



April 2024

# **Inflation Reduction Act: Clean Energy Tax Incentives & Elective Pay**

# Ground Rules: Disclaimer

- This deck provides an overview of certain Inflation Reduction Act tax provisions for general informational purposes only and **is not itself tax guidance**.
- The content in this presentation is based on tax guidance on IRS.gov.
- This deck relies on simplifications and generalizations to convey high-level points about Inflation Reduction Act tax provisions. Please **refer to guidance** issued by the IRS for detailed information on the rules associated with Inflation Reduction Act tax provisions.



# Introduction: The Inflation Reduction Act

- The Inflation Reduction Act (IRA) makes the **largest investment in clean energy** in United States history, and much of that investment is **delivered via tax incentives**.
- The Treasury Department is the federal agency responsible for **administering the tax code** and is **proud to be playing a central role** in implementing the Inflation Reduction Act's clean energy tax incentives.
- The Inflation Reduction Act includes **tax incentives for a broad range of activities that support building a clean energy economy**, as well as **certain cross-cutting provisions and bonuses** that apply to multiple incentives.
- This presentation discusses **Elective Pay (also known as Direct Pay)**, a novel tax credit delivery mechanism created by the Inflation Reduction Act.

# Overview of Elective Pay

- With elective pay, tax-exempt and governmental entities that do not owe Federal income taxes are, for the first time, able to receive a **payment equal to the full value of tax credits for building qualifying clean energy projects or making qualifying investments.**
- Unlike competitive grant and loan programs, in which applicants may not receive an award, elective pay allows entities to get their payment if they meet **the requirements for both elective pay and the underlying tax credit.**
- The entities eligible for elective pay (applicable entities) would not normally owe federal income tax. However, by **filing a return and using elective pay**, these entities can receive **tax-free cash payments** from the IRS for clean energy tax credits earned, so long as **all requirements** are met, including a pre-filing registration requirement.
- Applicable entities can use elective pay for **12 clean energy tax credits.** As of late February, entities have requested registration numbers for more than 450 projects or facilities through IRS Energy Credits Online.

# Applicable Tax Credits for Elective Pay

Energy Generation & Carbon Capture

Tax Provision	Description
<b>Production Tax Credit for Electricity from Renewables</b> (§ 45, pre-2025)	<b>For production of electricity from eligible renewable sources</b> , including wind, biomass, geothermal, solar, small irrigation, landfill and trash, hydropower, marine and hydrokinetic energy. <b>Credit Amount (for 2022):</b> 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 <sup>1,2,3,7</sup>
<b>Clean Electricity Production Tax Credit</b> (§ 45Y, 2025 onwards)	<b>Technology-neutral tax credit for production of clean electricity.</b> Replaces § 45 for facilities that begin construction and are placed in service after 2024. <b>Credit Amount:</b> Starts in 2025, consistent with credit amounts under section 45 <sup>1,2,3,6,7</sup>
<b>Investment Tax Credit for Energy Property</b> (§ 48, pre-2025)	<b>For investment in renewable energy projects</b> including fuel cell, solar, geothermal, small wind, energy storage, biogas, microgrid controllers, and combined heat and power properties <b>Credit Amount:</b> 6% of qualified investment (basis); 30% if PWA requirements met <sup>1,4,5,6,8</sup>
<b>Clean Electricity Investment Tax Credit</b> (§ 48E, 2025 onwards)	<b>Technology-neutral tax credit for investment in facilities that generate clean electricity</b> and qualified energy storage technologies. Replaces § 48 for facilities that begin construction and are placed in service after 2024 <b>Credit Amount:</b> 6% of qualified investment (basis); 30% if PWA requirements met <sup>1,4,5,6</sup>
<b>Low-Income Communities Bonus Credit</b> (§ 48(e), 48E(h)) <b>Application required</b>	<b>Additional investment tax credit for small-scale solar and wind (§ 48(e)) or clean electricity (§48E(h)) facilities</b> (<5MW net output) on Indian land, federally subsidized housing, in low-income communities, and benefit low-income households. Allocated through an application process. <b>Credit Amount:</b> 10 or 20 percentage point increase on base investment tax credit <sup>7</sup>
<b>Credit for Carbon Oxide Sequestration</b> (§ 45Q)	<b>Credit for carbon dioxide sequestration</b> coupled with permitted end uses in the United States. <b>Credit Amount:</b> \$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. <sup>1,7</sup>
<b>Zero-Emission Nuclear Power Production Credit</b> (§ 45U)	<b>For electricity from nuclear power facilities.</b> Facilities in operation prior to August 16, 2022. <b>Credit Amount (for 2023):</b> 0.3 cents/kWh (reduced rate for larger facilities); 1.5 cent/kWh if PW req's met <sup>1,7</sup>

\* For footnotes, see [irs.gov/pub/irs-pdf/p5817g.pdf](https://irs.gov/pub/irs-pdf/p5817g.pdf). You can also learn more at [IRS.gov/CleanEnergy](https://IRS.gov/CleanEnergy) and [IRS.gov/ElectivePay](https://IRS.gov/ElectivePay).



# Applicable Tax Credits for Elective Pay

	Tax Provision	Description
Manufacturing	<b>Advanced Energy Project Credit (§ 48C)</b> <b>Application required</b>	<b>For investments in advanced energy projects.</b> A total of \$10 billion will be allocated, not less than \$4 billion of which will be allocated to projects in certain energy communities. <b>Credit Amount:</b> 6% of taxpayer’s qualified investment; 30% if PWA requirements are met <sup>1</sup>
	<b>Advanced Manufacturing Production Credit (§ 45X)</b>	<b>Production tax credit for domestic clean energy manufacturing</b> of components including solar and wind energy, inverters, battery components, and critical materials. <b>Credit Amount:</b> Varies by component
Vehicles	<b>Credit for Qualified Commercial Clean Vehicles (§ 45W)</b>	<b>For purchasers of commercial clean vehicles.</b> Qualifying vehicles include passenger vehicles, buses, ambulances, and certain other vehicles for use on public streets, roads, and highways. <b>Credit Amount:</b> Up to \$40,000 (max \$7,500 for vehicles <14,000 lbs) <sup>9</sup>
	<b>Alternative Fuel Vehicle Refueling Property Credit (§ 30C)</b>	<b>For alternative fuel vehicle refueling and charging property,</b> located in low-income and non-urban areas. Qualified fuels include electricity, ethanol, natural gas, hydrogen, and biodiesel. <b>Credit Amount:</b> 6% of basis for businesses and can increase to 30% if PWA is met.
Fuels	<b>Clean Hydrogen Production Tax Credit (§ 45V)</b>	<b>For producing clean hydrogen</b> at a qualified, U.S.-based clean hydrogen production facility. <b>Credit Amount:</b> \$0.60/kg multiplied by the applicable percentage (20% to 100%, depending on lifecycle greenhouse gas emissions), amount increases if PWA is met <sup>1,7</sup>
	<b>Clean Fuel Production Credit (§ 45Z, 2025 onwards)</b>	<b>Technology neutral tax credit for domestic production of clean transportation fuels,</b> including sustainable aviation fuels, beginning in 2025* <b>Credit Amount:</b> \$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 <sup>1,7</sup>

\* For footnotes, see [irs.gov/pub/irs-pdf/p5817g.pdf](https://irs.gov/pub/irs-pdf/p5817g.pdf). You can also learn more at [IRS.gov/CleanEnergy](https://IRS.gov/CleanEnergy) and [IRS.gov/ElectivePay](https://IRS.gov/ElectivePay).





# Certain requirements and bonuses that may affect the amount of elective pay applicable tax credits

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## **Prevailing Wage and Apprenticeship Requirements**

For a number of the tax credits created or modified by IRA, the credit amount is increased by five times for projects that meet requirements for paying prevailing wages and using registered apprentices.

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## **Domestic Content Bonus**

Projects or facilities that meet domestic content requirements are eligible for a 10 percent increase to the Production Tax Credit (sections 45, 45Y) or up to a 10 percentage point increase to the Investment Tax Credit (48, 48E).

For projects or facilities beginning construction starting in 2024, for taxpayers using elective pay, the domestic content requirement can also result in a reduction of the Production Tax Credit or Investment Tax Credit if it is not met.

On Dec. 28, Treasury issued guidance on this rule for projects beginning construction in 2024 (Notice 2024-9)

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## **Energy Communities Bonus**

Projects located in historical energy communities, including areas with closed coal mines or coal-fired power plants, are eligible for a 10 percent increase in the PTC and an up to 10 percentage point increase in the ITC.

The bonus is also available to brownfield sites and to areas that have significant employment or local tax revenues from fossil fuels and higher than average unemployment.

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## **Low Income Communities Bonus Credit Program**

The program provides an increased credit of 10 percentage points or 20 percentage points to certain applicable credits that are part of the investment tax credit for certain facilities located in low-income communities, Indian lands, or federal housing projects, or serving low-income households.

You must apply and receive a capacity allocation, and then place your facility in service to claim this bonus.

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# Definition of “Applicable Entity”

## Under the final rules, applicable entities for elective pay include:

- Tax-exempt organizations
  - Under final regulations, this includes any organization described in sections 501-530 of the Code that meets the requirements to be recognized as exempt from tax under those sections
- U.S. territory governments and their political subdivisions;
- States and political subdivisions, such as local governments;
- Indian tribal governments and their subdivisions;
- Agencies and instrumentalities of state, local, tribal, and territorial governments;
- Alaska Native Corporations;
- The Tennessee Valley Authority, and
- Rural electric co-operatives.
  - The final regulations clarify that both tax-exempt and taxable rural electric co-operatives are eligible for elective pay

*Note: In general, only “applicable entities” are eligible for Elective Pay.*

*However, other taxpayers that are not “applicable entities” may elect to be treated as an applicable entity with respect to **three tax credits** (for carbon oxide sequestration, production of clean hydrogen, or advanced manufacturing).*



# Special Rule: Grants and Loans

- Consistent with the proposed guidance, the final rule includes a special provision that would enable entities to **combine grants and forgivable loans with tax credits**.
- If an investment-related credit property is **funded by a tax-free grant or forgivable loan**, entities would get the **same value of eligible tax credit** as if the investment were financed with **taxable funds**—provided the credit plus ‘restricted tax-exempt amounts’ do **not exceed** the cost of the investment.
- *See next page for examples*

# Special Rule: Grants and Loans (Examples)

## Example 1: 45W

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- A school district receives a tax-exempt grant in the amount of \$300,000 to purchase an electric school bus. Under IRA, clean commercial vehicles are eligible for a tax credit of up to \$40,000.
- The school district purchases the bus for \$400,000, using the grant and \$100,000 of the school district's unrestricted funds.
- The school district's basis in the electric bus is \$400,000 and the school district's section 45W credit is \$40,000.
- Since the amount of the restricted tax-exempt grant plus the amount of the section 45W credit (\$340,000) is less than the cost of the electric bus, the school district's 45W credit is not reduced.

# Special Rule: Grants and Loans (Examples)

## Example 2: Section 48 ITC

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- A higher education institution receives a tax-exempt grant in the amount of \$2,000,000 to install a solar farm on its main campus.
- The institution installs the solar farm for \$10,000,000, using the grant and \$8,000,000 of the institution's unrestricted funds.
- Under IRA, the institution is eligible for a section 48 Investment Tax Credit for its investment in the solar farm. The base credit is 6%. But because the institution has met prevailing wage and apprenticeship requirements, and the solar farm is located in an energy community, the ITC credit rate is enhanced to 40%.
- The institution's basis on the solar farm is \$10,000,000 and the institution's ITC credit is \$4,000,000.
- Since the amount of the restricted tax-exempt grant plus the amount of the ITC credit (\$6,000,000) is less than the cost of the solar farm (\$10,000,000), the institution's ITC credit is not reduced due to the grant.

# How to Claim Elective Payments

- **Identify and pursue** the qualifying project or activity.
  - You will need to know what applicable credit you intend to earn and use direct pay for.
- **Complete** your project and place it into service.
- **Determine** your tax year, if not already known, to determine when your tax return will be due.
- **Complete** pre-filing registration with the IRS after earning the underlying credit.
  - This will include the credit(s) you intend to earn, among other information.
  - Upon completing this process, the IRS will provide you with a registration number for each applicable credit property.
  - **Registration is not a determination of the amount or validity of a credit**
- **File** your tax return by the due date (or extended due date) and make a valid direct pay election.
  - Provide your registration number on your tax return as part of making the direct pay election.
  - A valid election allows you to receive payment as a refund for the amount of the credit (or if applicable, offset your tax liability and receive a payment for any remaining amount).
- **Receive** payment after the return is processed.



# Closing

- More Information on Direct Pay
  - ✓ [IRS.gov/ElectivePay](https://www.irs.gov/ElectivePay)
  - ✓ [CleanEnergy.gov/DirectPay](https://www.CleanEnergy.gov/DirectPay)
  - ✓ Subscribe to IRS e-News Subscriptions by visiting [IRS.gov/newsroom/e-news-subscriptions](https://www.irs.gov/newsroom/e-news-subscriptions) → Tax exempt & government entities
- More information on the IRA
  - ✓ [Treasury.gov/IRA](https://www.Treasury.gov/IRA)
  - ✓ [IRS.gov/CleanEnergy](https://www.irs.gov/CleanEnergy)
  - ✓ [www.whitehouse.gov/cleanenergy/inflation-reduction-act-guidebook/](https://www.whitehouse.gov/cleanenergy/inflation-reduction-act-guidebook/)