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# Monetizing Clean Energy Tax Credits from the Inflation Reduction Act

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# Session CPE Requirements

- You need to attend 50 minutes to receive the full 1 CPE credit.
- 4 Attendance Markers that read: “I’m Here,” will be launched during this session. You must respond to a minimum of 3 to receive the full 1 CPE credit.

**\*\*Both requirements must be met to receive CPE credit\*\***



# Learning Objectives

At the end of this session, you will be able to:

- Recognize various tax credit and incentive opportunities under the IRA
- Describe the latest legal and regulatory updates under the IRA
- Discuss tax credit investments and tax credit transferability in more detail
- Identify how to claim potential tax credits available for your organization



# IRA Snapshot

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Creates and modifies a number of renewable energy credits as well as financing programs.

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Effective for tax years beginning on or after Jan 1, 2023.

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Section 6417 creates an elective pay option (i.e., cash refund) for tax-exempt organizations.

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Section 6418 creates a transferability option for for-profit organizations (i.e., credits can be purchased and sold for cash).

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Enacts a series of bonus credits aimed at domestic manufacturing, economic revitalization, and well-paying jobs.

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IRS portal launched in Dec. 2023.

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Treasury and IRS have released some guidance, but more to come.



# Refundable/Transferable Credits

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§30C Alternative fuel vehicle refueling property credit

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§45 Electricity produced from certain renewable resources, etc.

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§45Q Credit for carbon oxide sequestration

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§45U Zero-emission nuclear power production credit

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§45V Credit for production of clean hydrogen

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§45W Credit for qualified commercial clean vehicles (elective pay only)

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§45X Advanced manufacturing production credit

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§45Y Clean electricity production credit

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§45Z Clean fuel production credit

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§48 Energy credit

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§48C Advanced energy project credit

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§48E Clean electricity investment credit





# Tax Credit Transferability



# Opportunity Created by the IRA

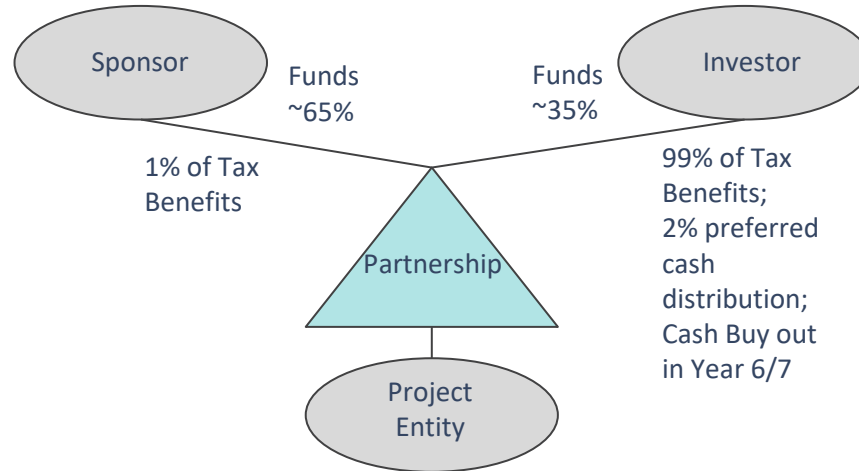
- Prior to the Inflation Reduction Act (“IRA”), many project developers relied upon “tax equity” transactions with investors to monetize federal tax credits and related tax benefits (i.e., partnership flip structure).
- Post-IRA, additional renewable projects/technologies now qualify for the investment tax credit (“ITC”) and many renewable energy credits are now transferable thereby expanding the tax credit marketplace.
- Tax credit transactions can reduce the corporate tax burden (i.e., cash tax savings), improve cash flow, and allow investors to play a key role in the clean energy transition with the growing emphasis on environmental, social, and governance (“ESG”) standards.
- Both tax equity and tax credit transferability transactions will provide ample investment opportunities for corporate taxpayers moving forward.





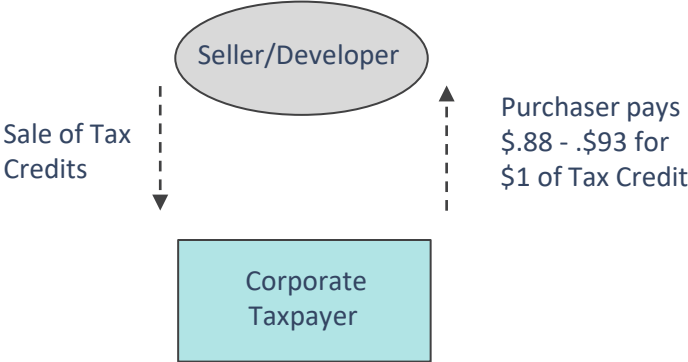
# Tax Equity Investment Illustration

## Illustrative Partnership Flip



# Tax Credit Transferability Illustration

## Illustrative Transferability Transaction



# Tax Credit Transferability

- The IRA allows for tax credit transfers (sales) of eleven different types of tax credits, including the Section 48 investment tax credit and Section 45 production tax credit.
- While still evolving, the tax credit transferability market facilitates the purchase of credits at a discount with a shortened investment period and streamlined legal process.
- Purchasers can time the transaction around estimated tax payments, extensions, or tax return due dates to maximize IRR.
- Currently seeing transactions within the .88 to .93 credit range with pricing dependent upon creditworthiness of seller, project/credit size, project type, and the existence of indemnification/tax insurance.



# Transferring Credits

## How to buy and sell credits

- Taxpayers must be unrelated parties
- Must be purchased solely for cash (i.e., U.S. dollars only, no foreign currency or cash equivalents are permitted)
- Once the purchase is lined up, a transfer election statement must be arranged between the buyer and seller
- Taxpayers must complete pre-filing registration with the IRS if they intend to transfer some or all of an eligible credit

## Transfer election statement

- Some flexibility in terms of the exact form of the transfer election statement, but must generally include:
  - Name, address, and taxpayer identification number for both the buyer and seller
  - A description of the type and amount of the eligible tax credit being transferred
  - Amount of cash paid for the credit
  - Registration number related to the credit property
  - Attestation seller is not related to the buyer and a representation acknowledging the notification of recapture requirements





# Tax Credit Refundability



# Applicable Entities

Only applicable entities are eligible for elective payments, which are:

- Tax-exempt organizations (all types of 501(c) organizations)
- State and local governments (all levels, from state to school district)
- Tribal governments
- Rural electric cooperatives

Entities must hold the qualifying property directly.

Partnerships are not considered applicable entities.



# Exception for Certain Credits

- Three clean energy credits can be claimed via refund by taxpaying/for-profit entities:
  - Section 45X Advanced Manufacturing Production Credit
  - Section 45Q Credit for Carbon Oxide Sequestration
  - Section 45V Credit for Production of Clean Hydrogen



# Claiming Elective Payments

## Pre-filing registration

- Must be completed prior to filing the tax return where a direct pay election is made
- IRS is advising a minimum of 120 days to process registrations
- Must provide certain information about organization, the credits you intend to claim, and details regarding the property giving rise to the credit
- A registration number will be issued that will be required when making the election on tax return
- IRS will issue a separate registration number for each applicable credit property

## Making the election on a tax return

- Must be made on a timely filed return (including extensions) → cannot be made on an amended return
- Must be filed on Form 990-T by due date along with:
  - Form 3800 (General Business Credit)
  - Applicable credit form and registration info from above
  - State and local governments that do not file a tax return will need to file a Form 990-T for this limited purpose







# Specific Credit Opportunities



# Section 48 Energy Investment Tax Credit

Tax credit for a percentage of the cost of placing specified energy property into service

Base credit rate is 6%

30% if less than 1 megawatt

Applies to:

- Solar
- Wind
- Biogas
- Geothermal
- Energy storage property
- Combined heat and power systems
- Microgrid controllers
- Electrochromic glass



# Section 45 Production Credit

Per kWh credit for production of electricity from renewable sources

Rates vary depending upon energy source

Prevailing wage and other bonus credits available

Applies to:

- Solar
- Wind
- Municipal solid waste
- Geothermal
- Biomass
- Hydroelectric



# Section 30C Alternative Fuel Refueling Credit

## Credit Amount

- 6% of the cost of any single item of qualified property not meeting prevailing wage, up to \$100,000
- 30% of the cost of qualified property if prevailing wage is met, up to \$100,000

## Basis and Recapture

- Basis in property must be reduced by amount of the credit
- Basis does not include any property expensed under Section 179
- Recapture required if property ceases to be qualified property



# Section 30C Cont'd

## Qualified property

- Property used for the storage or dispensing of alternative fuel into the fuel tank of a motor vehicle propelled by that fuel
- Includes fuel tanks, pumps, and other property used to transfer fuel

## Alternative Fuels

- Electricity
- At least 85% of its volume consists of one or more of the following:
  - Compressed natural gas
  - Liquified natural gas
  - Liquified petroleum gas
  - Natural gas
  - Hydrogen
  - Ethanol



# Census Tract Requirements

- Effective 1/1/23, qualified property must be installed in locations that meet the following census tract requirements:
  - The census tract is a non-urban area
  - A population census tract where the poverty rate is at least 20%; or
  - Metropolitan and non-metropolitan area census tract where the median family income is does not exceed 80% of the state median family income level



# Section 45W Clean Vehicle Credit



Applies to clean commercial vehicles and mobile machinery acquired or leased after 2022 and before 2033



Credit equals the lesser of:

- 15% of the vehicle's basis (30% if fully electric) or
- Incremental cost of the vehicle



Max credit is:

- \$7,500 for vehicles less than 14,000 GVWR, and
- \$40,000 for all others



# Section 45X Advanced Manufacturing Credit



Credit for the production of certain renewable energy equipment and components.



The production must be conducted in the United States and sales must be made to unrelated parties.



Credit rate depends on item being produced.

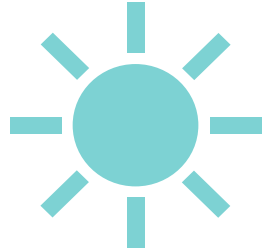


Refundable and transferable.





# Section 45X Cont'd



## Eligible component categories

Solar energy components

Wind energy components

Inverters

Qualifying battery components

Applicable critical minerals



## Interaction with Sec. 48C

Property produced at a facility that received a Sec. 48C credit is not eligible for the Sec. 45X credit





# Bonus Credits



# Domestic Content Bonus

- Projects are eligible for an additional bonus credit of 2% (10% if 5X multiplier applied) if the following conditions are met:
  - 100% of any steel or iron that is a component of the facility is manufactured in the United States
  - Not less than 40% of the manufactured components of the facility are manufactured in the United States

100% of steel and iron  
produced from the US

At least 40% of  
manufactured  
components produced in  
US



# Prevailing Wage and Apprenticeship

Increases the base credit by 5X generally

A prevailing wage is a wage the federal government requires to be paid by contractors to workers under the Davis-Bacon Act

Hourly wage plus overtime and benefits as set by the Department of Labor based on the locality where the construction, alteration, or repair is being performed

Apprentices must work a certain percentage of the total labor hours depending on when construction of begins



# Energy Communities

- Projects are eligible for an additional bonus credit of 2% (10% if 5X multiplier applied) if the facility is located in any of the following:
  - A brownfield site
  - An area that:
    - Has (or, at any time during the period beginning after December 31, 2009, had) 0.17% or greater direct employment or 25% or greater local tax revenues related to the extraction, processing, transport, or storage of coal, oil, or natural gas, or
    - Has an unemployment rate above the national average for the previous year, or
    - Has a census tract or a census tract that is adjoining a census tract in which a coal mine has closed after 1999 or a coal-fired electric generating unit was retired after 2009



# Low-Income Communities



Project is built in a low-income community as defined by the New Markets Tax Credit or on Indian Land can receive an increased tax credit of 10%



Project associated with a low-income residential building project, or a low-income economic benefit project, can receive an increased tax credit of 20%

*Thank you!*

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