

# 2022 Inflation Reduction Act

## Changes to the Energy Tax Credits and other energy related tax incentives

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# Extension and Expansion of Existing Tax Incentives

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- Investment Tax Credit (Section 48) – until 2025
- Production Tax Credit (Section 45) – until 2025
- New Energy Efficient Homes (Section 45L)
- Energy Efficient Commercial Buildings (Section 179D)
- Alternative Fuel Vehicle Refueling (Section 30C)
- New Clean Vehicles (Section 30D)
- Energy Efficiency Home Improvement (Section 25C)
- Residential Clean Energy (Section 25D)

# Investment Tax Credit (Section 48) – until 2025

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- Tax credit for solar, wind and other energy property
- 6% base tax credit amount (30% if prevailing wage and apprenticeship requirements are met or < 1MW)
- Bonus credits for domestic content (+10%) and energy community (+10%), Environmental Justice (Solar and Wind) (+10% or +20%)
- New Technologies include energy storage, microgrid controllers, interconnection properties
- No longer reduces LIHTC Basis



# New Energy Efficient Homes (Section 45L)

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- Tax credit for new energy efficient net zero or Energy Star homes
- \$5,000 for single family net zero, \$2,500 for single family Energy Star
- \$1,000 for multifamily net zero, \$500 for multifamily Energy Star
- 500% increase for multifamily meeting prevailing wage requirements

➤ No longer reduces LIHTC Basis



# Energy Efficient Commercial Buildings (Section 179D)

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- Tax deduction for energy efficient commercial building property
- \$0.50 per SF base, up to \$1.00 for reducing energy cost by more than 25%.
- 500% increase for projects meeting prevailing wage and apprenticeship requirements.
- Retrofit plan available for existing buildings (5yrs)
- ASHRAE Standard 90.1
- Public and private tax-exempt entities may allocate deduction to designer.



# Energy Efficient Home Improvement (Section 25C)

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- Tax credit for energy efficiency improvements on taxpayer residence
- 30% tax credit with various per item limits
- \$1,200 maximum per year (\$2,000 for heat pumps, boilers)
- Qualifying doors, windows, insulation, HVAC equipment
- Starting in 2025 product must be produced by qualified manufacturer
- Home energy audits an allowable cost



# Residential Clean Energy (Section 25D)

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- Tax credit for clean energy on taxpayer residence
  - 30% tax credit
  - Solar electric, solar water heating, fuel cell, geothermal, biomass
  - Tax credit step down starting in 2032
- Battery Storage (3 kWh+) an allowable cost



# New Tax Credit Programs

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- Section 48E (Clean Electricity Investment) – starting 2025
- Section 45Y (Clean Electricity Production) – starting 2025
- Section 48C (Advanced Energy Manufacturing Projects)
- Section 45X (Advanced Manufacturing Component Production)
- Section 45W (Commercial Clean Vehicles)
- Section 45Z (Clean Fuel Production)
- Section 45V (Production of Clean Hydrogen)



# Section 48E (Clean Electricity Investment) – starting 2025

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- Tax credit for clean electricity investment, technology neutral ITC replacement
- 6% base tax credit amount (30% if prevailing wage and apprenticeship requirements are met)
- Anticipated greenhouse gas emissions rate is not greater than zero
- Bonus credits for domestic content (+10%) and energy community (+10%), Environmental Justice Solar and Wind bonus credit (+10%) or (+20%)
- Interconnection, storage, microgrid controllers
- Steps down later of 2032 and year where GHGE is 25% of 2022 emissions



# Section 48C (Advanced Energy Manufacturing Projects)

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- Awarded tax credit for manufacturing facilities of advanced energy properties
- 6% (or 30% if prevailing wage and apprenticeship requirements met) of qualified investment in manufacturing facility, \$10B program cap (\$4B to energy community)
- Solar, wind, geothermal, fuel cells, storage for EV, grids and storage, CO2 capture, renewable fuel, energy conversation
- Treasury and DOE to establish program – commercial viability, job creation, impact on GHGE
- Other advanced energy property as may be determined by Secretary



# New “Bonuses”

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- Prevailing Wage and Apprenticeship
- Domestic Content
- Energy Communities
- Environmental Justice (Solar or Wind)

# Prevailing Wage and Apprenticeship

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- Provides 500% increase in tax credits for projects that qualify (not required for less than 1 MW or start of construction before 60 days after 2023 guidance)
- Laborers and mechanics employed by taxpayer, contractor or subcontractor must be paid not less than prevailing wage – or else face penalties
- 12.5% (15% starting 2024) of total labor hours must be performed by qualified apprentices from a registered apprenticeship program
- Good faith effort - request to apprenticeship program
- Each taxpayer, contractor or subcontractor employing 4 or more must employ at least 1 apprentice



# Domestic Content

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- Provides 10% increase in tax credits for projects that qualify
  - Steel, iron or manufactured product components must be produced in U.S.
  - Manufactured products must have 40% (20% for offshore wind) of costs attributable to products mined, produced or manufactured in U.S.
- Taxpayer must certify domestic content



# Energy Communities

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- Provides 10% increase in tax credits for projects that qualify
- Project located on:
  - Brownfield Site
  - MSA fossil fuel economy + unemployment (determined by Secretary)
  - Census tract (and adjacent) with closed coal mine or coal electricity plant





# Environmental Justice (Solar or Wind)

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- Provides awarded 10% or 20% increase in investment tax credits for projects that qualify
- Application and allocation procedures, 1.8 GW of allocation per year, maximum < 5MW per project
- In a Low Income Community (10%+) – NMTC census tract or Indian Land
- Part of Qualified Low-Income Residential Building (20%+) – affordable housing program and financial benefits allocated equitably among occupants
- Part of Qualified Low-Income Economic Benefit Project (20%+) – 50% of financial benefits provided to low-income households (<200% poverty line or < 80% AMI)
- Financial benefit includes electricity acquired at below-market rate



# Structural Changes

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- Section 6417 (Election for Payment Against Income Tax – Tax Exempt Org)
- Section 6418 (Election for Transfer to an Unrelated Taxpayer – Taxable Org)
- Some Credits reduced for portion of Tax-Exempt Bond Financing (max 15%)



# Section 6417 (Election for Payment Against Income Tax – Tax Exempt Org)

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- Applicable Entity - any organization exempt from income tax (Subtitle A)
  - 100% payment of tax, subsequent refund payment
  - Property held directly by a partnership or S corporation - election must be made by partnership or S corporation
  - Avoid “Excessive Payment” – no payments above allowable tax credit amount
  - Applicable percentage step down to 90% for facilities that start construction in 2024 (does not apply to domestic content and < 1MW facilities)
- No Tax-Exempt Use restriction

# Section 6418 (Election for Transfer to an Unrelated Taxpayer – Taxable Org)

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- Any entity that is not an Applicable Entity
- Taxpayer may transfer all of credit to an unrelated taxpayer (no transfer of depreciation benefits)
- Consideration for transfer must be paid in cash (transaction not taxable)
- Property held directly by a partnership or S corporation - no election by any partner or shareholder shall be allowed
- Avoid “Excessive Payment” – no payments above allowable tax credit amount
- Provides ability to transfer without tax partnership structure

# Reduction for Tax-Exempt Bond Financing

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- Applies to Section 48 ITC, Section 45 PTC, Section 48E CEI, Section 45Y CEP, Section 45V CHP
- Tax credit amount is reduced by lesser of 15% and fraction of tax-exempt financing / aggregate amount of additions to capital account
- Proceeds of an issue of any obligations the interest on which is exempt from tax under Section 103
- Determined as of the close of the taxable year
- Applies to 4% LIHTC transaction



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