How State and Local Governments Can Use Direct Pay to Transition Toward a Clean Energy Economy

Ground Rules

- 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 proposed and temporary regulations and other 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.
- The **public comment period on provisions related to elective pay (often and herein called direct pay) ended on August 14th**. Please visit regulations.gov to view public comments.
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Introduction: The Inflation Reduction Act

- The Inflation Reduction Act (IRA) makes the **largest investment in clean energy** in United States history. The bulk of the IRA investments flow through the tax code instead of direct government spending.
- The clean energy provisions of the IRA are boosting the U.S. economy. Under the Biden-Harris Administration, as of mid-November 2023, private companies have announced commitments to invest $142 billion in electric vehicle and battery manufacturing, $71 billion in clean energy manufacturing and $133 billion in clean energy projects.
- The IRA is creating jobs, saving consumers money and accelerating the nation's transition to clean energy. It will reduce volatility in the cost of energy and increase the nation's energy independence.

The Role of State and Local Government

- Potential roles for state and local governments include:
  - A direct role by **incorporating clean energy projects** into their capital planning process
  - **Shifting energy consumption** to clean and renewable sources by changing their fleet to clean vehicles, as just one example
  - **Centering community and economic development** strategies around the clean energy transition
  - **Promoting** consumer and business transition to clean energy

The Role of State and Local Government

- In thinking about how best to take full advantage of the opportunities under the IRA and to lead on the clean energy transition, state and local governments might consider developing a plan of action to:
  - Build a team and establish a process to plan for, obtain funding/financing for and implement critical investments
  - Focus on collaboration across the public, non-profit and civic sectors.
  - Clearly define roles to ensure coordination across your team and among your partners
  - Think about how best to target your efforts to address issues of equity
  - Make sure that you fully understand – and are prepared to execute on – responsibilities and obligations

What is Direct Pay?

- Under the direct pay provisions of the IRA, tax-exempt and governmental entities that do not owe Federal income taxes will, for the first time, be 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, direct pay allows entities to get their payment if they meet **the requirements for both direct pay and the underlying tax credit**.
- The entities eligible for direct pay (applicable entities) would not normally owe federal income tax. However, by **filing a return and using direct 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.

How does Direct Pay work?

- Under the proposed rules and regulations, direct pay is applicable to 12 different tax credits related to **energy generation and carbon capture, manufacturing, vehicles and fuels.**

- The value of the credit depends on (a) statutory provisions related to the credit itself and (b) the applicability of various bonus provisions. By and large, the bonus provisions are designed to incentivize the creation of good paying, “high road” employment and location of investments in economically challenged communities.

- In thinking about how to structure and finance specific projects, it is very important to fully understand the requirements of the bonus provisions.

Applicable Tax Credits for Direct Pay

Energy Generation & Carbon Capture

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

* For footnotes, see irs.gov/pub/irs-pdf/p5817g.pdf. You can also learn more at IRS.gov/CleanEnergy and IRS.gov/ElectivePay.

Applicable Tax Credits for Direct Pay

	Tax Provision	Description
Manufacturing	**Advanced Energy Project Credit** (§ 48C) Application required	**For investments in advanced energy projects.** A total of $10 billion will be allocated, not less than $4 billion of which will be allocated to projects in certain energy communities. **Credit Amount:** 6% of taxpayer's qualified investment; 30% if PWA requirements are met [1]
Manufacturing	**Advanced Manufacturing Production Credit** (§ 45X)	**Production tax credit for domestic clean energy manufacturing** of components including solar and wind energy, inverters, battery components, and critical materials. **Credit Amount:** Varies by component
Vehicles	**Credit for Qualified Commercial Clean Vehicles** (§ 45W)	**For purchasers of commercial clean vehicles.** Qualifying vehicles include passenger vehicles, buses, ambulances, and certain other vehicles for use on public streets, roads, and highways. **Credit Amount:** Up to $40,000 (max $7,500 for vehicles <14,000 lbs) [9]
Vehicles	**Alternative Fuel Vehicle Refueling Property Credit** (§ 30C)	**For alternative fuel vehicle refueling and charging property**, located in low-income and non-urban areas. Qualified fuels include electricity, ethanol, natural gas, hydrogen, and biodiesel. **Credit Amount:** 6% of basis for businesses and can increase to 30% if PWA is met.
Fuels	**Clean Hydrogen Production Tax Credit** (§ 45V)	**For producing clean hydrogen** at a qualified, U.S.-based clean hydrogen production facility. **Credit Amount:** $0.60/kg multiplied by the applicable percentage (20% to 100%, depending on lifecycle green-house gas emissions), amount increases if PWA is met [1,7]
Fuels	**Clean Fuel Production Credit** (§ 45Z, 2025 onwards)	**Technology neutral tax credit for domestic production of clean transportation fuels**, including sustainable aviation fuels, beginning in 2025* **Credit Amount:** $0.20/gallon ($0.35/gal for aviation fuel) multiplied by CO_2 "emissions factor"; $1.00/gallon ($1.75/gal for aviation fuel) multiplied by CO_2 "emissions factor" if PWA is met [1,7]

* For footnotes, see irs.gov/pub/irs-pdf/p5817g.pdf. You can also learn more at IRS.gov/CleanEnergy and IRS.gov/ElectivePay.

Certain requirements and bonuses that may affect the amount of Direct Pay applicable tax credits

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**.
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.
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.
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.

Examples of Direct Pay Potential Use Cases

Goal	Project	Relevant Tax Credits
Fleet Cost Savings	Replace existing municipal vehicle fleet with new electric vehicles and associated charging infrastructure	• Up to $7,500 per light vehicle • Up to $40,000 per larger vehicle • Up to 30% credit on investment in eligible EV charging equipment
Community Resilience	Install microgrid with solar and energy storage to serve critical infrastructure and community facilities during emergencies and grid outages	• 6% - 50% credit on investment in solar, storage and microgrid controllers
Community Heating	Develop central geothermal system to provide heating to community buildings and residential households	• 6% - 50% credit on investment in geothermal energy property

How Direct Pay Investments Can Potentially Reduce Cost

Municipal Fleet Electrification	• Estimated **$80 million savings over ten years** from electrification of fleet vehicles for ten largest municipalities in Arizona.
Solar Microgrid	• **50% savings in annual electricity bills**, plus resilience benefits for solar, storage, and microgrid system installed at Chemehuevi Indian Tribe community center in Havasu Lake, CA
Central Geothermal Heating	• Estimated **annual savings of over $2 million** for Ball State University central geothermal heat pump replacement of aging coal boilers heating system for college campus.

How do I claim and receive a direct payment?

- 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.
  - 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.
- File your tax return by the due date (or extended due date) and make a valid elective pay election.
  - Provide your registration number on your tax return as part of making the elective 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.

IRS Resources

IRS.gov/ElectivePay

Applicable Tax Credits

Clean Energy Tax Incentives: Elective Pay Eligible Tax Credits

The Inflation Reduction Act of 2022 ("IRA") makes several clean energy tax credits available to businesses; tax-exempt organizations; state, local, and tribal governments; other entities; and individuals. The IRA also enables entities to take advantage of certain clean energy tax credits through its elective pay provision (also colloquially known as direct pay). Elective pay allows several types of entities, such as tax-exempts and governments, to treat the amount of certain credits as a payment against tax on their tax returns and as a result receive direct payments for certain clean energy tax credits.

	Tax Provision	Description
Energy Generation & Carbon Capture	**Production Tax Credit for Electricity from Renewables** (§ 45, pre-2025)	**For production of electricity from eligible renewable sources**, including wind, biomass, geothermal, solar, small irrigation, landfill and trash, hydropower, marine and hydrokinetic energy. **Credit Amount (for 2022):** 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 [1,2,3,7]
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	Clean Electricity Investment Tax Credit (§ 48E, 2025 onwards)	**Technology-neutral tax credit for investment in facilities that generate clean electricity** and qualified energy storage technologies. Replaces § 48 for facilities that begin construction and are placed in service after 2024 **Credit Amount:** 6% of qualified investment (basis); 30% if PWA requirements met [1,4,5,6]
	Low-Income Communities Bonus Credit (§ 48(e), 48E(h)) Application required	**Additional investment tax credit for small-scale solar and wind (§ 48(e)) or clean electricity (§48E(h)) facilities** (<5MW net output) on Indian land, federally subsidized housing, in low-income communities, and benefit low-income households. Allocated through an application process. **Credit Amount:** 10 or 20 percentage point increase on base investment tax credit [7]
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Please see the notes on the next page or see IRS.gov/cleanenergy for more information.

Frequently asked Questions:

Q15. Are there requirements or bonuses that affect the amount of the applicable credits that are eligible for elective pay? (added June 14, 2023)

Q26. At what stage of development, construction, or operations are projects eligible for elective pay? (added June 14, 2023)

Closing

- More Information on Direct Pay
  - ✓ IRS.gov/ElectivePay
  - ✓ CleanEnergy.gov/DirectPay
- More information on the IRA More Generally
  - ✓ IRS.gov/CleanEnergy
  - ✓ www.whitehouse.gov/cleanenergy/inflation-reduction-act-guidebook/

February 16, 2024

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- The entities eligible for direct pay (applicable entities) would not normally owe federal income tax. However, by **filing a return and using direct 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.

How does Direct Pay work?

Under the proposed rules, applicable entities for elective pay would include:

- Tax-exempt organizations under § 501(a), including § 501(c) and § 501(d) organizations,
- States and political subdivisions such as local governments,
- Indian tribal governments,
- U.S. territory governments and political subdivisions,
- Agencies and instrumentalities of state, local, tribal, and territorial governments – including public utilities, school districts, public hospitals and public higher education
- Alaska Native Corporations,
- The Tennessee Valley Authority, and
- Rural electric co-operatives.

In general, only these applicable entities can use elective pay. However, other taxpayers that are not "applicable entities" may elect to be treated as applicable entities with respect to three credits (for carbon oxide sequestration, production of clean hydrogen, advanced manufacturing production).

Applicable Tax Credits for Direct Pay

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What types of projects might be eligible for Direct Pay?

- Direct pay will allow state and local governments to do things differently and to do different things.
  - For example, direct pay could help state and local governments invest in the replacement of existing vehicles with clean vehicles as part of a fleet transition.
  - Direct pay can also help state and local governments that currently don’t generate clean energy for their government facilities to begin to do so.
- **Direct Pay is a powerful new financial tool to make necessary investments to achieve goals related to the clean energy transition, such as improved health outcomes, reduced reliance on the grid and potential cost savings.**

Certain requirements and bonuses that may affect the amount of Direct Pay applicable tax credits

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**.
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.
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.
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.

Direct Pay Potential Use Cases

Goal	Project	Relevant Tax Credits
Fleet Cost Savings	Replace existing municipal vehicle fleet with new electric vehicles and associated charging infrastructure	• Up to $7,500 per light vehicle • Up to $40,000 per larger vehicle • Up to 30% credit on investment in eligible EV charging equipment
Community Resilience	Install microgrid with solar and energy storage to serve critical infrastructure and community facilities during emergencies and grid outages	• 6% - 50% credit on investment in solar, storage and microgrid controllers
Community Heating	Develop central geothermal system to provide heating to community buildings and residential households	• 6% - 50% credit on investment in geothermal energy property

Using Direct Pay with Grants and Loans

- The proposed guidance also includes a special rule 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.
- For example:
  - ➢ 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.

How Direct Pay Investments Can Potentially Reduce Cost

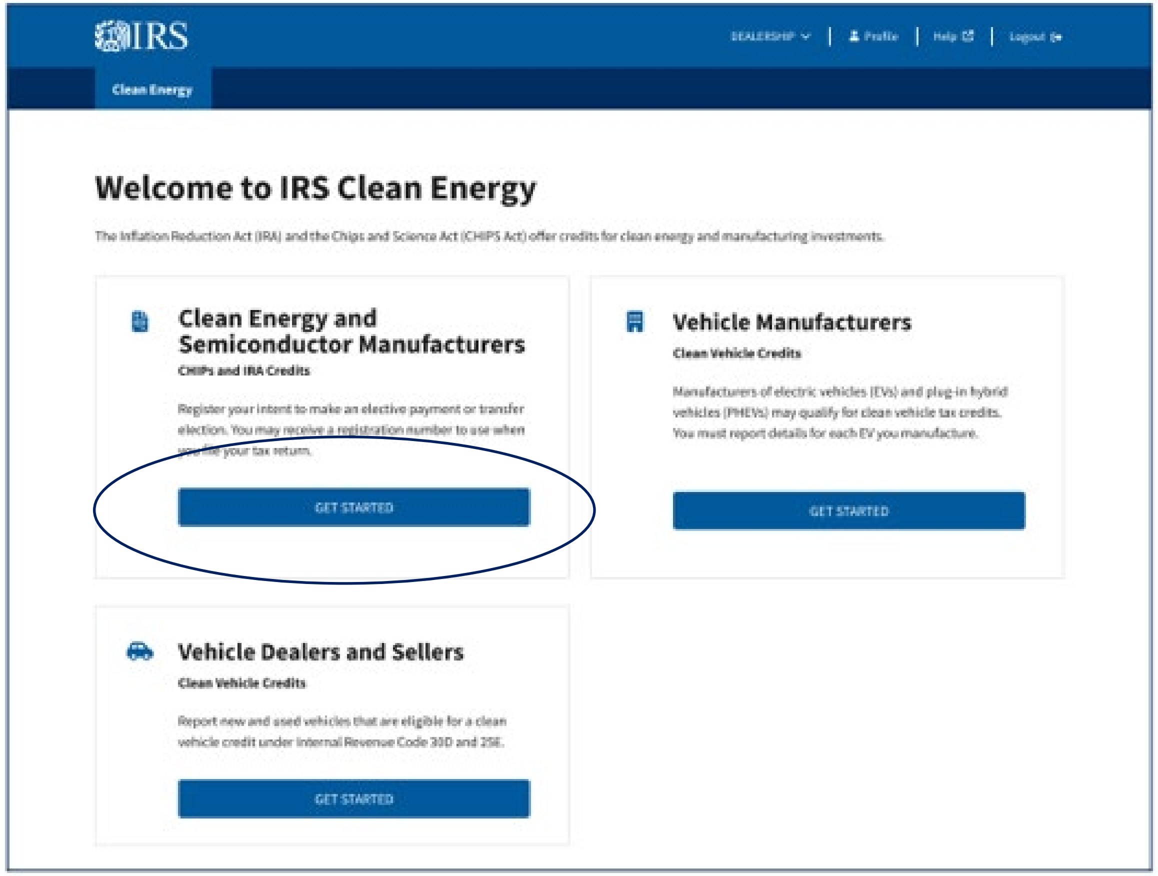
Municipal Fleet Electrification	• Estimated **$80 million savings over ten years** from electrification of fleet vehicles for ten largest municipalities in Arizona.
Solar Microgrid	• **50% savings in annual electricity bills**, plus resilience benefits for solar, storage, and microgrid system installed at Chemehuevi Indian Tribe community center in Havasu Lake, CA
Central Geothermal Heating	• Estimated **annual savings of over $2 million** for Ball State University central geothermal heat pump replacement of aging coal boilers heating system for college campus.

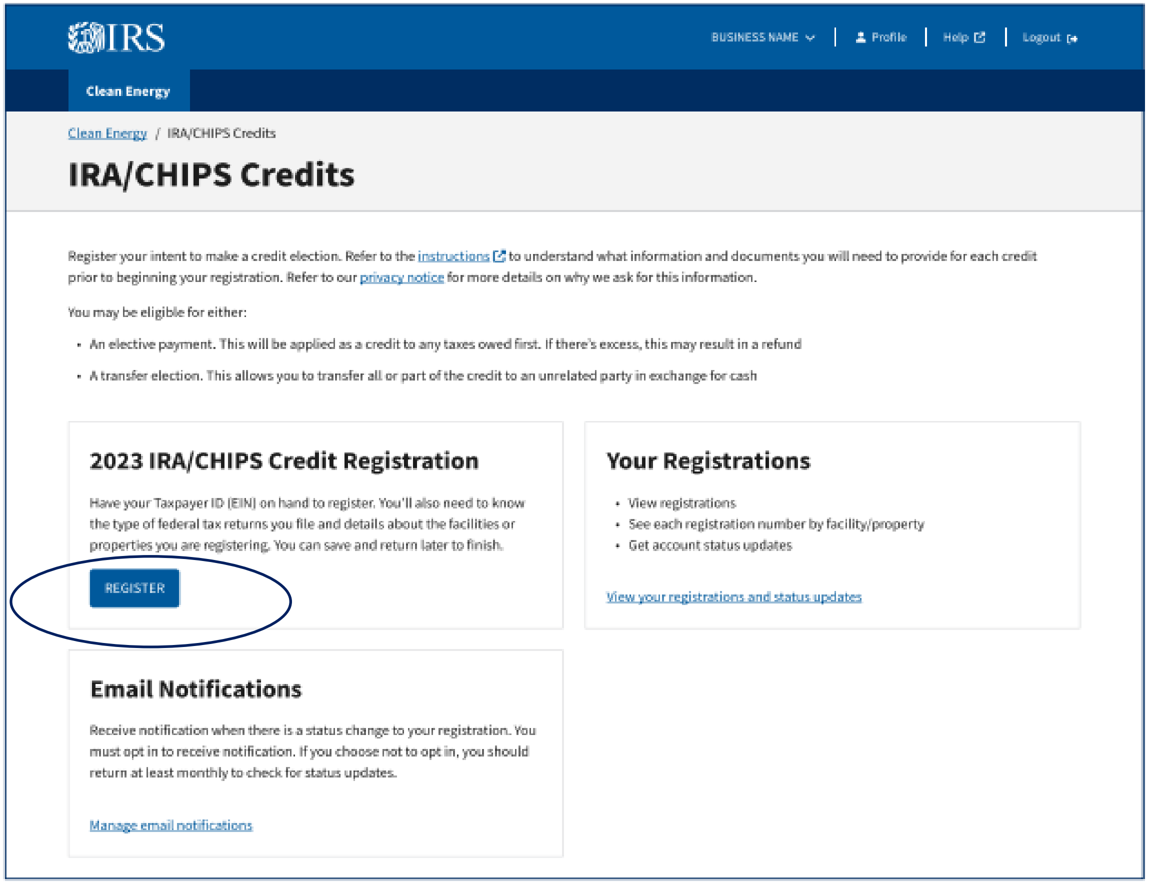
How do I claim and receive a direct payment?

- 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.
  - 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.
- File your tax return by the due date (or extended due date) and make a valid elective pay election.
  - Provide your registration number on your tax return as part of making the elective 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.

Pre-Filing Registration: Step by Step

You must first create a Clean Energy Business Account for your organization at www.irs.gov/eptregister. You will then begin the registration process below. Only an authorized representative of the entity may register and provide information and this representative's personal identity will be verified during the registration process.





A comprehensive user guide and video tutorial can also be found at www.irs.gov/eptregister.

The Role of State and Local Government

- Potential roles for state and local governments include:
  - A direct role by **incorporating clean energy projects** into their capital planning process and **shifting energy consumption** to clean and renewable sources by changing their fleet to clean vehicles, as just one example
  - **Centering community and economic development** strategies around the clean energy transition
  - **Promoting** consumer and business transition to clean energy

The Role of the Treasury Department

- 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.
- Treasury's Clean Energy Implementation Activities include:
  - Quickly **developing and issuing tax guidance** to provide clarity and certainty around how the law's tax incentives will operate in practice
  - Working with the Internal Revenue Service to put in place **modern, streamlined processes** for taxpayers to claim the clean energy incentives
  - Conducting **stakeholder engagement and outreach** to inform our approach and to educate the public about the benefits that are now available

IRS Resources

IRS.gov/ElectivePay

Applicable Tax Credits

Frequently asked Questions:

Q15. Are there requirements or bonuses that affect the amount of the applicable credits that are eligible for elective pay? (added June 14, 2023)

Q26. At what stage of development, construction, or operations are projects eligible for elective pay? (added June 14, 2023)

Closing

- More Information on Direct Pay
  - ✓ IRS.gov/ElectivePay
  - ✓ CleanEnergy.gov/DirectPay
- More information on the IRA More Generally
  - ✓ IRS.gov/CleanEnergy
  - ✓ www.whitehouse.gov/cleanenergy/inflation-reduction-act-guidebook/

March 5, 2024

How State Governments Can Use Elective Pay to Transition Toward a Clean Energy Economy

Ground Rules: Disclaimer

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- 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.

What is 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.

How does elective pay work?

<u>Under the final rules, applicable entities for elective pay include</u>:

- 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

<u>Note</u>: 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).*

Applicable Tax Credits for Elective Pay

Energy Generation & Carbon Capture

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

* For footnotes, see irs.gov/pub/irs-pdf/p5817g.pdf. You can also learn more at IRS.gov/CleanEnergy and IRS.gov/ElectivePay.

Applicable Tax Credits for Elective Pay

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

* For footnotes, see irs.gov/pub/irs-pdf/p5817g.pdf. You can also learn more at IRS.gov/CleanEnergy and IRS.gov/ElectivePay.

What types of projects might be eligible for Elective Pay?

- Direct pay will allow state and local governments to do things differently and to do different things.
  - For example, direct pay could help state and local governments invest in the replacement of existing vehicles with clean vehicles as part of a fleet transition.
  - Direct pay can also help state and local governments that currently don't generate clean energy for their government facilities to begin to do so.
- **Direct Pay is a powerful new financial tool to make necessary investments to achieve goals related to the clean energy transition, such as improved health outcomes, reduced reliance on the grid and potential cost savings.**

Elective Pay Potential Use Cases

Goal	Project	Relevant Tax Credits
Fleet Cost Savings	Replace existing municipal vehicle fleet with new electric vehicles and associated charging infrastructure	• Up to $7,500 per light vehicle • Up to $40,000 per larger vehicle • Up to 30% credit on investment in eligible EV charging equipment
Community Resilience	Install microgrid with solar and energy storage to serve critical infrastructure and community facilities during emergencies and grid outages	• 6% - 50% credit on investment in solar, storage and microgrid controllers
Community Heating	Develop central geothermal system to provide heating to community buildings and residential households	• 6% - 50% credit on investment in geothermal energy property

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

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.
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)
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.
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.

Using Elective Pay with Grants and Loans

- The elective pay 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.

Using Elective Pay with Grants and Loans

Example 1: 45W

- 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.

Example 2: Section 48 ITC

- 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 Elective Pay Investments Can Potentially Reduce Cost

Municipal Fleet Electrification	• Estimated **$80 million savings over ten years** from electrification of fleet vehicles for ten largest municipalities in Arizona.
Solar Microgrid	• **50% savings in annual electricity bills**, plus resilience benefits for solar, storage, and microgrid system installed at Chemehuevi Indian Tribe community center in Havasu Lake, CA
Central Geothermal Heating	• Estimated **annual savings of over $2 million** for Ball State University central geothermal heat pump replacement of aging coal boilers heating system for college campus.

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.

Determining Tax Year for Entities without a Filing Obligation

- Commenters requested **clarification on the determination of a taxable year** for entities that **do not have a filing requirement** – for instance, a state or local government that files Form 990-T solely to make an elective payment
- The **final rules** would **permit** such taxpayers, **when filing an initial Form 990-T,** to adopt a taxable year based upon a **calendar or fiscal year**, provided that such entity **maintains adequate book and records**, including a **reconciliation** of any difference between its regular books of account and its chosen taxable year, to support making an elective payment election on the basis of its chosen taxable year.

Determining Tax Year for Entities without a Filing Obligation

Example

Under the final regulations, a town (as described below) can choose to file a Form 990-T for 2023 using a calendar year tax year, enabling it to make an elective pay election with respect to an applicable credit property regardless of when it was placed in service during calendar year 2023. **The town has no Federal income tax return requirement under section 6011 of the Code and no Federal return requirement under 6033(a) of the Code but is filing Form 990-T for the sole purpose of using elective pay**.

July 1, 2022

The town's fiscal year (for non-tax purposes) begins on July 1, and ends June 30.

April 1, 2023

The town places applicable credit property in service on April 1, 2023

After April 1, 2023 and before filing

The town completes its pre-filing registration and chooses to adopt a calendar year (January 1 – December 31) tax year for purposes of section 6417. it maintains adequate books and records

by May 15, 2024

The town files their 2023 Form 990-T on a calendar year basis to claim credits on the applicable credit property placed in service on April 1, 2023

§ 761 NPRM: Applicable Entities that Co-own Electricity-Producing Applicable Credit Property

- Following last June's release of the proposed rules, stakeholders raised that it is important for applicable entities to be able co-own and operate projects with other entities, and that **existing guidance** on arrangements that can validly elect out of partnership tax treatment was **limited and required updates to be effective for clean energy arrangements**
- Specifically, stakeholders raised that certain facts and circumstances common to **jointly owned and operated energy projects** appear to violate existing provisions of the rules for electing out of partnership tax treatment
- In response, Treasury has issued a **Notice of Proposed Rulemaking** that would **add exceptions** to the existing **election-out requirements** for co-ownership **arrangements that are organized exclusively to produce electricity from their applicable credit property** and for which one or more applicable entity co-owners will claim elective pay. The proposed guidance would:
  - Permit renewable energy investments to be made through a noncorporate entity, rather than requiring direct co-ownership of the property or facility by the applicable entity, opening up additional possible financing structures for applicable entities seeking to use elective pay
  - Modify certain joint marketing restrictions to provide that multi-year power purchase agreements would not violate the requirements to elect out of partnership tax treatment

– These proposed rules will provide broader pathways for applicable entities to access elective pay when they co-own and operate projects with other entities

- Treasury and IRS welcome written comments submitted through regulations.gov. The comment period is open for 60 days following the publication of the NPRM in the *Federal Register*.

The Role of State and Local Government

- Potential roles for state and local governments include:
  - A direct role by **incorporating clean energy projects** into their capital planning process and **shifting energy consumption** to clean and renewable sources by changing their fleet to clean vehicles, as just one example
  - **Centering community and economic development** strategies around the clean energy transition
  - **Promoting** consumer and business transition to clean energy

Closing

- More Information on Direct Pay
  - ✓ IRS.gov/ElectivePay
    - ✓ Pre-filing Registration User Guide; How-to-Video
    - ✓ Permission Management User Guide
    - ✓ FAQs
  - ✓ CleanEnergy.gov/DirectPay
  - ✓ Subscribe to IRS e-News Subscriptions by visiting IRS.gov/newsroom/e-news-subscriptions → Tax exempt & government entities
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April 2024

Using Elective Pay to Transition Toward a Clean Energy Economy

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  - 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
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- Alaska Native Corporations;
- The Tennessee Valley Authority, and
- Rural electric co-operatives.

*<u>Note</u>: 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).*

Applicable Tax Credits for Elective Pay

Energy Generation & Carbon Capture

Tax Provision	Description
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Elective Pay Potential Use Cases

Goal	Project	Relevant Tax Credits
Fleet Cost Savings	Replace existing municipal vehicle fleet with new electric vehicles and associated charging infrastructure	• Up to $7,500 per light vehicle • Up to $40,000 per larger vehicle • Up to 30% credit on investment in eligible EV charging equipment
Community Resilience	Install microgrid with solar and energy storage to serve critical infrastructure and community facilities during emergencies and grid outages	• 6% - 50% credit on investment in solar, storage and microgrid controllers
Community Heating	Develop central geothermal system to provide heating to community buildings and residential households	• 6% - 50% credit on investment in geothermal energy property

How Elective Pay Investments Can Potentially Reduce Cost

Fleet Electrification

- Estimated **$80 million savings over ten years** from electrification of fleet vehicles for ten largest municipalities in Arizona.

Solar Microgrid

- **50% savings in annual electricity bills**, plus resilience benefits for solar, storage, and microgrid system installed at Chemehuevi Indian Tribe community center in Havasu Lake, CA

Central Geothermal Heating

- Estimated **annual savings of over $2 million** for Ball State University central geothermal heat pump replacement of aging coal boilers heating system for college campus.

Using Elective Pay with Grants and Loans

- The elective pay 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.

Determining Tax Year for Entities without a Filing Obligation

- Commenters requested **clarification on the determination of a taxable year** for entities that **do not have a filing requirement** – for instance, a state or local government that files Form 990-T solely to make an elective payment
- The **final rules** would **permit** such taxpayers, **when filing an initial Form 990-T,** to adopt a taxable year based upon a **calendar or fiscal year**, provided that such entity **maintains adequate book and records**, including a **reconciliation** of any difference between its regular books of account and its chosen taxable year, to support making an elective payment election on the basis of its chosen taxable year.

Applicable Entities that Co-own Electricity-Producing Applicable Credit Property

- Following last June's release of the proposed rules, stakeholders raised that it is important for applicable entities to be able co-own and operate projects with other entities, and that **existing guidance** on arrangements that can validly elect out of partnership tax treatment was **limited and required updates to be effective for clean energy arrangements**
- Specifically, stakeholders raised that certain facts and circumstances common to **jointly owned and operated energy projects** appear to violate existing provisions of the rules for electing out of partnership tax treatment
- In response, Treasury has issued a **Notice of Proposed Rulemaking** that would **add exceptions** to the existing **election-out requirements** for co-ownership **arrangements that are organized exclusively to produce electricity from their applicable credit property** and for which one or more applicable entity co-owners will claim elective pay. The proposed guidance would:
  - Permit renewable energy investments to be made through a noncorporate entity, rather than requiring direct co-ownership of the property or facility by the applicable entity, opening up additional possible financing structures for applicable entities seeking to use elective pay
  - Modify certain joint marketing restrictions to provide that multi-year power purchase agreements would not violate the requirements to elect out of partnership tax treatment

– These proposed rules will provide broader pathways for applicable entities to access elective pay when they co-own and operate projects with other entities

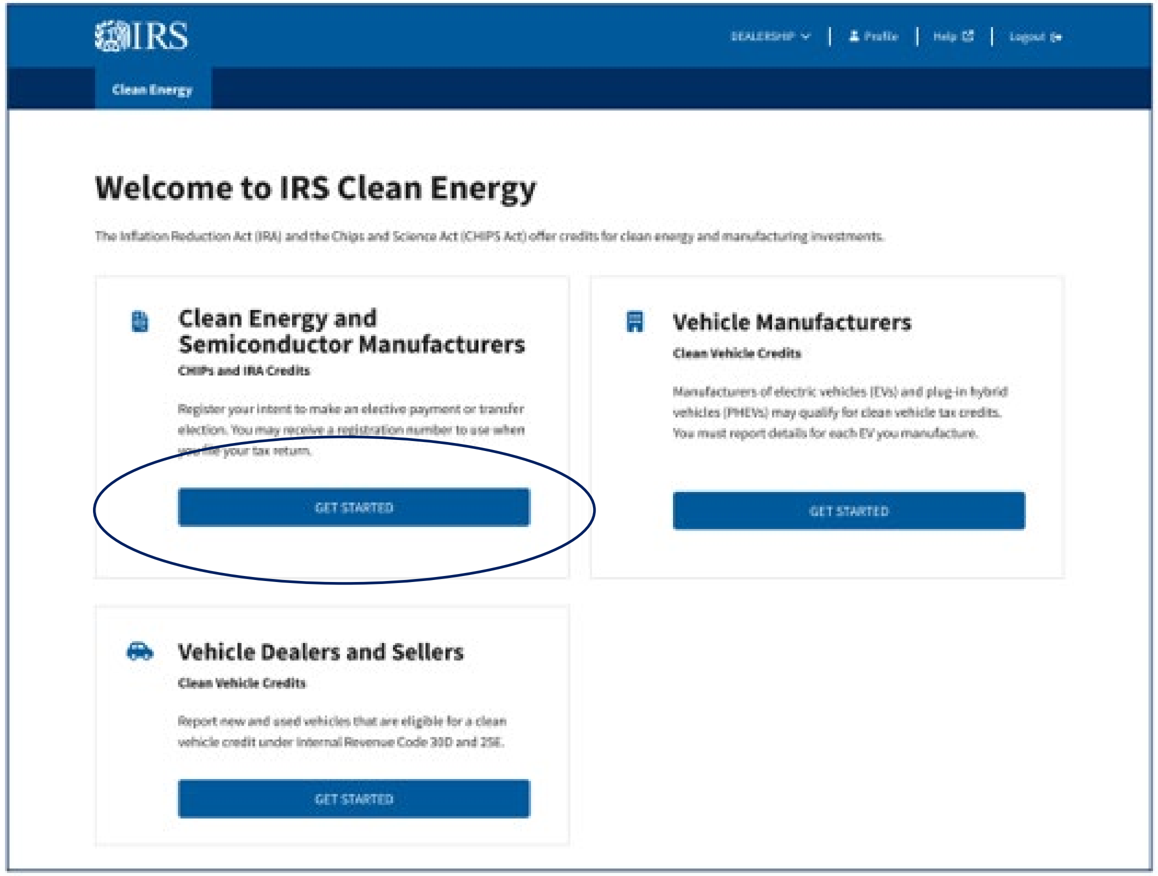
- Treasury and IRS welcome written comments submitted through regulations.gov. The comment period is open for 60 days following the publication of the NPRM in the *Federal Register*.

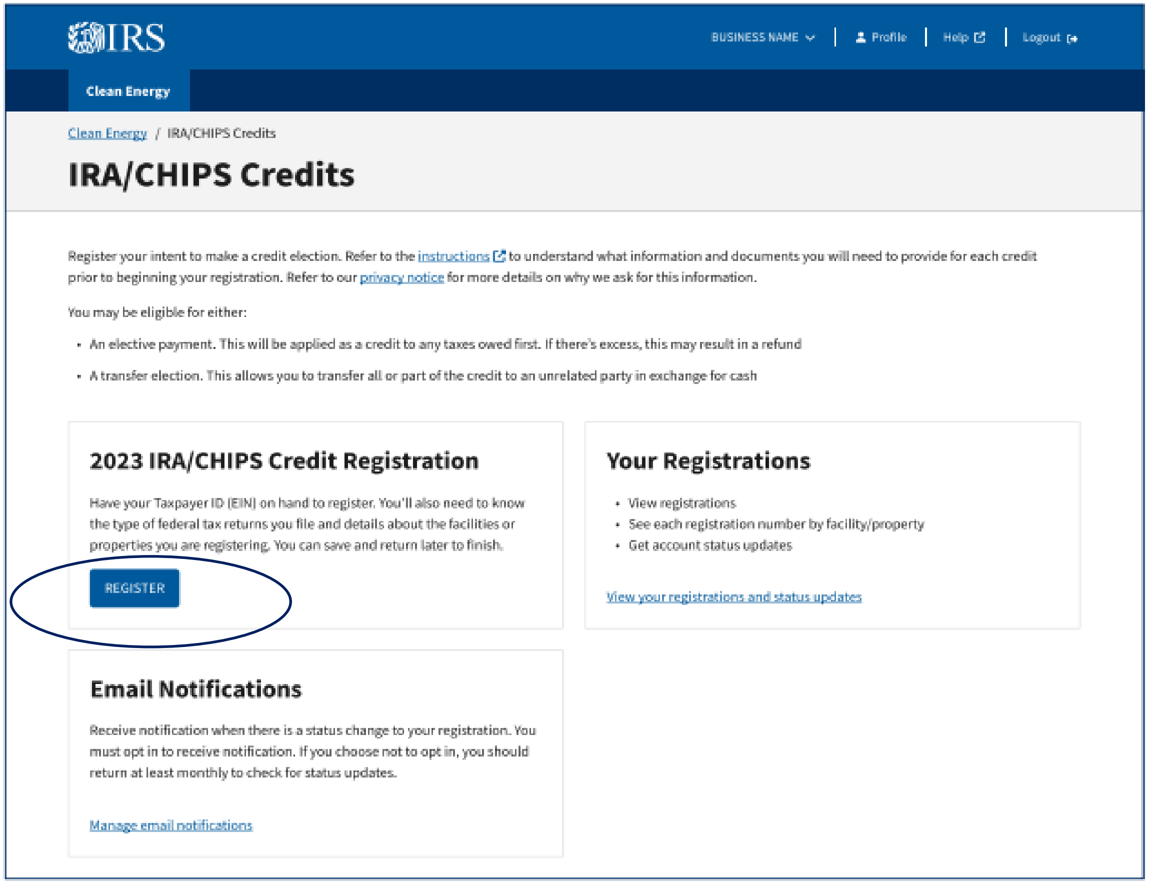
How to Claim Elective Payments

- **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.

Pre-Filing Registration: Step by Step

You must first create a Clean Energy Business Account for your organization at www.irs.gov/eptregister. You will then begin the registration process below. Only an authorized representative of the entity may register and provide information and this representative's personal identity will be verified during the registration process.





A comprehensive user guide and video tutorial can also be found at [www.irs.gov/eptregister.](www.irs.gov/eptregister)

Closing

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    - ✓ FAQs
  - ✓ CleanEnergy.gov/DirectPay
  - ✓ Subscribe to IRS e-News Subscriptions by visiting IRS.gov/newsroom/e-news-subscriptions → Tax exempt & government entities
- More information on the IRA
  - ✓ IRS.gov/CleanEnergy
  - ✓ www.whitehouse.gov/cleanenergy/inflation-reduction-act-guidebook/

June 2024

Using Elective Pay to Transition Toward a Clean Energy Economy

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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.

What is 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.

How Does Elective Pay Work?

<u>Under the final rules, applicable entities for elective pay include</u>:

- 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 – including public utilities, school districts, public hospitals and public higher education
- Alaska Native Corporations;
- The Tennessee Valley Authority, and
- Rural electric co-operatives.

<u>Note</u>: 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).*

Applicable Tax Credits for Elective Pay

Energy Generation & Carbon Capture

Tax Provision	Description
Production Tax Credit for Electricity from Renewables (§ 45, pre-2025)	**For production of electricity from eligible renewable sources**, including wind, biomass, geothermal, solar, small irrigation, landfill and trash, hydropower, marine and hydrokinetic energy. **Credit Amount (for 2022):** 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 [1,2,3,7]
Clean Electricity Production Tax Credit (§ 45Y, 2025 onwards)	**Technology-neutral tax credit for production of clean electricity.** Replaces § 45 for facilities that begin construction and are placed in service after 2024. **Credit Amount:** Starts in 2025, consistent with credit amounts under section 45 [1,2,3,6,7]
Investment Tax Credit for Energy Property (§ 48, pre-2025)	**For investment in renewable energy projects** including fuel cell, solar, geothermal, small wind, energy storage, biogas, microgrid controllers, and combined heat and power properties **Credit Amount:** 6% of qualified investment (basis); 30% if PWA requirements met [1,4,5,6,8]
Clean Electricity Investment Tax Credit (§ 48E, 2025 onwards)	**Technology-neutral tax credit for investment in facilities that generate clean electricity** and qualified energy storage technologies. Replaces § 48 for facilities that begin construction and are placed in service after 2024 **Credit Amount:** 6% of qualified investment (basis); 30% if PWA requirements met [1,4,5,6]
Low-Income Communities Bonus Credit (§ 48(e), 48E(h)) Application required	**Additional investment tax credit for small-scale solar and wind (§ 48(e)) or clean electricity (§48E(h)) facilities** (<5MW net output) on Indian land, federally subsidized housing, in low-income communities, and benefit low-income households. Allocated through an application process. **Credit Amount:** 10 or 20 percentage point increase on base investment tax credit [7]
Credit for Carbon Oxide Sequestration (§ 45Q)	**Credit for carbon dioxide sequestration** coupled with permitted end uses in the United States. **Credit Amount:** $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.[1,7]
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	Tax Provision	Description
Manufacturing	**Advanced Energy Project Credit** (§ 48C) Application required	**For investments in advanced energy projects.** A total of $10 billion will be allocated, not less than $4 billion of which will be allocated to projects in certain energy communities. **Credit Amount:** 6% of taxpayer's qualified investment; 30% if PWA requirements are met [1]
	Advanced Manufacturing Production Credit (§ 45X)	**Production tax credit for domestic clean energy manufacturing** of components including solar and wind energy, inverters, battery components, and critical materials. **Credit Amount:** Varies by component
Vehicles	**Credit for Qualified Commercial Clean Vehicles** (§ 45W)	**For purchasers of commercial clean vehicles.** Qualifying vehicles include passenger vehicles, buses, ambulances, and certain other vehicles for use on public streets, roads, and highways. **Credit Amount:** Up to $40,000 (max $7,500 for vehicles <14,000 lbs) [9]
	Alternative Fuel Vehicle Refueling Property Credit (§ 30C)	**For alternative fuel vehicle refueling and charging property**, located in low-income and non-urban areas. Qualified fuels include electricity, ethanol, natural gas, hydrogen, and biodiesel. **Credit Amount:** 6% of basis for businesses and can increase to 30% if PWA is met.
Fuels	**Clean Hydrogen Production Tax Credit** (§ 45V)	**For producing clean hydrogen** at a qualified, U.S.-based clean hydrogen production facility. **Credit Amount:** $0.60/kg multiplied by the applicable percentage (20% to 100%, depending on lifecycle greenhouse gas emissions), amount increases if PWA is met [1,7]
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Certain requirements and bonuses that may affect the amount of elective pay applicable tax credits

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.
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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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.

Elective Pay Potential Use Cases

Goal	Project	Relevant Tax Credits
Fleet Cost Savings	Replace existing municipal vehicle fleet with new electric vehicles and associated charging infrastructure	• Up to $7,500 per light vehicle • Up to $40,000 per larger vehicle • Up to 30% credit on investment in eligible EV charging equipment
Community Resilience	Install microgrid with solar and energy storage to serve critical infrastructure and community facilities during emergencies and grid outages	• 6% - 50% credit on investment in solar, storage and microgrid controllers
Community Heating	Develop central geothermal system to provide heating to community buildings and residential households	• 6% - 50% credit on investment in geothermal energy property

Using Elective Pay with Grants and Loans

- The elective pay final rule includes a special provision that would enable entities to **combine grants and forgivable loans with tax credits**.
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For more information

David R. Eichenthal

Senior Advisor for Policy Implementation

David.Eichenthal@treasury.gov

July 2024

States, Elective Pay and the Transition Toward a Clean Energy Economy

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

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. On June 18, 2024, the IRS and Treasury issued final rules on bonuses related to prevailing wage and apprenticeship requirements.
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, 2023, Treasury issued guidance on this rule for projects beginning construction in 2024 (Notice 2024-9).
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The Case for Elective Pay

- Projects that Reduce Emissions: 25 states and territories that are members of the U.S. Climate Alliance have all committed to reducing collective net greenhouse gas (GHG) emissions at least 26-28% below 2005 levels by 2025 and 50-52% by 2030, and collectively achieving overall net-zero GHG emissions as soon as practicable, and no later than 2050.

- Projects that Reduce Direct State Costs: Because of the size of state government fleets and the number of state-owned buildings and facilities, energy costs are often one of the largest non-personnel costs in a state budget.

Clean Energy Investments Lower Cost

- Fleet Electrification Savings (U.S. Department of Energy)
  - EVs offer high fuel economy, which translates to lower operating costs.
  - EVs achieve their best fuel economy during stop-and-go driving conditions typical of many fleet applications.
  - Electricity prices are also less volatile than those of gasoline/diesel, making it easier to predict fuel costs over time. Lower off-peak electric rates may be available for charging, which further reduces EV fuel costs.

Clean Energy Investments Lower Cost

- Geothermal Savings (Ball State University Case Study)
  - As the coal fired boilers from the mid-20th century grew older and less efficient, Ball State University in Muncie, Indiana, grew larger. University staff needed to find a way to meet growing energy demands. Based on their research and analysis, the most cost-saving and energy-efficient solution was a campus-wide geothermal energy heating and cooling system.
  - Ball State's geothermal system heats and cools 47 buildings, covering 5.5 million square feet of space. In addition, Ball State saves approximately 45 million gallons of water, 500 billion British thermal Units (BTUs) of energy, and $2.2 - $2.5 million annually.)
- Solar Savings (San Antonio Case Study)
  - City officials plan to build and own the largest municipal onsite solar project in Texas. This $30 million project will install rooftop, parking, and park canopy solar photovoltaic systems at 42 city facilities to offset energy consumption over the long-term.
  - The projected electricity generated annually from this multi-site project is expected to offset an estimated thirteen percent of the City's electricity consumption from its buildings, which is expected to result in cumulative net financial savings between $7 - $11 million over 25 years.

Elective Pay Potential Use Cases

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State of Elective Pay

- The Status of Uptake
  - As of mid-May, more than 2,000 projects or facilities have registered to claim elective pay for projects they have placed into service, including submissions from more than 100 state and local governments to register more than 950 clean buses and vehicles through elective pay.
  - It is useful to think of state and local governments in one of four categories:
    - Pre-Adopters
    - Early-Adopters
    - Planners
    - Beginners

What States are Doing

- Inventorying projects to determine eligibility
- Incorporating direct pay into capital planning
- Considering initiatives taking advantage of proposed co-ownership rule
- Supporting local governments with financial assistance
    - Bridge Financing and Matching Funds
- Supporting local governments and non-profits with tax advice and/or technical assistance
    - Service Bureau
    - Funding for Tax Advice

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For more information

David R. Eichenthal

Senior Advisor for Policy Implementation

David.Eichenthal@treasury.gov

August 2024

Elective Pay and the Transition Toward a Clean Energy Economy

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- 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**.

How Does Elective Pay Work?

<u>**Under the final rules, applicable entities for elective pay include**</u>:

- 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 – including public utilities, school districts, public hospitals and public higher education
- Alaska Native Corporations;
- The Tennessee Valley Authority, and
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*<u>Note</u>: In general, **only "applicable entities" are eligible for Elective Pay**.*
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Applicable Tax Credits for Elective Pay

Energy Generation & Carbon Capture

Tax Provision	Description
Production Tax Credit for Electricity from Renewables (§ 45, pre-2025)	**For production of electricity from eligible renewable sources**, including wind, biomass, geothermal, solar, small irrigation, landfill and trash, hydropower, marine and hydrokinetic energy. **Credit Amount (for 2022):** 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 [1,2,3,7]
Clean Electricity Production Tax Credit (§ 45Y, 2025 onwards)	**Technology-neutral tax credit for production of clean electricity**. Replaces § 45 for facilities that begin construction and are placed in service after 2024. **Credit Amount:** Starts in 2025, consistent with credit amounts under section 45 [1,2,3,6,7]
Investment Tax Credit for Energy Property (§ 48, pre-2025)	**For investment in renewable energy projects** including fuel cell, solar, geothermal, small wind, energy storage, biogas, microgrid controllers, and combined heat and power properties **Credit Amount:** 6% of qualified investment (basis); 30% if PWA requirements met [1,4,5,6,8]
Clean Electricity Investment Tax Credit (§ 48E, 2025 onwards)	**Technology-neutral tax credit for investment in facilities that generate clean electricity** and qualified energy storage technologies. Replaces § 48 for facilities that begin construction and are placed in service after 2024 **Credit Amount:** 6% of qualified investment (basis); 30% if PWA requirements met [1,4,5,6]
Low-Income Communities Bonus Credit (§ 48(e), 48E(h)) Application required	**Additional investment tax credit for small-scale solar and wind (§ 48(e)) or clean electricity (§48E(h)) facilities** (<5MW net output) on Indian land, federally subsidized housing, in low-income communities, and benefit low-income households. Allocated through an application process. **Credit Amount:** 10 or 20 percentage point increase on base investment tax credit [7]
Credit for Carbon Oxide Sequestration (§ 45Q)	**Credit for carbon dioxide sequestration** coupled with permitted end uses in the United States. **Credit Amount:** $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.[1,7]
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Manufacturing	**Advanced Manufacturing Production Credit** (§ 45X)	**Production tax credit for domestic clean energy manufacturing** of components including solar and wind energy, inverters, battery components, and critical materials. **Credit Amount:** Varies by component
Vehicles	**Credit for Qualified Commercial Clean Vehicles** (§ 45W)	**For purchasers of commercial clean vehicles.** Qualifying vehicles include passenger vehicles, buses, ambulances, and certain other vehicles for use on public streets, roads, and highways. **Credit Amount:** Up to $40,000 (max $7,500 for vehicles <14,000 lbs) [9]
Vehicles	**Alternative Fuel Vehicle Refueling Property Credit** (§ 30C)	**For alternative fuel vehicle refueling and charging property**, located in low-income and non-urban areas. Qualified fuels include electricity, ethanol, natural gas, hydrogen, and biodiesel. **Credit Amount:** 6% of basis for businesses and can increase to 30% if PWA is met.
Fuels	**Clean Hydrogen Production Tax Credit** (§ 45V)	**For producing clean hydrogen** at a qualified, U.S.-based clean hydrogen production facility. **Credit Amount:** $0.60/kg multiplied by the applicable percentage (20% to 100%, depending on lifecycle green-house gas emissions), amount increases if PWA is met [1,7]
Fuels	**Clean Fuel Production Credit** (§ 45Z, 2025 onwards)	**Technology neutral tax credit for domestic production of clean transportation fuels**, including sustainable aviation fuels, beginning in 2025* **Credit Amount:** $0.20/gallon ($0.35/gal for aviation fuel) multiplied by CO_2 "emissions factor"; $1.00/gallon ($1.75/gal for aviation fuel) multiplied by CO_2 "emissions factor" if PWA is met [1,7]

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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.

Elective Pay Potential Use Cases

Goal	Project	Relevant Tax Credits
Fleet Cost Savings	Replace existing municipal vehicle fleet with new electric vehicles and associated charging infrastructure	• Up to $7,500 per light vehicle • Up to $40,000 per larger vehicle • Up to 30% credit on investment in eligible EV charging equipment
Community Resilience	Install microgrid with solar and energy storage to serve critical infrastructure and community facilities during emergencies and grid outages	• 6% - 50% credit on investment in solar, storage and microgrid controllers
Community Heating	Develop central geothermal system to provide heating to community buildings and residential households	• 6% - 50% credit on investment in geothermal energy property

Clean Energy Investments Lower Cost

- <u>Fleet Electrification Savings (U.S. Department of Energy)</u>

  - EVs offer high fuel economy, which translates to lower operating costs.
  - EVs achieve their best fuel economy during stop-and-go driving conditions typical of many fleet applications.
  - Electricity prices are also less volatile than those of gasoline/diesel, making it easier to predict fuel costs over time. Lower off-peak electric rates may be available for charging, which further reduces EV fuel costs.

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  - As the coal fired boilers from the mid-20th century grew older and less efficient, Ball State University in Muncie, Indiana, grew larger. University staff needed to find a way to meet growing energy demands. Based on their research and analysis, the most cost-saving and energy-efficient solution was a campus-wide geothermal energy heating and cooling system.
  - Ball State's geothermal system heats and cools 47 buildings, covering 5.5 million square feet of space. In addition, Ball State saves approximately 45 million gallons of water, 500 billion British thermal Units (BTUs) of energy, and $2.2 - $2.5 million annually.)

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  - City officials plan to build and own the largest municipal onsite solar project in Texas. This $30 million project will install rooftop, parking, and park canopy solar photovoltaic systems at 42 city facilities to offset energy consumption over the long-term.
  - The projected electricity generated annually from this multi-site project is expected to offset an estimated thirteen percent of the City's electricity consumption from its buildings, which is expected to result in cumulative net financial savings between $7 - $11 million over 25 years.

Using Elective Pay with Grants and Loans

- The elective pay final rule includes a special provision that helps 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 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.

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Senior Advisor for Policy Implementation

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- 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.
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State of Elective Pay

- The Status of Uptake
  - It is useful to think of state and local governments in one of four categories:
    - Pre-Adopters
    - Early-Adopters
    - Planners
    - Beginners

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Elective Pay Potential Use Cases

Goal	Project	Relevant Tax Credits
Fleet Cost Savings	Replace existing municipal vehicle fleet with new electric vehicles and associated charging infrastructure	• Up to $7,500 per light vehicle • Up to $40,000 per larger vehicle • Up to 30% credit on investment in eligible EV charging equipment
Community Resilience	Install microgrid with solar and energy storage to serve critical infrastructure and community facilities during emergencies and grid outages	• 6% - 50% credit on investment in solar, storage and microgrid controllers
Community Heating	Develop central geothermal system to provide heating to community buildings and residential households	• 6% - 50% credit on investment in geothermal energy property

Clean Energy Investments Lower Cost

- Fleet Electrification Savings (U.S. Department of Energy)

  - EVs offer high fuel economy, which translates to lower operating costs.
  - EVs achieve their best fuel economy during stop-and-go driving conditions typical of many fleet applications.
  - Electricity prices are also less volatile than those of gasoline/diesel, making it easier to predict fuel costs over time. Lower off-peak electric rates may be available for charging, which further reduces EV fuel costs.

Clean Energy Investments Lower Cost

- Geothermal Savings (Ball State University Case Study)

    - As the coal fired boilers from the mid-20th century grew older and less efficient, Ball State University in Muncie, Indiana, grew larger. University staff needed to find a way to meet growing energy demands. Based on their research and analysis, the most cost-saving and energy-efficient solution was a campus-wide geothermal energy heating and cooling system.
    - Ball State's geothermal system heats and cools 47 buildings, covering 5.5 million square feet of space. In addition, Ball State saves approximately 45 million gallons of water, 500 billion British thermal Units (BTUs) of energy, and $2.2 - $2.5 million annually.)

Clean Energy Investments Lower Cost

- Solar Savings (San Antonio Case Study)

  - City officials plan to build and own the largest municipal onsite solar project in Texas. This $30 million project will install rooftop, parking, and park canopy solar photovoltaic systems at 42 city facilities to offset energy consumption over the long-term.
  - The projected electricity generated annually from this multi-site project is expected to offset an estimated thirteen percent of the City's electricity consumption from its buildings, which is expected to result in cumulative net financial savings between $7 - $11 million over 25 years.

Using Elective Pay with Grants and Loans

- The elective pay final rule includes a special provision that helps 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 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.

Closing

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- More information on the IRA
  - ✓ IRS.gov/CleanEnergy
  - ✓ www.whitehouse.gov/cleanenergy/inflation-reduction-act-guidebook/

For more information

David R. Eichenthal

Senior Advisor for Policy Implementation

David.Eichenthal@treasury.gov

October 2024

How Higher Ed Institutions Can Use Elective Pay to Transition Toward a Clean Energy Economy

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Higher Education: Leading the Way Toward a Clean Energy Future

- For years, higher education institutions have been investing in clean energy projects, doing what they can to lower utility bills and combat climate change.
- In January 2024, Treasury Secretary Janet Yellen visited Roxbury Community College (RCC) in Boston where she toured the school and learned about its ambitious clean energy projects.
  - RCC has built a novel "tri-level renewable solution" on its campus. A system of geothermal wells circulates fluid deep below the ground to cool the facility in the summer months. These wells sit below a parking lot with electric vehicle charging stations. And above the parking lot sits a canopy of solar panels that generates energy for the campus.
- The Inflation Reduction Act (IRA) is helping to accelerate the pace of clean energy investment. The law supports these investments by making many higher education institutions that are not subject to Federal income tax eligible for clean energy tax credits for the first time.

Introduction: 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.

What is 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**.

How Does Elective Pay Work?

<u>Under the final rules, applicable entities for elective pay include</u>:

- 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

<u>Note</u>: 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).*

Applicable Tax Credits for Elective Pay

Energy Generation & Carbon Capture

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

* For footnotes, see irs.gov/pub/irs-pdf/p5817g.pdf. You can also learn more at IRS.gov/CleanEnergy and IRS.gov/ElectivePay.

Applicable Tax Credits for Elective Pay

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

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What types of projects might be eligible for Elective Pay?

- Colleges and universities typically own and operate a significant number of buildings and vehicles.
- Direct pay can help higher education transition fleet and generate clean energy for their facilities. Potential projects include:
  - Solar panel farms or rooftop solar
  - Wind farms
  - Battery storage projects
  - Electric vehicle charging stations
  - Commercial clean vehicles for transportation, facilities maintenance, and other purposes

Certain requirements and bonuses that may affect the amount of Elective Pay applicable tax credits

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. On June 18, 2024, the IRS and Treasury issued final rules on bonuses related to prevailing wage and apprenticeship requirements.
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, 2023, Treasury issued guidance on this rule for projects beginning construction in 2024 (Notice 2024-9).
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 a prior year unemployment rate at or above the national average.
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.

Elective Pay Potential Use Cases

Goal	Project	Relevant Tax Credits
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Clean Energy Investments Lower Cost

- Fleet Electrification Savings (U.S. Department of Energy)

  - EVs offer high fuel economy, which translates to lower operating costs.
  - EVs achieve their best fuel economy during stop-and-go driving conditions typical of many fleet applications.
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Clean Energy Investments Lower Cost

- Geothermal Savings (Ball State University Case Study)
  - As the coal fired boilers from the mid-20th century grew older and less efficient, Ball State University in Muncie, Indiana, grew larger. University staff needed to find a way to meet growing energy demands. Based on their research and analysis, the most cost-saving and energy-efficient solution was a campus-wide geothermal energy heating and cooling system.
  - Ball State's geothermal system heats and cools 47 buildings, covering 5.5 million square feet of space. In addition, Ball State saves approximately 45 million gallons of water, 500 billion British thermal Units (BTUs) of energy, and $2.2 - $2.5 million annually.)

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  - City officials plan to build and own the largest municipal onsite solar project in Texas. This $30 million project will install rooftop, parking, and park canopy solar photovoltaic systems at 42 city facilities to offset energy consumption over the long-term.
  - The projected electricity generated annually from this multi-site project is expected to offset an estimated thirteen percent of the City’s electricity consumption from its buildings, which is expected to result in cumulative net financial savings between $7 - $11 million over 25 years.

Using Elective Pay with Grants and Loans

- The elective pay 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.

Using Elective Pay with Grants and Loans

- 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 elective 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.
  - **<u>Registration is not a determination of the amount or validity of a credit</u>**
- **File** your tax return by the due date (or extended due date) and make a valid elective pay election.
  - Provide your registration number on your tax return as part of making the elective 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

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  - ✓ Subscribe to IRS e-News Subscriptions by visiting IRS.gov/newsroom/e-news-subscriptions → Tax exempt & government entities
- More information on the IRA
  - ✓ IRS.gov/CleanEnergy
  - ✓ www.whitehouse.gov/cleanenergy/inflation-reduction-act-guidebook/

For more information

David R. Eichenthal

Senior Advisor for Policy Implementation

David.Eichenthal@treasury.gov

November 2024

Elective Pay and the Transition Toward a Clean Energy Economy

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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.
- IRA, through its clean energy tax credits, is creating jobs, lowering costs, reducing pollution and improving health outcomes.
- This presentation discusses **Elective Pay (also known as Direct Pay)**, a novel tax credit delivery mechanism created by the Inflation Reduction Act.

What is 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**.

How Does Elective Pay Work?

<u>Under the final rules, applicable entities for elective pay include</u>:

- 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 – including public utilities, school districts, public hospitals and public higher education
- Alaska Native Corporations;
- The Tennessee Valley Authority, and
- Rural electric co-operatives.

*<u>Note</u>: 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).*

Applicable Tax Credits for Elective Pay

Energy Generation & Carbon Capture

Tax Provision	Description
Production Tax Credit for Electricity from Renewables (§ 45, pre-2025)	**For production of electricity from eligible renewable sources**, including wind, biomass, geothermal, solar, small irrigation, landfill and trash, hydropower, marine and hydrokinetic energy. **Credit Amount (for 2022):** 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 [1,2,3,7]
Clean Electricity Production Tax Credit (§ 45Y, 2025 onwards)	**Technology-neutral tax credit for production of clean electricity.** Replaces § 45 for facilities that begin construction and are placed in service after 2024. **Credit Amount:** Starts in 2025, consistent with credit amounts under section 45 [1,2,3,6,7]
Investment Tax Credit for Energy Property (§ 48, pre-2025)	**For investment in renewable energy projects** including fuel cell, solar, geothermal, small wind, energy storage, biogas, microgrid controllers, and combined heat and power properties **Credit Amount:** 6% of qualified investment (basis); 30% if PWA requirements met [1,4,5,6,8]
Clean Electricity Investment Tax Credit (§ 48E, 2025 onwards)	**Technology-neutral tax credit for investment in facilities that generate clean electricity** and qualified energy storage technologies. Replaces § 48 for facilities that begin construction and are placed in service after 2024 **Credit Amount:** 6% of qualified investment (basis); 30% if PWA requirements met [1,4,5,6]
Low-Income Communities Bonus Credit (§ 48(e), 48E(h)) **Application required**	**Additional investment tax credit for small-scale solar and wind (§ 48(e)) or clean electricity (§48E(h)) facilities** (<5MW net output) on Indian land, federally subsidized housing, in low-income communities, and benefit low-income households. Allocated through an application process. **Credit Amount:** 10 or 20 percentage point increase on base investment tax credit [7]
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Vehicles	**Alternative Fuel Vehicle Refueling Property Credit** (§ 30C)	**For alternative fuel vehicle refueling and charging property**, located in low-income and non-urban areas. Qualified fuels include electricity, ethanol, natural gas, hydrogen, and biodiesel. **Credit Amount:** 6% of basis for businesses and can increase to 30% if PWA is met.
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- More information on the IRA
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  - ✓ www.whitehouse.gov/cleanenergy/inflation-reduction-act-guidebook/

For more information

David R. Eichenthal

Senior Advisor for Policy Implementation

David.Eichenthal@treasury.gov