Overview:

Using the Section 48 Investment Tax Credit (ITC) in Building Decarbonization Programs

The Inflation Reduction Act (IRA) expanded the longstanding Section 48 Energy Investment Tax Credit (ITC) allowing eligible tax paying and tax-exempt entities to claim credit for eligible energy property and projects.

Building and business owners can capitalize on this once-in-an-era funding opportunity to deliver more resilient buildings while meeting their sustainability commitments.

Applicability: The Section 48 ITC is applicable to qualifying energy property, including:

Up to a **70%** credit

- Solar Technologies
- Wind Technologies

Up to a **50%** credit

- Ground Source Heat Pumps
- Thermal Energy Storage Systems
- Combined Heat & Power
- Standalone Energy Storage Systems
- Geothermal
- Waste Energy Recovery
- Interconnection Property

ITC Credits — Scope

Base Credit
6% or 30%

- Projects that include an eligible energy property may qualify for 6% base credit
- If the project also the meets general bonus credit criteria*, it may qualify for the 30%

Energy Community Bonus Credit
2% or 10%

- "Energy Communities" are defined by the Dept. of Energy and identifiable via their searchable mapping database[1]
- Projects in eligible communities qualify for a 2% bonus
- Projects in qualifying communities that meet the general bonus credit criteria* qualify for 10% bonus

Domestic Content Base Credit
2% or 10%

- Property that qualifies for the domestic content bonus ensures that 100% of included steel and iron is be mined and produced in the U.S., and that 40-55% of the manufactured products area also manufactured and produced in the U.S.****
- If the project property meets the domestic content bonus requirements, it qualifies for a 2% bonus credit
- If the project meets the domestic content bonus requirements and the general bonus credit criteria* qualify for 10% bonus
- See the IRS' Domestic Content pre-regulatory guidance[2] for more information

Low-income or Tribal Community Bonus Credit
10% or 20%

- Only solar and wind projects < 5 MW are eligible
- To qualify for the 10% bonus, the project must be located on tribal land or in a low-income (LMI) community, defined as being in an area > to 20% poverty rate or median family income (MFI) < to 80% compared to state MFI)
- To qualify for the 20% bonus, the project must be in a qualified low-income residential building (affordable housing project) or a qualified low-income benefit project (> 50% of electricity produced are provided to residents)
- Qualifying communities are defined by the Dept. of Energy and identifiable via their Low-Income Communities Bonus Credit Program searchable map[3]

1. Dept. of Energy's Energy Community mapping database
2. Domestic Content pre-regulatory guidance Notice 2023-38
3. Dept. of Energy's Low-Income Community Bonus Credit Program
4. Dept. of Labor's IRA Prevailing Wage & Apprenticeship requirements webpage

General Bonus Credit Criteria:** meets (1) of the following requirements, it qualifies for bonus credit: satisfies the prevailing wage and apprenticeship rules**, began construction before 1/29/2023, or has a maximum net output of less than 1 MW (AC)

****Labor requirements:**
- The Dept. of Labor sets the prevailing wage and qualified apprenticeship requirements by geographical area.
- Visit the Dept. of Labor's IRA Prevailing Wage & Apprenticeship webpage for local information and guidance[4].

*****Entities may use one of two methods to establish the date of beginning construction—either:**
- Physical Work Test: which requires physical work of a "significant nature" (on-site or off-site). Physical work includes manufacturing of components and mounting or installing equipment (not planning, design, obtaining permits or engineering studies)
- 5% Safe Harbor: requires the taxpayer to pay or incur 5% more of the total cost of the energy property

******Domestic Content bonus credit criteria:** Applies to all new equipment used in projects. Applies to retrofit projects if the value of the used/existing components are < 20% of the energy property's total value. Claiming taxpayers are required to submit a Domestic Content Certification Statement for every project.

Stand out opportunities

Direct pay
(also known as "Elective Pay")

- Eligible tax-exempt entities can claim the equivalent amount of tax credit in the form of a direct payment from the IRS.
- Eligible entities must pre-register for pre-approval of direct pay claim with the IRS.
- Eligible entities: Non-taxpaying entities (incl. State/Local/Tribal governments, Rural Energy Co-Ops, Nonprofits (public charities, schools, hospitals, etc.), & others falling under Section 501 of the tax code.
- Visit the IRS' Elective Pay FAQ webpage for more information.[5]

Transferability

- Eligible entities can transfer all or part of their ITC claim to a third party in exchange for payment.
- Visit the IRS' Transferability FAQ webpage for more information.

Stackability
with other applicable tax incentive programs

- Taxpaying project owners can stack ITC with additional tax incentive opportunities including 179 Commercial Buildings Energy Efficiency Tax Deduction. Stacking may have implications on other tax incentive value and eligibility. For example, pursuing the ITC and accelerated depreciation simultaneously results in a reduction of the total eligible depreciation basis.
- Project owners cannot claim both the ITC and production tax credit (PTC) for the same property (only applicable to solar and wind projects).

Summary of Investment Tax Credit Value Over Time[6]

		Start of Construction			
		2023-2033	The later of 2034 (or 2 years after applicable year)	The later of 2035 (or 3 years after applicable year)	The later of 2036 (or 4 years after applicable year)
Full rate (if project meets General Bonus Credit requirements)	Base Credit	30%	22.5%	15%	0%
	Domestic Content Bonus	10%	7.5%	5%	0%
	Energy Community Bonus	10%	7.5%	5%	0%
Base rate (if project does not meet General Bonus Credit requirements)	Base Credit	6%	1.5%	1%	0%
	Domestic Content Bonus	2%	1.5%	1%	0%
	Energy Community Bonus	2%	1.5%	1%	0%
Low-Income or Tribal Community Bonus Solar & Wind only (1.8GW/year cap)	<5MW projects in LMI communities or tribal lands	10%	10%	10%	10%
	Qualified low-income: residential building project or economic benefit project	20%	20%	20%	20%

Beginning in 2025, for many of the technologies, the Section 48 ITC will be replaced by a technology-neutral, zero-emission ITC under Section 48E.

Credit reduced by 15% if project is funded by tax-exempt bonds.

Process to Pursue Direct Pay

1. Register on IRS' electronic portal (launching by 2024). IRS will provide a registration number for each credit property to be included in tax return
2. Project continues construction
3. Taxpayer files Form 3468[7] – including registration number, Domestic Content Certification Statement, and other supplements
4. Taxes processed, reimbursement distributed
5. Entities who file approved claims must continue to own and operate the energy property for at least 5 years after it was placed in service to avoid ITC recapture

5. IRS' Elective Pay & Transferability FAQ webpage
6. Dept. of Energy's Federal Solar Investment Tax Credit overview
7. IRS Form 3468

Visit the IRS IRA Incentive Resource Center for more information at
www.irs.gov/credits-and-deductions-under-the-inflation-reduction-act-of-2022

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