

ALERT

Treasury Department Issues Guidance and Timeline to Allocate \$4 Billion in Qualifying Advanced Energy Project Credits

June 1, 2023

On May 31, 2023, the U.S. Department of the Treasury's Internal Revenue Service (IRS) released additional guidance on the implementation and administration of Internal Revenue Code §48C—The Qualifying Advanced Energy Project Credit (the Credit). The Inflation Reduction Act (IRA) modified §48C to provide \$10 billion in credits for qualifying advanced energy projects. The Credits are intended to spur investment in clean-energy manufacturing and critical materials processing and to allow for existing energy infrastructure to be retooled for the clean energy economy.

This is the first allocation round (Round 1), which will allocate \$4 billion of such Credits. Of this, \$1.6 billion is reserved for projects located in Energy Communities Census Tracts (*i.e.*, locations where a coal mine has closed since 1999 or a coal-fired electric generating unit has been retired since 2009).

A broad variety of projects are eligible to apply for a §48C investment tax credit of up to 30%. Qualifying advanced energy projects include (1) clean energy manufacturing and recycling projects, (2) greenhouse gas (GHG) emission reduction projects, and (3) critical mineral (e.g., aluminum) projects. Eligible clean energy manufacturing and recycling projects and critical mineral projects may re-equip or expand existing facilities or establish new facilities. Eligible GHG emission reduction projects will re-equip existing facilities with equipment designed to reduce emissions by at least 20%. The notice provides updated examples of eligible projects within each of these three categories.

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Note that facilities that receive a §48C Credit may not also benefit from the IRA's §45X Advanced Manufacturing Production credits.

This notice updates, modifies, and supersedes Treasury's February 13, 2023 notice, which established the §48C Credit program and provided initial guidance. Among other updates, the notice clarifies the process for submitting concept papers and applications and the selection criteria the U.S. Department of Energy (DOE) will use when recommending applications.

The approval process will involve joint review by DOE and Treasury. DOE will begin accepting concept papers no later than June 30, 2023, and the final deadline for concept papers is July 31, 2023 (12:00pm EST). DOE will review these concept papers and encourage (or discourage) applicants to submit a complete application. The IRS will consider DOE's determination and ranking, accept or reject applications, and allocate §48C Credits no later than March 31, 2024.

Companies interested in submitting concept papers should begin reviewing DOE's application process and attend the DOE and Treasury's information webinar, currently scheduled for June 27, 2023 at 2:00pm EST.

Wiley has robust International Trade and Government Contracts Practices and extensive experience helping clients determine eligibility and navigate and apply for funding opportunities at various federal government departments, including DOE and Treasury. Please contact the authors of this alert for any questions related to §48C Credits or any other IRA funding opportunities and guidance.