



Certain Renewable Energy Incentives For Business March 5, 2009

PRESENTED BY

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General Rules

Bill Section 1101. Generally extends the placed-in-service date for the section 45 credit for three years.

- For wind facilities through 12/31/2012, and for certain other qualifying facilities: through 12/31/2013.

Bill Section 1102. Allows owners of certain renewable energy facilities to elect to claim the ITC under Code section 48 in lieu of the PTC under Code section 45.

- Facilities are eligible if placed in service by the dates set forth in section 1101 above (12/31/2012 for wind; 12/31/2013 for other types of qualifying facilities).
- Property eligible for the ITC is tangible personal and other tangible property (not including a building or its structural components), and with respect to which depreciation or amortization is allowable, but only if such property is used as an integral part of the qualified facility.

Bill Section 1103. Repeals current law limitation reducing ITC under Code section 48 to the extent the property is financed with industrial development bonds or through any other Federal, State, or local subsidized financing program.

Grants from the Treasury Department

Bill Sections 1104 and 1603. Allows taxpayers to receive a grant from the Treasury Department in lieu of the PTC in Code section 45 or the ITC in Code section 48.

- Intent is that grant mimic operation of the ITC.
 - Not includible in income and 50% basis reduction.
 - Numerous ITC rules apply.
- Grant percentage generally is 30% of the cost of the renewable energy facility.
- Qualifying property must be depreciable or amortizable to be eligible for a grant.
- Treasury is to make the grant within 60 days of the facility being placed in service or, if later, within 60 days of receiving an application for such grant.
 - Application must be received before 10/1/2011.
 - Limitations on when facilities must be placed in service.
- Grant provisions apply if property is placed in service during 2009 or 2010 or is placed in service after 2010 and before the credit termination date with respect to the property, but only if the construction of the property began in 2009 or 2010.
- No grants to Federal, State or local governments, 501(c) tax-exempt entities or electric cooperatives.

Considerations For Making Determinations

- ITC and grant provide money upfront rather than over 10 years.
- Compare present values of PTCs and ITCs – electricity generated v. project cost.
- ITC can be used against AMT. PTC only can be used against AMT for first 4 years. No income tax liability is required to benefit from grant.
- PTCs provide more uncertainty:
 - PTC amount can be greater than expected – inflation adjustment or better than expected operation.
 - PTC amount can be less than expected – operational problems and credit phase-out under Code section 45(b).
- ITC and grant are subject to uncertainty regarding qualified basis.
- Grant requires application to Treasury. What will this involve?
- Tax-exempt bonds and subsidized energy financing reduce PTC, but not ITC or grant.
- ITC and grant are covered by tax normalization rules.
- Owner must keep property 5 years after placed-in-service date or ITC or grant can be recaptured in part or in whole.
- Depreciable basis of property is reduced by 50% of ITC or grant amount – no basis reduction if claim PTC.