KPMG

INFLATION REDUCTION ACT INSIGHTS

11/16/2023

Notice

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Agenda

Inflation Reduction Act

IRA: Corporate credit extensions/modifications

Renewable energy

§ 45 Production tax credit and § 48 Investment tax credit (wind, solar, geothermal, etc.)

§ 179D Energy efficient commercial buildings deduction

Producer or property investor

Advanced manufacturing

§ 48C Credit for manufacturing energy property (EV components, fuel cells, electric grids, etc.)

Property investor

Transportation

§ 30D Clean vehicle credit

§ 30C Credit for EV charging stations

Property investor

Alternative fuels

§ 40 Second-generation biofuel credit

§ 40A and § 6426 Biodiesel and renewable diesel; biodiesel mixture credit; alternative fuel credit

Producer

Carbon capture

§ 45Q Credit for carbon oxide sequestration (increased rates)

Property investor

IRA: Corporate new credits

Renewable energy

§ 45U Zero-emission nuclear power production credit

§ 45Y and 48E Technology neutral clean electricity production and investment tax credits

Producer or property investor

Advanced manufacturing

§ 45X Advanced manufacturing production credit for solar & wind components, batteries, and critical minerals

Producer

Transportation

§ 45W Qualified commercial clean vehicles

§ 25E Previously owned clean vehicle credit

Property investor

Alternative fuels

§ 40B Sustainable aviation fuel

§ 45V Clean hydrogen production credit

§ 45Z Clean fuel production tax credit

Producer

Clean energy tax incentives

The Inflation Reduction Act (the **Act**), enacted into law on August 16, 2022, extended and significantly enhanced existing energy tax credits and added several new incentives for a wide range of clean energy technologies, including the following:

- **Solar energy panels**
- **Alternative energy vehicles and refueling property**
- **Geothermal heat pumps** – A heating/cooling system that uses a heat pump to transfer heat to or from the ground
- **Energy storage technology** – Equipment that receives, stores, and delivers energy for conversion to electricity
- **Combined heat and power (cogeneration) systems** – A system that produces heat and electricity in a single plant with one primary energy source

Investment Tax Credit (ITC) calculation

Eligible basis x **ITC %** = **ITC**

Clean energy tax incentives

Applicability to exempt organizations

Direct pay – The Act generally enables tax-exempt organizations and certain government entities to receive a payment directly from the federal government (or elect to sell the credit), even if they do not have income tax liabilities for the credit amounts to offset.

Effective dates – The Act's clean energy incentives are generally available for tax years beginning *after December 31, 2022*. For many tax-exempt organizations, this means property placed in service *after the start of their tax year beginning in 2023*.

Credit enhancers

Prevailing wage and apprenticeship – Significantly higher credit rates available for projects which satisfy certain wage and workforce requirements during the construction and operation of the projects.

Domestic content – Additional credits available in some cases if projects are constructed using domestically sourced steel and iron as well as manufactured products.

Location – Additional credit amounts available in some cases for projects located in low-income communities, brownfield sites, and communities formerly reliant on coal and fossil fuel industries.

Recent projects

	Hospital Investment Tax Credit Opportunities	University Decarbonization Goals & Tax Credit and Incentive Opportunities	University Geothermal Innovations & Tax Credit Opportunities
Situation	The client wanted to mitigate risks associated with their location in a hurricane-prone region and was looking to take advantage of newly-available tax credits and incentives to transition to a more reliable, energy-efficient solution.	In order to meet its sustainability and decarbonization goals, the University is investigating investments in decarbonization technologies including steam system modifications, photovoltaic solar systems, electric recharging stations, dynamic glass, and energy-efficient commercial building HVAC	In order to meet its sustainability and decarbonization goals and help fund its transition towards energy-efficient facilities, the client is seeking to leverage tax credits and incentives that are available.
Approach and Outcome	This project was not feasible until the Inflation Reduction Act (IRA) opened new opportunities—particularly the refundable investment tax credit (ITC) on certain energy-efficient property. Applying our experience on similar projects with for-profit entities, KPMG assisted with high-level pre-qualification and a benchmark of potential ITCs, based on expected eligible property. KPMG provided ITC and cost segregation analysis; prevailing wage and apprenticeship assistance; and other related tax consulting. Our preliminary analysis was used to gain internal buy-in, including board approval.	In Phase 1, KPMG reviewed the University's planned capital expenditures with their internal facilities and energy management teams and identified areas of credit-eligibility and cost-savings. Phase 2 will consist of identification and allocation of costs as well as eligible basis calculations. Phase 3 will consist of Section 179D consulting and advice around contract negotiation.	KPMG reviewed the University's capital plan with their internal facilities and energy management teams, and we identified concrete areas of opportunity—each of which is opening doors for KPMG to provide extensive analysis of investment tax credits (ITCs) and prevailing wage and apprenticeship (PW&A) assistance that can be leveraged. Our initial analysis shows the significant potential benefit to the client and alignment to their long-term sustainability goals, and is being used to gain internal buy-in.

Key Considerations

Prevailing wage & apprenticeship requirements
Domestic Content

IRA prevailing wage and apprenticeship compliance

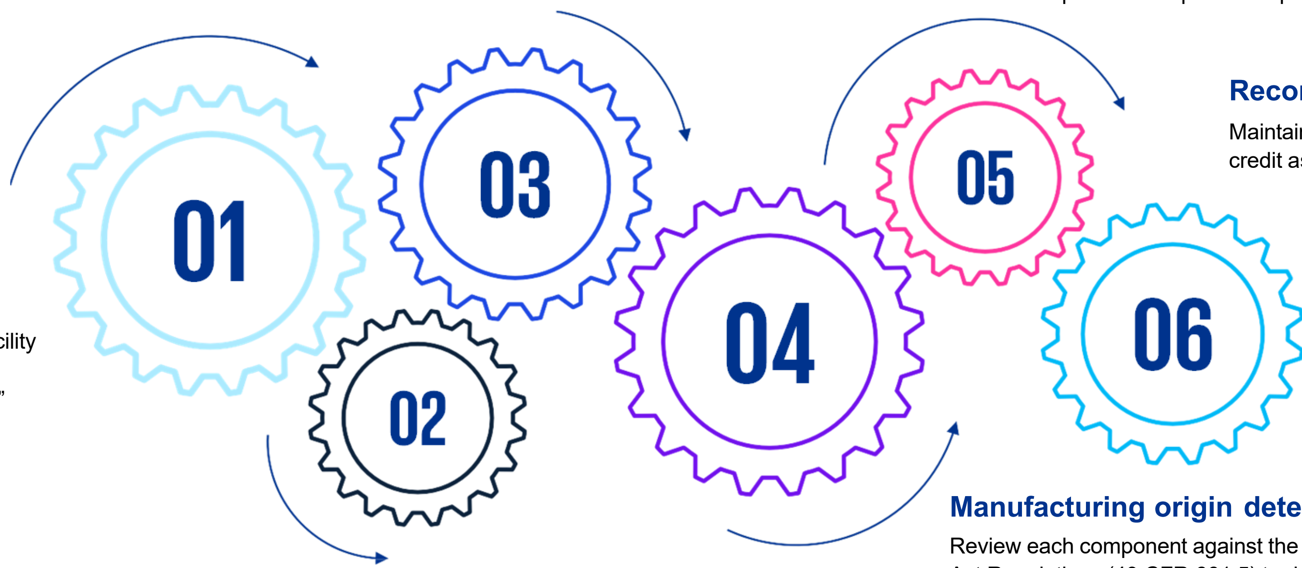
Preconstruction considerations

- Confirm applicable wage determination
- Communicate contractor requirements and work classifications during bid process
- Tools for tracking worker time on site
- Apprenticeship planning, documentation, and good faith recruitment efforts
- Establish correspondence with Dept of Labor to clarify emergent issues and questions

Common compliance issues

- Incorrect wage rates paid
- Omission of employees on payrolls
- Inaccurate worker hours
- Inaccurate classifications
- Inadequate fringe benefits
- Noncompliance with apprentice, overtime, and holiday rules
- Workers not paid weekly
- Apprentices not registered in a bona fide apprenticeship program

IRA Bonus Credit Assessment Process



Identify Applicable Project

Determine if the facility or project is an “Applicable Project”

Identify components of the qualified facility

Determine which materials and equipment are considered “components” of the Applicable Project.

Component categorization

Determine if each component is an iron or steel component or a manufactured product.

Manufacturing origin determination

Review each component against the Buy America Act Regulations (49 CFR 661.5) to determine if it may be considered produced in the United States.

Domestic content calculations

Using direct cost and manufacturing country of origin data for the applicable project components, determine if the 100% U.S. steel/iron component and adjusted percentage (e.g., 40%) U.S. manufactured product component requirements are met.

Recordkeeping

Maintain all records related to bonus credit assessment.

179D

Overview of Section 179D

IRC §179D was enacted to encourage commercial building owners to install energy efficient property. Installation of **e**nergy-**e**fficient **c**ommercial **b**uilding **p**roperty (EECBP) can occur when constructing a new, or improving an existing, commercial building, including one owned by a governmental or other tax-exempt entity.

EECBP must be part of at least one of three systems:	
1	Interior lighting systems (Interior Lighting)
2	Heating, cooling, ventilation, and hot-water systems (HVAC/HW)
3	The building's envelope (ENV)

IRC § 179D allows a taxpayer that owns or leases a commercial building to immediately deduct the cost or a portion of the cost to install EECBP. Additionally, if the EECBP is installed in a Government/Tax-exempt organization-Owned Building, the deduction can be allocated to the person(s) primarily responsible for designing the EECBP ("the Designer" or "the Designers")

Amount of Section 179D deduction

Total cost of building

Total cost of EECBP

Section 179D deduction

Depreciation deduction

The deduction amount is determined by the size of the building

Deduction Amount = **Size of the building** (Square foot) × **Rate** ($0.5-$5 per square foot)

Example of Section 179D

EXAMPLE

An energy efficient lighting system is installed at a cost of $1,200,000 in a 100,000 square foot building assuming the maximum deduction at $5/square foot. What would be the tax implication for a building owner or a designer?

Building Owner

Tax saving impact		
Cost of lighting system	1,200,000	A
Maximum deduction		
Total square foot	100,000	
Rate : $5/square foot	5	
Maximum deduction	**500,000**	
Tax Impact		
Immediate deduction	**500,000**	**B**
Subject to depreciation	**700,000**	**(A-B)**

If a deduction is allocated

Designer

Tax saving impact	
Reduction of Taxable Income	500,000
Tax Rate	21%
Tax saving amount	**105,000**

By receiving allocated deductions from the building owner, the designer could potentially enjoy a permanent tax benefit.

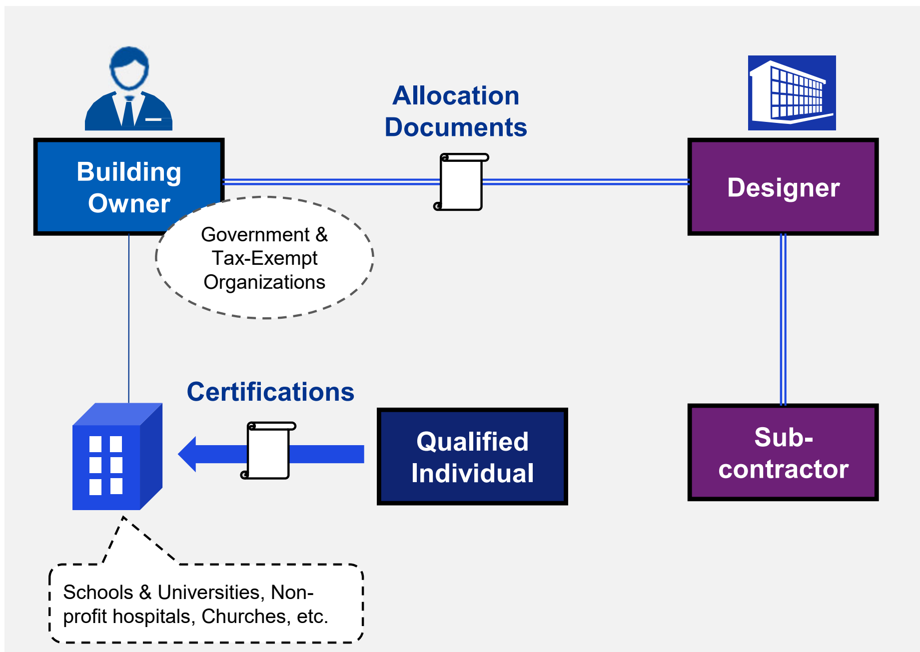
The deduction cannot exceed the capital expenditure for the energy-efficient lighting system and will reduce the cost basis of the equipment for depreciation purposes. The building owner could obtain a temporary tax benefit through accelerated deductions.

Considerations in claiming the 179D deduction as the Designer

If the taxpayer claims the deduction as the Designer, extensive documentation showing the work performed to design the EECBP should exist. In general, the Designer should be able to present a contract with the tax-exempt Owner of the building, the Technical Specifications for the EECBP, and additional documentation establishing Designer status.

Building Owner's Considerations

- The tax-exempt Owner of the building must meet certain requirements to allocate the IRC 179D deduction to the Designer. First, the Allocation must be in writing. Second, the document must contain all the required information.
- The Building Owner needs to obtain a Certification that verifies that the EECBP installed satisfied the requirements of IRC §179D. The Certification must be obtained from a Qualified Individual.



Designer's Considerations

It is important to note that the Designer creates Technical Specifications for the installation of EECBP in or on a new building or an addition to an existing building rather than merely installing, repairing, or maintaining the EECBP.

Following documents will be analyzed:

- The contract(s) for design and/or contract(s) for work performed on EECBP
- The Technical Specifications and Sealed Drawings produced by the taxpayer.
- The Allocation document from the Tax-Exempt Building Owner

Direct Pay and Transferability

New credit monetization options

Direct pay	Transferable
• § 45Q Credit for carbon oxide sequestration • § 45V Clean hydrogen production tax credit • § 45X Advanced manufacturing production tax credit for solar & wind components, batteries, and critical minerals • Tax-exempt entities, states, and political subdivisions thereof	• Annual election • Eligible credit sold to unrelated third party • Transfer shall be required to be paid in cash • Transfer shall not be includible in gross income of the transferor • Amount paid by the transferee shall not be deductible • Eligible credit can only be transferred once

New credit monetization options: transferability considerations

Transferability considerations

- Quality of credit claim
- Substantiation needs
- Opinion memorandum
- Risk of recapture
- Loss of tax depreciation attributes
- Indemnification clauses
- Going rate for the sale/purchase of credits

So, what about tax equity, then?

Other credit considerations

Other credit considerations

- Extended credit carryover periods: carry forward/back from 1/20 to 3/22 years, respectively
- Credits can be used to offset the new 15% corporate Alternative Minimum Tax (AMT), subject to the general business credit limitation rules
  - General business credits may offset up to 75% of a taxpayer's combined regular federal income tax and new corporate AMT
- Impact of direct pay or refundable credits on general business credit limitation rules

Q&A

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