

The webcast will start at 1:00 p.m. Eastern

- Visit capincrouse.com/energy-credits to access these resources from today's webcast:
 - Handout
 - Recording
- If you qualify for CPE credit, a certificate will be emailed to you within the next few weeks



Clean Energy Credits for Nonprofit Organizations

Ted R. Batson, Jr., Partner and Tax Counsel
Chris Purnell, Partner and Tax Counsel
5.2.24



The content of this presentation, whether communicated in writing or verbally by partners, employees, or representatives of Capin Crouse LLP, is provided solely for educational purposes. This presentation is not intended to provide legal, accounting, tax, investment, or fiduciary advice. Please contact your attorney, accountant, or other professional advisor to discuss the application of this material to your particular facts and circumstances.

3

Agenda

- Overview of the Inflation Reduction Act
- Types of Projects That Qualify
- Types of Clean Energy Credits
- Investment Tax Credits vs. Production Tax Credits
- Credit Enhancements
- Most Relevant Clean Energy Credits

4

Agenda (continued)

- Credit Process
- Credit Timeline
- Considerations for Organizations
- Vendor Contract Considerations
- Filing IRS Form 990-T

5

Polling Question 1

Do you want CPE credit?

- Yes
- No

6

What is the Inflation Reduction Act (IRA)?

- Legislation passed in August 2022
- Expands existing credits and creates new tax credits around clean and renewable energy
 - Originally estimated at \$370 billion in incentives for clean energy investments
 - The credits are generally not capped, although certain enhancements are
- This is a 10-year program that will end in 2032
- Key feature: Direct Pay (a/k/a Elective Pay)

7

What types of projects qualify?

- Solar panels
- Windmill projects
- Geothermal energy property
- Qualified fuel cell property
- Qualified microturbine property
- Biogas property
- Waste energy recovery systems
- Energy storage technology systems
- Microgrid controllers
- Combination heat and power systems
- Alternative fuel vehicle refueling stations

8

Types of Clean Energy Credits

Section	Type of Technology	Types of Enhancement	Direct Pay Eligible?
30C	Alternative Fuel Vehicle Refueling	PWA	YES
45	Production Tax Credit	PWA, DC, EC	YES
45Q	Carbon Oxide Sequestration	PWA	YES
45U	Zero Emissions Nuclear Power Production	PW (no apprenticeship)	YES
45V	Clean Hydrogen Production	PWA	YES
45W	Qualified Commercial Clean Vehicles	N/A	YES
45X	Advanced Manufacturing Production	N/A	YES
45Y	Clean Electricity Production Credit (effective January 1, 2025)	PWA, DC, EC	YES
45Z	Clean Fuel Production	PWA	YES
48	Investment Tax Credit	PWA, DC, EC, EJ	YES
48C	Qualifying Advanced Energy Project	PWA	YES
48E	Clean Electricity Investment Credit (effective January 1, 2025)	PWA, DC, EC, EJ	YES

Polling Question 2

Does your organization have any capital projects coming up that you think may have an opportunity for a clean energy credit?

- Yes
- No

Investment Tax Credits vs. Production Tax Credits

- Two principal credits: **Investment Tax Credits** (ITC) and **Production Tax Credits** (PTC)
 - ITCs have the following characteristics:
 - Based on the qualified cost of the eligible property
 - The credit percentage is dependent on meeting requirements and can range from a base of 6% to as high as 70% with various enhancements
 - In most cases, the eligible credit amount will be 30%
 - Credit is available in tax year when project is placed in service
 - Five-year recapture period

11

Investment Tax Credits vs. Production Tax Credits (continued)

- Two principal credits (continued):
 - PTCs have the following characteristics:
 - Tax credits based on production and sale of manufactured product to an unrelated third party, with some exceptions
 - Credit earned annually over a 10-year period and based on the production and sale of energy or production and sale of renewable energy property components
 - No recapture, as credit is earned based on production and sale each year

12

Credit Enhancements

- Both the ITC and the PTC require some enhancements to maximize the percentage of the credit
- ITCs have the following enhancements:
 - Prevailing Wage/Qualified Apprenticeship Labor (PWA)
 - Increases the base credit percentage from 6% to 30%
 - Small projects of < 1 MW or its BTU equivalent are exempt from this requirement
 - Domestic Content: 10% enhancement
 - Energy Community: 10% enhancement
 - Environmental Justice Allocation (affordable housing and/or low-income or tribal land): 10% enhancement

13

Credit Enhancements (continued)

- PTCs have the following enhancements:
 - Prevailing Wage/Qualified Apprenticeship Labor (PWA)
 - Small projects of < 1 MW or its BTU equivalent are exempt from this requirement
 - Domestic Content
 - Energy Community

14

Most Relevant Clean Energy Credits

- Some of the most relevant credits for tax-exempt organizations relate to:
 - Investment Tax Credit (48)
 - Production Tax Credit (45)
 - New Energy-Efficient Homes (45L)
 - Alternative Fuel Vehicle Refueling (30C)

15

Credit Process

Receiving the Direct Pay Benefit requires the following steps:

- 1. Construct and implement the project that will generate the credit**
 - Verify eligibility
 - Verify the required enhancements
 - Verify the project costs
 - Place project in service

16

Credit Process (continued)

2. Register

- Register using the [IRS/CHIPS Pre-Filing Registration Tool](#)
- Receive a unique registration number
- Must be done prior to filing a return
- The number should be included on the tax return
- See [IRS Publication 5884](#) for more information

17

Credit Process (continued)

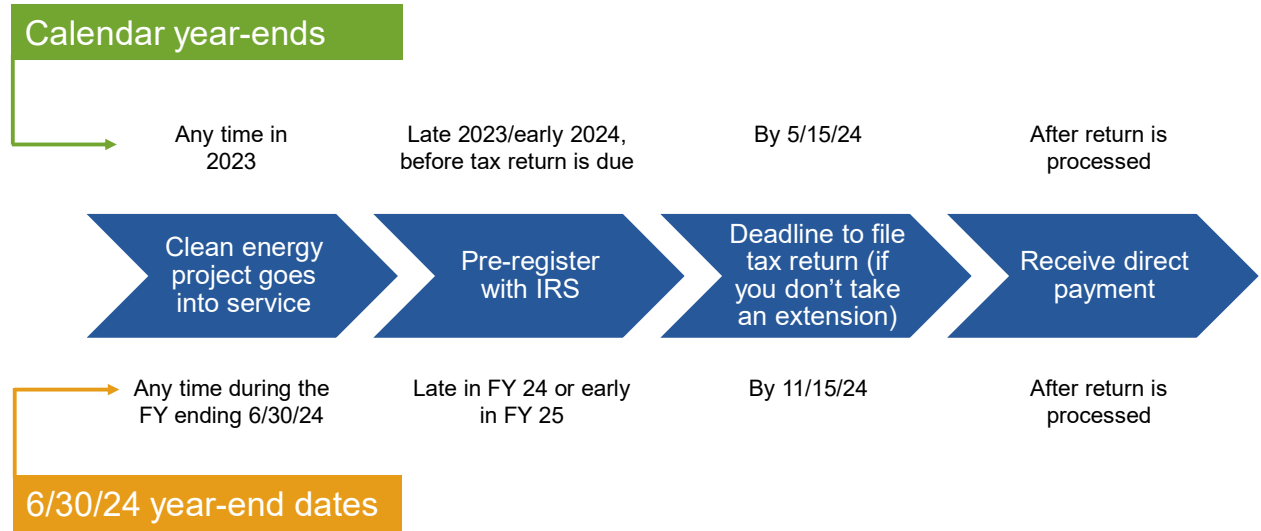
3. Claim the credit

- Determine the tax year, which is based on accounting period
- File the applicable tax return (Form 990-T for nonprofits)
- Must be a timely filed return

4. Receive the refund that can be used for future operations

18

Sample Timeline for Receiving Credit



Polling Question 3

You must place your project in service before you claim a clean energy credit.

- True
- False

Considerations for Organizations

- **If you have not begun your capital project:**
 - Assess whether a clean energy credit component could be added to it
 - Evaluate the costs and benefits of adding a component, along with various credit enhancements that may be involved
 - Evaluate fundraising and other financing implications
 - Work with a trusted tax professional

21

Considerations for Organizations (continued)

- **If you have already begun your capital project:**
 - Evaluate whether there is still time to add a clean energy component
 - Evaluate whether you are still able to take advantage of some of the credit enhancements
 - Depending on your timeline for placing in service, begin preparing for your pre-registration and/or Form 990-T filing

22

Considerations for Organizations (continued)

- **If you have completed your capital project:**
 - Work with a trusted tax professional on pre-registration
 - Begin gathering documentation from the relevant parties for your Form 990-T filing, and work with a tax professional on the filing itself

23

Vendor Contract Considerations

- The applicable eligibility requirements are your responsibility, not the vendor's
- Does the contract warrant that all expected credit requirements will be met?
 - Prevailing wage and qualifying apprenticeship labor
 - Domestic content

24

Vendor Contract Considerations (continued)

- How will you defend an audit if the vendor is out of business?
 - Will the vendor provide contemporaneous copies of records or escrow copies supporting its:
 - Payment of prevailing wages;
 - Use of qualifying apprenticeship labor; and
 - Use of domestic content (if applicable)?

25

Vendor Contract Considerations (continued)

- What remedies are provided for in the event of a breach?
- How will the vendor pay monetary remedies if it isn't in business?

26

Polling Question 4

For tax-exempt entities, a Form 990-T must be used to claim the clean energy credits that have been discussed.

- True
- False

27

Filing IRS Form 990-T

- The IRS has created a streamlined filing process for filers solely filing IRS Form 990-T to make a **direct payment** claim
 - Limits the portion of the form that must be completed
- IRS Form 3800, General Business Credit must be attached
- IRS Form 3468, Investment Credit must be filed to claim the ITC
- IRS Form 8835, Renewable Electricity Production Credit
- IRS Form 8911, Alternative Fuel Vehicle Refueling Property Credit

28

Filing IRS Form 990-T (continued)

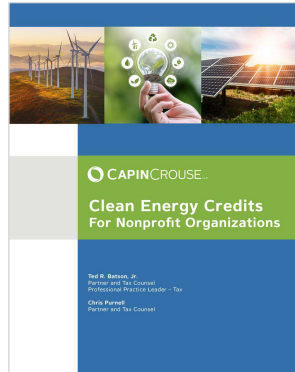
- Form 990-T is due four months and 15 days after the end of the fiscal year
 - For December 31 fiscal year-ends, this is May 15 of the following year
 - For June 30 fiscal year-ends, this is the following November 15
- A six-month extension is available
- The Clean Energy Credits are required to be claimed on an **original** Form 990-T
- Clean Energy Credits must be applied against any unrelated business income tax due before a refund is paid

Filing IRS Form 990-T (continued)

Form 990-T (2023) Page **2**

Part III Tax and Payments (continued)		
6a Payments: Preceding year's overpayment credited to the current year	6a	
b Current year's estimated tax payments. Check if section 643(g) election applies <input type="checkbox"/>	6b	
c Tax deposited with Form 8868	6c	
d Foreign organizations: Tax paid or withheld at source (see instructions)	6d	
e Backup withholding (see instructions).	6e	
f Credit for small employer health insurance premiums (attach Form 8941)	6f	
g Elective payment election amount from Form 3800	6g	
h Payment from Form 2439	6h	
i Credit from Form 4136	6i	
j Other (see instructions)	6j	
7 Total payments. Add lines 6a through 6j	7	
8 Estimated tax penalty (see instructions). Check if Form 2220 is attached <input type="checkbox"/>	8	
9 Tax due. If line 7 is smaller than the total of lines 4, 5, and 8, enter amount owed	9	
10 Overpayment. If line 7 is larger than the total of lines 4, 5, and 8, enter amount overpaid	10	
11 Enter the amount of line 10 you want: Credited to 2024 estimated tax Refunded	11	

Sign Up to Receive Our Free Guide!




Available soon! Scan the QR code or visit capincrouse.com/clean-energy to sign up for your free copy.

31

Questions?





Ted Batson, Partner and Tax Counsel
Professional Practice Leader – Tax
CapinCrouse LLP

 tbatson@capincrouse.com

 505.50.CAPIN ext. 1105

Chris Purnell, Partner and Tax Counsel
CapinCrouse LLP

 cpurnell@capincrouse.com

 505.50.CAPIN ext. 1113



© Copyright CapinCrouse 2024