once the package has been submitted, however, no changes may be made until after the IRS has processed and completed its review of the initial submission. When IRS initial review is completed, the status will show as “returned.” At that point, the authorized representative can make amendments to the package as needed, whether to provide responses to reviewer questions, or to add additional properties or Elective Payment elections that the registrant is eligible to make for that same taxable year.
- **Identifying the qualifying tax credit property.** Registration requires the latitude and longitude of physical location of qualifying tax credit property, along with the State and county (street address is optional).
- **Monitoring the registration status.** IRS recommends that the authorized representative sign in to the Applicable Entity’s Clean Energy Business Account weekly (or at least monthly) to check for status changes or IRS information requests. Applicable Entities will have only 60 days to respond to IRS information requests. (If responses are received after that time period, the registration request will go to the back of the IRS queue.) *It is strongly recommended that the authorized representative opt in to receive IRS email notifications of status changes or information requests, as this is the only proactive method IRS will use to notify registrants of status changes or information requests.*
- **Registration is not confirmation.** While pre-filing registration is intended to help prevent duplication, fraud, and improper payments or excessive payments, issuance of a registration number by IRS is not a determination of the amount or validity of a tax credit.

5. **Satisfy the requirements to earn the tax credit.** Requirements vary for each tax credit.
    - Investment Tax Credits are typically earned on the day that the energy property is "placed in service." As noted above, placed in service has a specific meaning for energy property.
    - Production Tax Credits are generally calculated based on a function of the volume of electricity generated; however, each production tax credit will have its own calculation. For example, Section 45X Advanced Manufacturing Production Credits are calculated based on the volume of certain equipment produced and sold to other parties, and Section 45Q Carbon Oxide Sequestration Credits are calculated based on the volume of metric tons of qualified carbon oxide captured and properly disposed. In addition, there must be a sale to an unrelated party to qualify for Production Tax Credits eligibility, subject to a few exceptions.
6. **File an annual federal income tax return by the due date (or by the extension due date).**
    - The tax filing must include (i) a valid Elective Payment election (for Form 990-T, the election is on line 6g of Part III), (ii) IRS Form 3800 with the unique registration number for the project, and (iii) all other required tax-credit related forms and supporting information. Electronic filing is strongly recommended by the IRS.
    - An Elective Payment election may only be made on an original, timely filed return (including extensions) for the taxable year for which the tax credit is earned. An Elective Payment election may not be made on an amended return or by filing an administrative adjustment request under section 6227 of the IRC. There are limited exceptions for superseding returns filed on or before the due date, and amended returns or administrative adjustment requests used to correct a numerical error on the original filing, but such exceptions should be used carefully in consultation with your tax advisors. It is critical that the Elective Payment election is made on an original, timely filed return for the taxable year the credit is earned.
    - Entities not ordinarily required to file federal income tax returns must file a tax return (with all required attachments) to make an Elective Payment election. (For nonprofits and governmental entities, this will typically be Form 990-T.) In addition, these entities are permitted to file based on either their fiscal year or a calendar year, regardless of the entity's fiscal year for non-tax purposes, provided the entity maintains adequate books and records, including a reconciliation of any differences.
    - The regular due date for a Form 990-T is the 15th day of the 5th month after the end of the tax year, and the regular extension extends the due date by 6 months (for organizations using a calendar year, these dates are May 15 and November 15). Entities that ordinarily are required to file a return should follow the normal extension request process if an extension is needed. Entities that are not ordinarily required to file a return will receive an automatic paperless 6-month filing extension for tax year 2023 (and until the IRS issues guidance specifying how such entities could request an extension).
    - Once a tax-exempt entity makes an Elective Payment election on its return, the election is irrevocable. (Note that for-profit Electing Taxpayers that elect to be treated as an Applicable Entity have slightly more flexibility.)
    - The IRS will process the return as part of its normal processing cycle, and will send a tax-free cash refund in the amount of the credit (or in the amount by which the credit exceeds any federal income tax liability, if less). The IRS has noted that in general, entities that file by the due date of their return and appropriately make an Elective Payment election can anticipate issuance of their refund within 45 days of the due date of their return; however, actual timing may vary.



Structuring Transactions

Financing renewable and clean energy projects requires a broad range of sector-specific underwriting considerations, which may include evaluating the underlying technology, reviewing revenue and energy offtake contracts (such as power purchase agreements and leases), reviewing all required rights and permits (such as zoning, building permits and interconnection rights), vetting of contractors and subcontractors, review of operations and maintenance contracts and insurance coverage, and many others.

When tax credits make up part of the capital stack, another layer of underwriting considerations is added, including determining the borrower’s eligibility for the underlying tax credits and any adders or bonus credits, evaluating the capability of the tax credit investor (in the case of traditional tax equity financing) or the purchasing taxpayer (in the case of Transferability) to execute the intended transaction, understanding the timeline for the monetization of the tax credits, and with respect to Investment Tax Credits, structuring to minimize recapture risk.

Elective Payment adds yet another layer of considerations. In addition to determining the borrower’s eligibility for the underlying tax credit and any adders or bonus credits, lenders should also determine the borrower’s eligibility for Elective Payment. To receive a refund of the tax credit amount, the borrower must meet the requirements for both the underlying tax credit and for Elective Payment.

Lenders should review tax credit calculations, including the reasonableness of the costs included in the basis used to calculate the credits. With respect to PWA and adders or bonus credits, the lender should confirm the borrower has satisfied the requirements to receive any increase. In cases where the borrower making an Elective Payment election is not meeting domestic content standards, review to determine whether an exemption applies or whether the tax credit amount will be decreased.

Lenders should consider that the funding from the tax credits will not be available until after the borrower has registered the credit, received a valid IRS registration number, earned the tax credit, filed a tax return properly making the Elective Payment election, and received a refund in the amount of the credit following IRS processing of the return. Accordingly, lenders should carefully consider this timeline with respect to the term of any bridge loan to allow sufficient time for repayment.

Resources for Elective Payment

Final Regulations: Section 6417 Elective Payment of Applicable Credits: Federal Register Section 6417 Elective Payment of Applicable Credits **89 FR 17546, RIN 1545-BQ63; publication date March 11, 2024; effective date May 10, 2024**

IRS Elective Payment FAQ: Elective Payment and Transferability Frequently Asked Questions: Elective Payment | Internal Revenue Service (irs.gov)

IRS Elective Payment Fact Sheets:

- Overview: Publication 5817-D (6-2023) (irs.gov)
- Rural Electric Cooperatives: Publication 5817-A (6-2023) (irs.gov)
- U.S. Territorial Governments: Publication 5817-B (6-2023) (irs.gov)
- Alaskan Native Corporations: Publication 5817-C (6-2023) (irs.gov)
- Tax-Exempt Organizations: Publication 5817-D (6-2023) (irs.gov)
- State and Local Government: Publication 5817-E (6-2023) (irs.gov)
- Indian Tribal Governments: Publication 5817-F (6-2023) (irs.gov)

IRS Chart of Applicable Credits: Publication 5817-G (6-2023) (irs.gov)

IRS Pre-Filing Registration Tool (User Guide): Publication 5884 (irs.gov)

IRS Clean Energy Account User Guide and Instructions: Publication 5902 (12-2023) (irs.gov)

“Federal Solar Tax Credits for Businesses,” U.S. Office of Energy Efficiency & Renewable Energy, Solar Energy Technologies Office, webpage updated August 2023: Federal Solar Tax Credits for Businesses | Department of Energy

Clean Energy Tax Incentives: Elective Pay Eligible Tax Credits

The Inflation Reduction Act of 2022 ("IRA") makes several clean energy tax credits available to businesses; tax-exempt organizations; state, local, and tribal governments; other entities; and individuals. The IRA also enables entities to take advantage of certain clean energy tax credits through its elective pay provision (also colloquially known as direct pay). Elective pay allows several types of entities, such as tax-exempts and governments, to treat the amount of certain credits as a payment against tax on their tax returns and as a result receive direct payments for certain clean energy tax credits.

Category	Tax Provision	Description
Energy Generation & Carbon Capture	**Production Tax Credit for Electricity from Renewables** (§ 45, pre-2025)	**For production of electricity from eligible renewable sources**, including wind, biomass, geothermal, solar, small irrigation, landfill and trash, hydropower, marine and hydrokinetic energy. **Credit Amount (for 2022):** 0.55 cents/kilowatt (kW); (1/2 rate for electricity produced from open loop biomass, landfill gas, and trash); 2.75 cents/kW if Prevailing Wage and Apprenticeship (PWA) rules are met [1,2,3,7]
Energy Generation & Carbon Capture	**Clean Electricity Production Tax Credit** (§ 45Y, 2025 onwards)	**Technology-neutral tax credit for production of clean electricity.** Replaces § 45 for facilities that begin construction and are placed in service after 2024. **Credit Amount:** Starts in 2025, consistent with credit amounts under section 45 [1,2,3,6,7]
Energy Generation & Carbon Capture	**Investment Tax Credit for Energy Property** (§ 48, pre-2025)	**For investment in renewable energy projects** including fuel cell, solar, geothermal, small wind, energy storage, biogas, microgrid controllers, and combined heat and power properties **Credit Amount:** 6% of qualified investment (basis); 30% if PWA requirements met [1,4,5,6,8]
Energy Generation & Carbon Capture	**Clean Electricity Investment Tax Credit** (§ 48E, 2025 onwards)	**Technology-neutral tax credit for investment in facilities that generate clean electricity** and qualified energy storage technologies. Replaces § 48 for facilities that begin construction and are placed in service after 2024 **Credit Amount:** 6% of qualified investment (basis); 30% if PWA requirements met [1,4,5,6]
Energy Generation & Carbon Capture	**Low-Income Communities Bonus Credit** (§ 48(e), 48E(h)) **Application required**	**Additional investment tax credit for small-scale solar and wind (§ 48(e)) or clean electricity (§48E(h)) facilities** (<5MW net output) on Indian land, federally subsidized housing, in low-income communities, and benefit low-income households. Allocated through an application process. **Credit Amount:** 10 or 20 percentage point increase on base investment tax credit [7]
Energy Generation & Carbon Capture	**Credit for Carbon Oxide Sequestration** (§ 45Q)	**Credit for carbon dioxide sequestration** coupled with permitted end uses in the United States. **Credit Amount:** $12-36 per metric ton of qualified carbon oxide captured and sequestered, used as a tertiary injectant, or used, depending on the specified end use; $60-$180 per metric ton if PWA requirements met. [1,7]
Energy Generation & Carbon Capture	**Zero-Emission Nuclear Power Production Credit** (§ 45U)	**For electricity from nuclear power facilities.** Facilities in operation prior to August 16, 2022. **Credit Amount (for 2023):** 0.3 cents/kWh (reduced rate for larger facilities); 1.5 cent/kWh if PW req's met [1,7]
Manufacturing	**Advanced Energy Project Credit** (§ 48C) **Application required**	**For investments in advanced energy projects.** A total of $10 billion will be allocated, not less than $4 billion of which will be allocated to projects in certain energy communities. **Credit Amount:** 6% of taxpayer's qualified investment; 30% if PWA requirements are met [1]
Manufacturing	**Advanced Manufacturing Production Credit** (§ 45X)	**Production tax credit for domestic clean energy manufacturing** of components including solar and wind energy, inverters, battery components, and critical materials. **Credit Amount:** Varies by component
Vehicles	**Credit for Qualified Commercial Clean Vehicles** (§ 45W)	**For purchasers of commercial clean vehicles.** Qualifying vehicles include passenger vehicles, buses, ambulances, and certain other vehicles for use on public streets, roads, and highways. **Credit Amount:** Up to $40,000 (max $7,500 for vehicles <14,000 lbs) [9]
Vehicles	**Alternative Fuel Vehicle Refueling Property Credit** (§ 30C)	**For alternative fuel vehicle refueling and charging property**, located in low-income and non-urban areas. Qualified fuels include electricity, ethanol, natural gas, hydrogen, and biodiesel. **Credit Amount:** 6% of basis for businesses and can increase to 30% if PWA is met.
Fuels	**Clean Hydrogen Production Tax Credit** (§ 45V)	**For producing clean hydrogen** at a qualified, U.S.-based clean hydrogen production facility. **Credit Amount:** $0.60/kg multiplied by the applicable percentage (20% to 100%, depending on lifecycle greenhouse gas emissions), amount increases if PWA is met [1,7]
Fuels	**Clean Fuel Production Credit** (§ 45Z, 2025 onwards)	**Technology neutral tax credit for domestic production of clean transportation fuels**, including sustainable aviation fuels, beginning in 2025* **Credit Amount:** $0.20/gallon ($0.35/gal for aviation fuel) multiplied by CO2 "emissions factor"; $1.00/gallon ($1.75/gal for aviation fuel) multiplied by CO2 "emissions factor" if PWA is met [1,7]

Please see the notes on the next page or see IRS.gov/cleanenergy for more information.

Notes:

The information in this document may be subject to change as guidance is issued or finalized. For all IRA clean energy tax credits, please see **irs.gov/cleanenergy** for further details and eligibility requirements.

[1] Credit is increased by 5 times for projects that pay prevailing wages and use registered apprentices. Apprenticeship requirements do not apply for §§ 45L and 45U. Prevailing wage and apprenticeship requirements do not apply to certain projects, including certain projects of less than 1 megawatt or those that began construction prior to January 29, 2023.

[2] Credit is increased by 10% if the project meets certain domestic content requirements for steel or iron, and manufac tured products.

[3] Credit is increased by 10% if located in an energy community.

[4] Credit is increased by up to 10 percentage points for projects meeting certain domestic content requirements for steel, iron, and manufactured products.

[5] Credit is increased by up to 10 percentage points if located in an energy community.

[6] Section 168(e) provides favorable depreciation treatment for facilities or property qualifying for this tax credit. These facilities or property will be treated as a 5-year property for purposes of cost recovery, leaving them with lower taxable income in the earlier years of a clean energy investment.

[7] Credit rate is adjusted annually for inflation.

[8] See section 48 for more detail and applicable exceptions to the credit rate.

[9] The entities eligible for elective pay of the commercial clean vehicle credit is a subset of the entities eligible for elective pay of other credits. In addition, starting January 1, 2024, the amount of a new clean vehicle or previously owned clean vehicle tax credit (but not a commercial clean vehicle credit) can be transferred to a dealer for an equivalent reduction in the eligible vehicle's sales price.

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