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Monetizing Clean Energy Capital Improvements

Lynn Mucenski-Keck, CPA, MST
National Leader, Federal Tax Policy

withum⁺
ADVISORY TAX AUDIT

hfma[™]
new jersey chapter

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Presenter

Lynn Mucenski-Keck, CPA, MST
National Leader, Federal Tax Policy at Withum
lmucenskikeck@withum.com

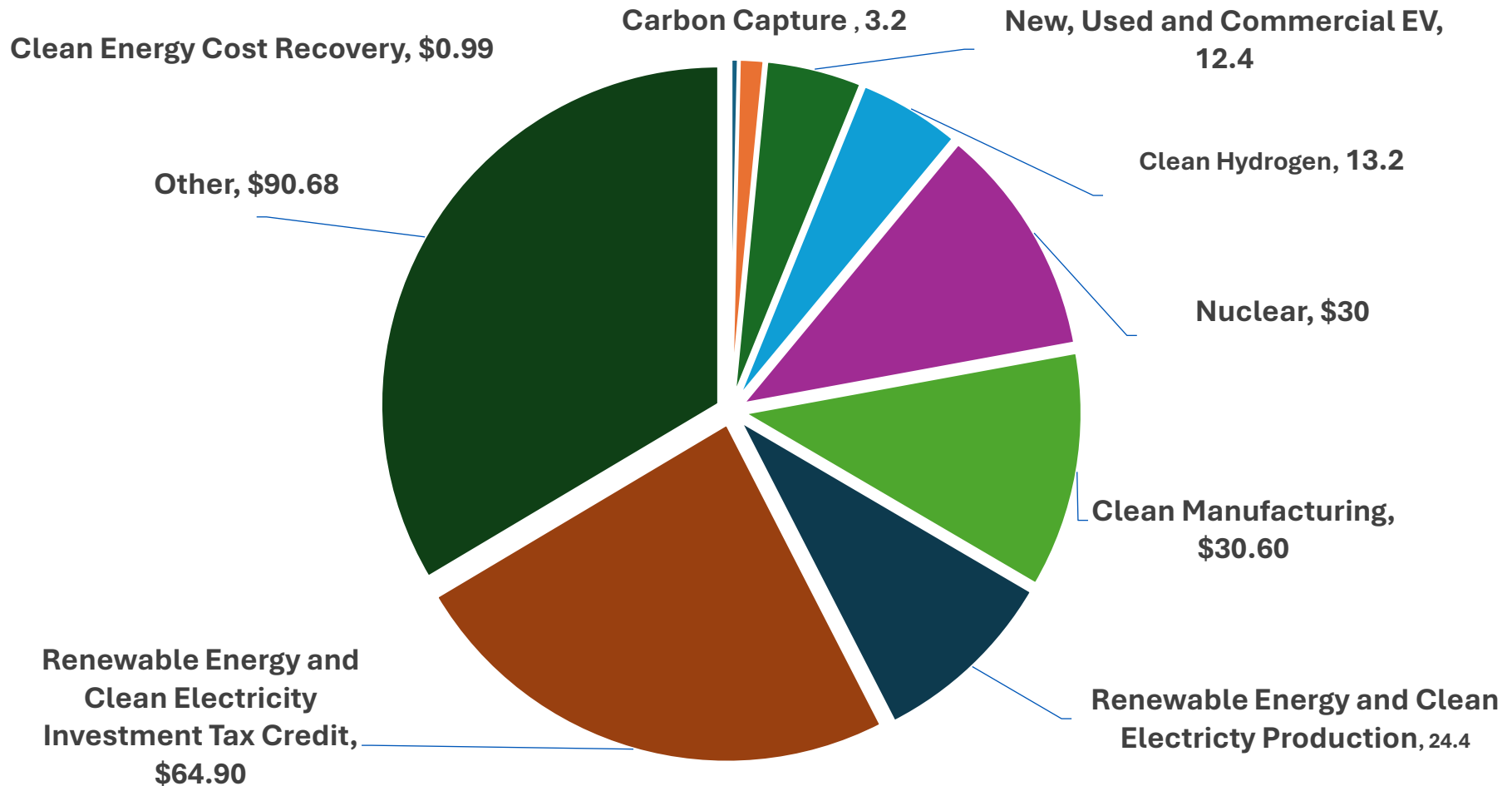


- **Forbes:** <https://www.forbes.com/sites/lynnmucenskikeck/?sh=3321bbd19c4c>
- **Additional Clean Energy Information Can Be Located on the Withum Website:** [Withum Clean Energy Tax Credit Information](#)
- **Journal of Accountancy Article:** [Clean Energy Direct Pay Election for Not For Profits](#)



Inflation Reduction Act 2022

10-Year Budgeted Spending for IRA, Billions



Originally estimated to costs \$271 billion over 10 years, but due to increased uptake and investment estimated to be \$652.5 billion over 10 years.



IRC 48/48E
Investment
Tax Credit



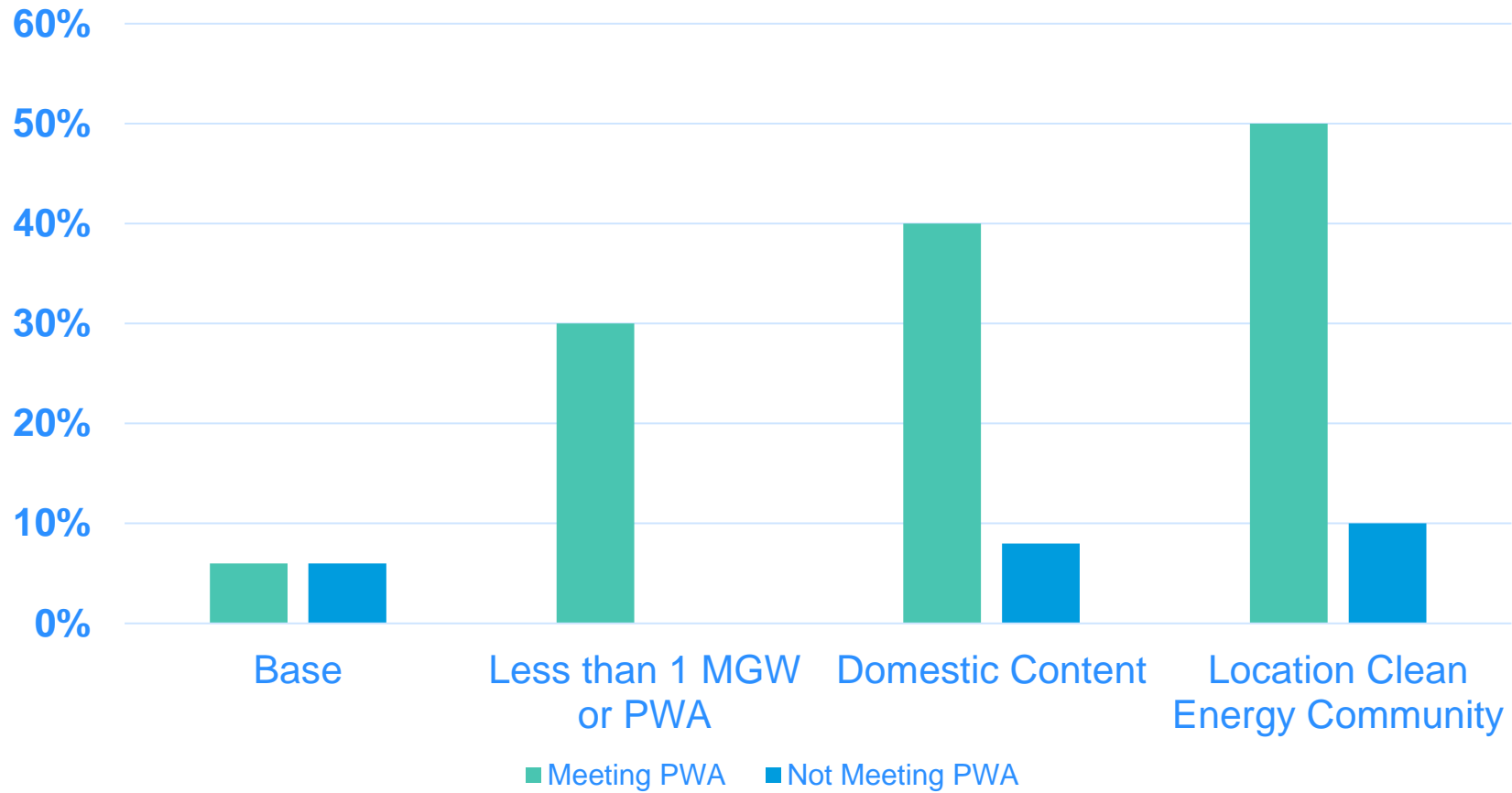
IRC 45W
Commercial
Vehicle
Credits



IRC 179D
Energy
Efficiency
Deduction



Tiered Credit System



Prevailing Wage & Apprenticeship

Prevailing Wage

The taxpayer must ensure that:

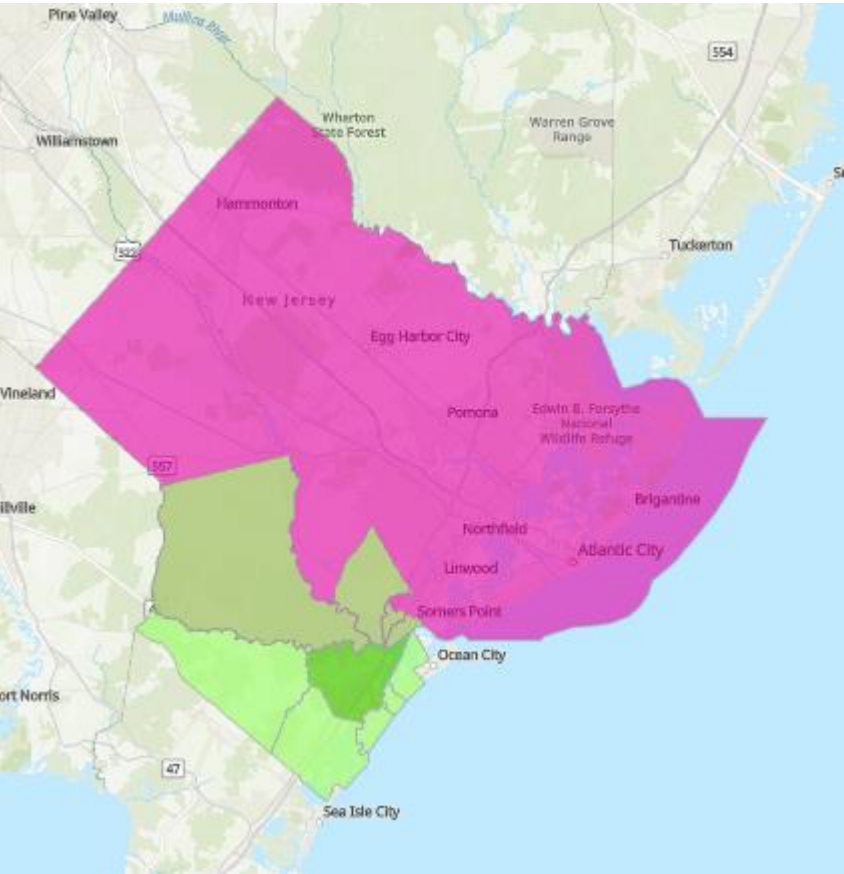
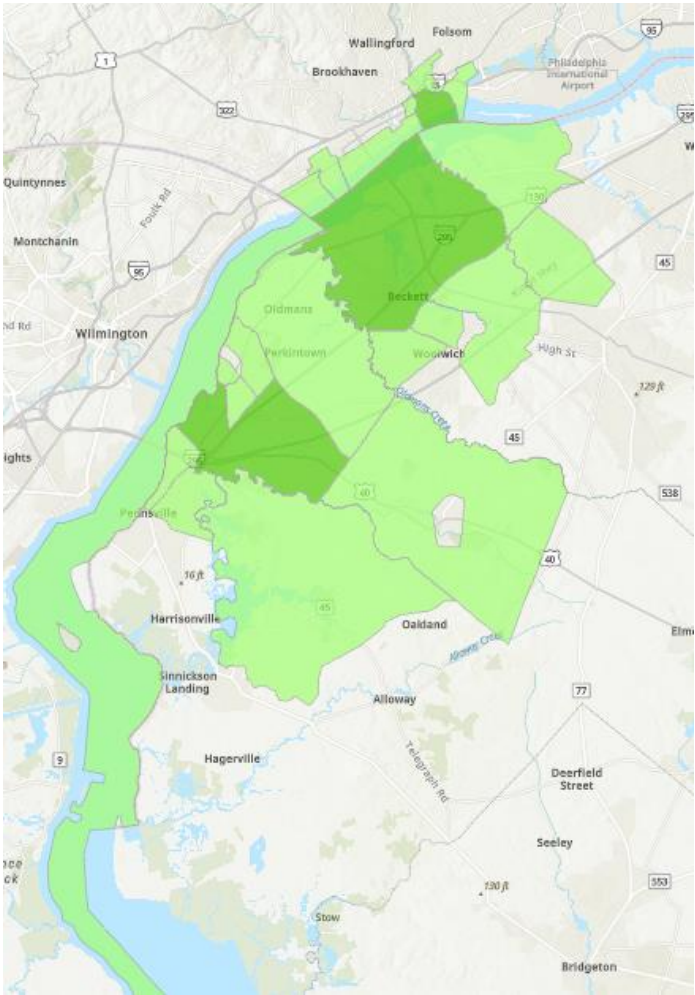
1. any laborers and mechanics employed by the taxpayer or any contractor or subcontractor in the construction of such energy project, and
2. for the 5-year period beginning on the date such project is originally placed in service, the alteration or repair of such project, is paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality in which such project is located, for the taxable year in which the energy project is placed in service.

Apprenticeship

The taxpayer must ensure that:

1. with respect to the construction of any qualified facility, not less than 15% (12.5% if construction begins before January 1, 2024) of the total labor hours of the construction, alteration, or repair work with respect to such facility is performed by qualified apprentices
2. If 4 or more individuals are employed to perform construction, alteration, or repair work, 1 or more qualified apprentices must be employed to perform such work
3. Meet apprentice-to-journeyworker ratio if required

Energy Community



+ Brownfield Sites

Domestic Content

- Taxpayer certifies that any steel, iron, or manufactured product that is a component of the facility (upon completion of construction) was produced in the United States
- Deemed produced in the United States if not less than 40% of the total costs of all such manufactured products are attributable to manufactured products that are mined, produced, or manufactured in the United States
- Safe Harbor principals provided under Notice 2023-38

Energy Credit

■ Tax Exempt Financing

1. Reduction to the credit now only applies to tax-exempt financing utilized by the project
 - Maximum reduction to the credit decreases from 50% to 15%, if tax-exempt financing is used
2. Federal, state, and local grants are no longer a reduction to the credit

Overall Limitation: The total grants received, plus the refundable income tax credit cannot exceed the overall cost of the project



Section 6417: Direct Pay Election

Direct Pay Election

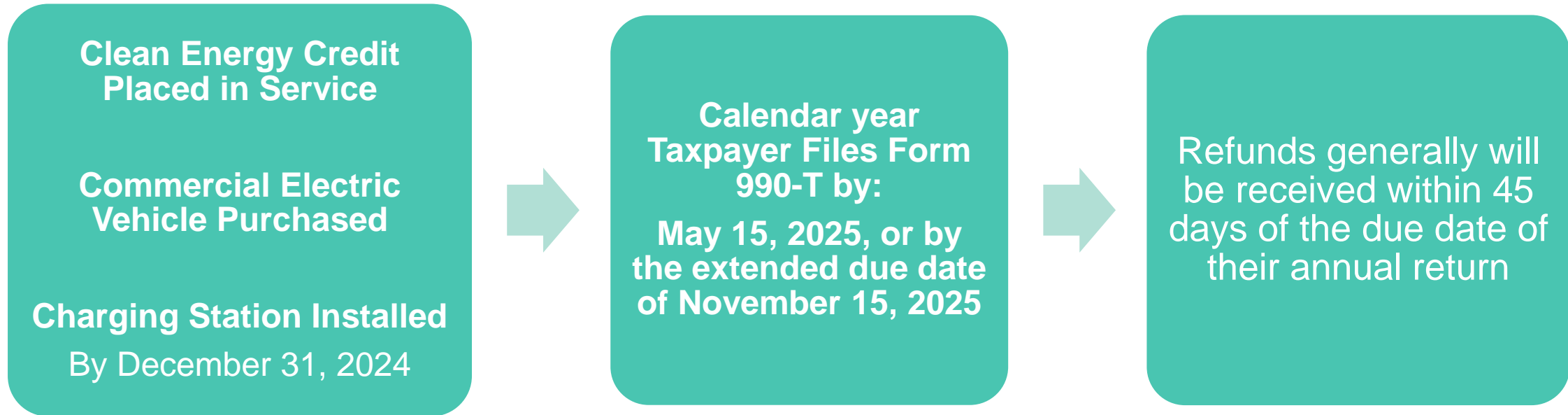
- Under the IRA, all applicable entities are incentivized to invest in clean energy infrastructure through the direct payment program **regardless of federal income tax liability**
- Applicable entity includes:
 - Tax-exempt organizations
 - State or political subdivision
 - Indian Tribal Governments
 - Any Alaska Native Corporation

IRS Prefiling Registration Required to Make a Direct Payment Election

- Complete the pre-filing registration process with the IRS
 - Pre-filing registration is a required electronic process for all entities that intend to make an elective payment election
 - After you complete the pre-filing registration process, the IRS will review the information provided and will issue a separate registration number for each applicable credit property for which you provided sufficient verifiable information
 - A registration number does not guarantee credit eligibility
 - In general, you must register and obtain a separate registration number for each applicable credit property that contributes to an applicable credit and for which you intend to make an elective payment election
 - An elective payment election is not valid unless it contains the registration number assigned to you

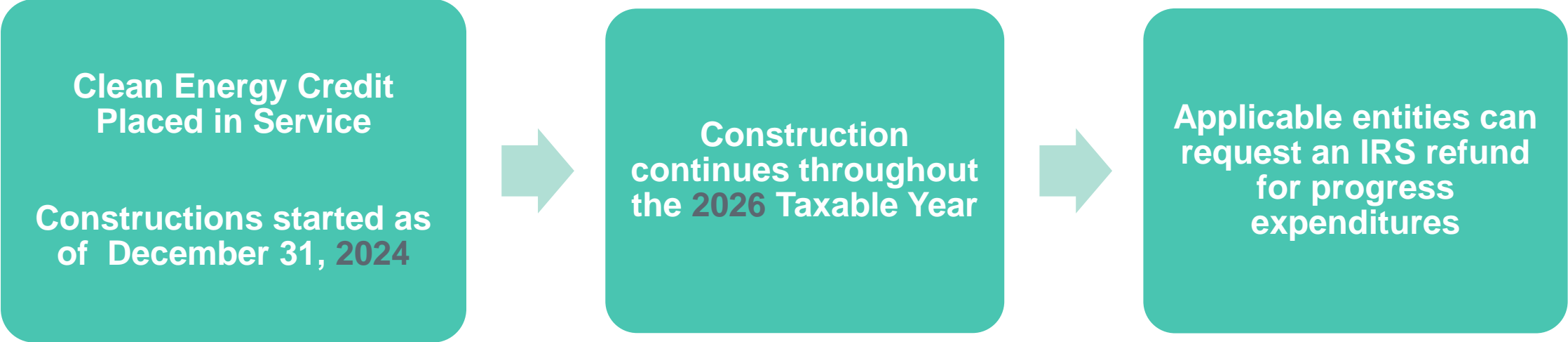
<u>Tax Credit</u>	New/Modified	Two-Tier Credit Structure	Direct Pay (Section 6417)
ITC (Section 48 construction begins before 12/31/24 or Section 48E)	Modified	X	X
Section 45W Clean Commercial Vehicles	New		X
Section 30C AFV Refueling Property Credit	Modified	X	X
<u>Tax Deduction</u>			
Section 179D –Energy Efficiency Commercial Buildings Deduction	Modified	X	Transfer Primary Engineer or Architect

Direct Pay Election Timing: Extended Projects



Also assists in being able to apply Section 48 energy projects and lower apprenticeship percentages.

Direct Pay Election Timing





Section 48: Energy Credit

Energy Credit

- Generally, Section 48 energy credits are applied to projects which begin construction ***before January 1, 2025***
- Section 48E, clean electricity investment credit, replaces the Section 48 energy investment credit for property placed in service after December 31, 2024.
 - A qualified facility means a facility which is used for the generation of electricity
 - Is placed in service after December 31, 2023,
 - **and for which the anticipated greenhouse gas emission rate is not greater than zero**
- However, there are ***safe harbor provisions*** for a project to start by 12/31/2024
 - ***Safe Harbor***: Taxpayer pays or incurs five percent or more of the total cost of the energy property OR starts construction
 - ***Continuity Safe Harbor***: Energy proper is completed by the fourth calendar year after the energy project began

ITC (Section 48) Removed as of December 31, 2024

Project that require to be safe harbored PRIOR to December 31, 2024, include:	Energy Projects starting construction AFTER December 31, 2024, include:
Combined Heat and Power Systems (Co-gens)	Solar
Separate or Enhanced Energy Storage Technology	Geothermal (Ground source heat pumps)
Microgrid controller	Wind

Energy Credit Example

- The taxpayer installs a co-generator at the facility placed in service during the 2024 taxable year. The total fees for the project, including equipment, installation, interconnection property, and testing, were \$25,000,000. The taxpayer is located in a qualified census tract but does not meet the domestic content requirement.
- $\$25,000,000 \times 40\% = \$10,000,000$
- Not-for-profit entities could claim the \$10,000,000 credit on their 2024 Form 990-T for the taxable year and ultimately receive a refund.
- Alternatively, the Not-for-profit could claim a direct pay election for qualified progress expenditures in 2023, and receive a refund for part of the project in 2023 and the remainder of the project in 2024



Qualified Commercial Clean Vehicles

Qualified Commercial Clean Vehicles

■ Qualified Commercial Vehicles

- Made by a qualified manufacturer
- Is treated as a motor vehicle for purposes of title II of the Clean Air Act and is manufactured primarily for use on public streets, roads, and highways OR is mobile machinery
- Is propelled to a significant extent by an electric motor that draws electricity from a battery that has a capacity of not less than 15-kilowatt hours (or, in the case of a vehicle that has a gross vehicle weight rating of fewer than 14,000 pounds, 7-kilowatt hours) and is capable of being recharged from an external source of electricity OR is a new qualified fuel cell motor vehicle AND
- Is subject to depreciation (exception made for tax-exempt entities)




























No critical mineral or battery component requirements that must be met

The final assembly of the clean commercial vehicle can occur outside North America

Vehicle Weights

\$7,500 credit

\$40,000 credit

Class 1 - 6,000 lbs & Less			
			
Minivan	Cargo Van	SUV	Pickup Truck
Class 2 - 6,001 to 10,000 lbs			
			
Minivan	Cargo Van	Full-Size Pickup	Step Van
Class 3 - 10,001 to 14,000 lbs			
			
Walk-in	Box Truck	City Delivery	Heavy-Duty Pickup
Class 4 - 14,001 to 16,000 lbs			
			
Large Walk-in	Box Truck	City Delivery	
Class 5 - 16,001 to 19,500 lbs			
			
Bucket Truck	Large Walk-in	City Delivery	
Class 6 - 19,501 to 26,000 lbs			
			
Beverage Truck	Single-Axle	School Bus	Rack Truck
Class 7 - 26,001 to 33,000 lbs			
			
Refuse	Furniture	City Transit Bus	Truck Tractor
Class 8 - 33,001 lbs & Over			
			
Cement Truck	Truck Tractor	Dump Truck	Sleeper

Credit cannot exceed \$7,500 (gross vehicle weight less than 14,000 pounds) or \$40,000 (all other vehicles)

Credit is limited to the “incremental cost” compared to gasoline/diesel powered vehicle (Safe Harbor provided for 2023 and 2024)

Qualified Commercial Vehicle Credit Example

- An electric ambulance costs \$400,000 per vehicle and the ambulance weighs more than 14,000 pounds. In addition, a similar ambulance that is gasoline-powered costs \$325,000.
- Calculation of the credit would be the lesser of the following:
 - Cost Basis: $\$400,000 \times 30\% = \$120,000$
 - Maximum credit per IRC: \$40,000
 - Incremental Cost: \$75,000 ($\$400,000 - \$325,000$)

IRC 30C: Alternative Fuel Vehicle Refueling Property Credit

Alternative Fuel Vehicle Refueling Property Credit (Modified)

- Provides a credit in an amount equal to 6% up to 30% for depreciable qualified alternative fuel vehicle refueling property (“RP”)
- Credit limitation applies per charging station, rather than all charging stations at a single location
- The maximum credit per item in the case of depreciable charging station is \$100,000
- Effective for charging station acquired in 2023 through 2032

Alternative Fuel Vehicle Refueling Property Credit (Modified)

To be considered a *qualified alternative fuel vehicle refueling station* it must be placed in an *eligible census tract*

1. Low-Income communities

A reference tool to assist in identifying low-income communities as identified under §45D(e) can be found here: [Mapping Tool](#) **OR**

2. Not an urban area

An urban area is identified by utilizing the most recent decennial census [2020 Census Data Urban Areas](#)

Alternative Fuel Vehicle Refueling Property Credit (Modified)

- Facts: Business installs ten qualified alternative refueling stations for a cost of \$15,000 each. The total cost of the stations would be \$150,000.
- **Prior to IRA 2022:** Potential credit of \$45,000 (30% x 150,000) but overall limit of \$30,000 on total project
- **After IRA 2022 (assuming wage and apprenticeship requirement are met):** \$45,000 (30% x 150,000) which is under the per item limit of \$100,000

179D: Energy Efficiency Building Deduction

Energy Efficiency Commercial Building Section 179 Deduction

- Provides an immediate deduction for costs of energy-efficient commercial building property placed in service during the taxable year
- In the case of energy-efficient commercial building property installed on or in property owned by a specified tax-exempt entity, the allocation of the deduction can be made to the person **primarily responsible for designing** the property in lieu of the owner of such property.

Energy Efficiency Commercial Building Deduction

■ Transfer of deduction

- A designer is a person who creates the technical specifications for installation of energy-efficient commercial building property but does not include a person who installs, repairs, or maintains the property.
- If more than one designer is responsible for creating the technical specifications, the owner must determine which designer is primarily responsible and allocate the entire deduction to that designer or, if the owner so chooses, allocate the deduction among the designers
- The designer must obtain the allocation, according to the written process provided by the IRS, before claiming the deduction
- The designer or the owner are not required to recognize gross income or reduce future deductions by the amount of the **§179D** deduction allocated to the designer.

Energy Efficiency Commercial Building Deduction

- What is an energy-efficient building improvement?
 - With respect to which depreciation is allowable
 - Installed in any building which located in the U.S and meets Standard 90.1
 - Installed as part of the **interior lighting systems; the heating, cooling, ventilation, and hot water systems, or the building envelope;** and
 - Is certified as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to above mentioned systems of the building by 25% or more (previously 50%).

Energy Efficiency Commercial Building Deduction

- For taxable years after December 31, 2022, the amount per square foot increases from \$1.88 (2022 taxable year) to:
 - If the prevailing wage and apprenticeship requirement are met, **\$2.50 increased (but not above \$5.00)** by \$0.10 for each percentage point by which the total annual energy and power costs for the building are certified to be reduced by a percentage greater than 25% (i.e. if annual energy and power costs are reduced by 50%, the amount per square foot would be \$5)

Energy Efficiency Example: Not-For-Profit Building

- Assume a not-for-profit hospital expends \$1,250,000 on energy-efficient commercial building property installed and the prevailing wage and apprenticeship requirements are met. It was certified that the total energy costs were reduced by **25%**. No 179D deduction has been previously claimed. The square footage of the building is 300,000.

2024 Taxable Year

Wage & Apprenticeship Met: $300,000 \text{ sq ft} \times \$2.50 = \$750,000$ immediately expensed and \$500,000 capitalized

The hospital would be allowed to ***transfer the deduction to the primary designer***. Assuming the engineer or architect has a federal effective tax rate of 20%, the cash benefit the designer could receive for the transferred tax deduction is \$250,000 ($20\% \times 1,250,000$). The hospital would request that this benefit be monetized and reduce the ultimate fee that the hospital would have to pay the designer.



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