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Renewable Energy Alert

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Renewable energy after the Big Beautiful Bill

By Andrew P. Rubin, Forrest David Milder, Nicholas J. Anderson, Michael J. Goldman, and David Kavanaugh

Learn how the renewable energy industry can prepare for these changes.



What's the impact?

- Accelerated sunset on ITC and PTC for solar and wind credits
- Bonus credits, transferability, and direct pay generally untouched
- New restrictions related to foreign entities of concern (FEOC)
- Other energy and efficiency incentives have accelerated sunsets

On July 4, 2025, President Trump signed H.R. 1, known as the One Big Beautiful Bill Act (OBBBA), into law. The OBBBA was passed through Congress' reconciliation process. Overall impacts from the OBBBA vary by industry. The renewable energy industry took some of the toughest punches as a result of changes to the Internal Revenue Code, but, at least in the near term, survives to fight another day.

The investment tax credit (ITC) under Section 48E and production tax credit (PTC) under Section 45Y support clean energy projects across the nation. They are both technology-neutral credits for

qualified facilities that begin construction after December 31, 2024, replacing prior technology-specific credits under Sections 45 and 48.

Accelerated sunset on ITC and PTC for solar and wind

Following enactment of the OBBBA, to qualify for the ITC or PTC, solar and wind projects must either begin construction no later than July 4, 2026, or be placed in service no later than December 31, 2027. If a solar or wind project meets either deadline, it may qualify for the credit. If a solar or wind project misses both deadlines, it will not qualify for any credit.

This is a significant acceleration compared to prior law, which provided for a multi-year phase-out period for all ITC and PTC projects (including solar and wind) beginning in the later of 2032 or the year in which greenhouse gas emissions from electricity production are equal to or less than 2022 levels.

The traditional tests for establishing whether a renewable energy project has [begun construction](#) remain intact for now; however in an order issued on July 7, 2025, President Trump directed the Treasury secretary to “take all action as [he] deems necessary and appropriate to strictly enforce the termination of the clean electricity production and investment tax credits under sections 45Y and 48E of the Internal Revenue Code for wind and solar facilities,” including to issue new standards to establish whether a project has begun construction. We expect Treasury to issue relevant guidance no later than August 18, 2025. We note that IRS guidance on begun construction has historically been prospective, meaning that taxpayers should be able to rely on the “significant physical work” and “5% safe harbor” provisions of existing IRS guidance. At the same time, we observe that this administration has emphasized doing things differently, meaning that while unlikely, it is possible that the IRS could apply any new guidance retroactively, perhaps to the date of enactment or the date of the President’s executive order.

Not everything changes: Untouched provisions of note

Although a separate, more accelerated sunset of solar energy credits for leased projects appeared in various drafts of the bill, the enacted version of the OBBBA did not include such changes (though it does accelerate the sunset of leased solar hot water and leased small wind projects).

Outside of the restrictions on specified foreign entities discussed below, the OBBBA did not amend the ability to transfer available credits under Section 6418. Nor did the OBBBA include changes specific to the ability for US government and tax-exempt entities to elect for direct payment of available credits under Section 6417.

Similarly, the OBBBA did not include any changes to the adders for facilities built with qualifying amounts of domestic content, facilities in [“energy communities”](#), or the competitive adder for

facilities built in [low-income communities](#), tribal communities, or interconnected with federally subsidized residential buildings.

Of course, adders, sales of credits, and direct pay must be applied to an underlying credit. If the credit is eliminated, then these additional benefits will be lost as well.

Foreign Entities of Concern (FEOC)

The OBBA provides several new provisions limiting tax credits for projects with connections to “foreign entities of concern” (FEOC). The new provisions incorporate a dizzying collection of new terms and abbreviations that may make it hard for a project to close with investors or credit purchasers without a careful review of contracts and expenditures. You’ll be hearing a lot about prohibited foreign entities (PFEs), specified foreign entities (SPEs), and foreign influenced entities (FIEs). Near the end of this section, we’ll provide the technical definitions of these terms, but for most purposes, readers should be thinking of whether their project might be considered to have connections with persons or entities from China, Russia, Iran, and North Korea.

At a 50,000-foot-level, the new rules apply to persons and entities with connections to the four countries and they call for special scrutiny when such a person or affiliate provides more than a certain percentage of the equipment used in a project (the “material assistance” rules), or when such a person or an affiliate invests in a project, or when such a person or affiliate has “effective control” over a project, typically by contractual arrangements. Below, we’ll provide a brief review of the new rules, but we caution that these rules are extraordinarily complex, and they don’t lend themselves to being summarized in an alert. Moreover, both the OBBA and the president’s July 7 executive order direct the Treasury to write rules and tables for applying these provisions, so there will be significant additional guidance in the coming months that could affect the current interpretation of these rules, as stated in this alert.

The rule that we expect to see most is the “material assistance rule.” The OBBA denies the credits under Sections 45Y and 48E for projects that begin construction after December 31, 2025, where the taxpayer receives “material assistance from a prohibited foreign entity.” For the purpose of determining whether a project has begun construction and is therefore exempt from this material assistance from a PFE provision, the OBBA specifically incorporates the guidance provided in IRS Notices 2013-29 and 2018-59 (and other IRS guidance in effect on January 1, 2025). This is different from the termination of Sections 45Y and 48E, where the OBBA does not provide such an explicit directive. In addition, the OBBA directs Treasury to prescribe regulations and guidance to “prevent circumvention of the [FEOC] rules ... through the stockpiling of any manufactured product, eligible component, ...” So, the practice of “warehousing” Chinese panels may not avoid the application of the FEOC rules.

Determining whether the material assistance provision applies is similar to the analysis associated with “domestic content,” recognizing that here, the only foreign content that can lead

to denial of the credit must come from one of the four FEOC countries. Material assistance is determined by looking at the following ratio: a numerator of (A) the taxpayer's total material costs reduced by (B) the taxpayer's total costs that are attributable to components that are mined, produced, manufactured, or otherwise attributable to a PFE and a denominator of (C) the taxpayer's total material costs. There are certain exceptions for items that are acquired pursuant to a binding written contract that was entered into prior to June 16, 2025 (subject to placed in service and begun construction requirements). The applicable credit will be denied where the threshold percentage for material assistance is exceeded.

- / For energy production facilities, the minimum ratio for projects that begin construction in 2026 is 40%, in 2027 is 45%, in 2028 is 50%, in 2029 is 55%, and in 2030 and thereafter is 60%. Of course, beyond 2027 is relevant for clean energy technologies other than solar and wind that continue to qualify for the ITC or PTC.
- / For energy storage technology, the minimum ratio for projects that begin construction in 2026 is 55%, in 2027 is 60%, in 2028 is 65%, in 2029 is 70%, and in 2030 and thereafter is 75%.

We note that the IRS has been directed to prepare safe harbor tables that would facilitate doing these computations, and the OBBBA provides that existing IRS tables in the domestic content guidance (Notice 2025-08) can be relied on by taxpayers until 60 days after newer tables are provided.

A few important technical notes—the statute of limitations for the IRS to challenge ITCs under the material assistance rules is six years after the return is filed, instead of the usual three. And there are new penalties: a 20% penalty can apply to the taxpayer and a 10% penalty can apply to an equipment supplier who provides false information on certificates delivered after 2025.

As noted above, there are two other FEOC rules that can be important.

First, SFEs, FIEs, and their subsidiaries and certain affiliates are ineligible to claim or sell tax credits. So, corporate structures of developers, investors, and credit purchasers should be closely scrutinized in light of the definitions, below. Importantly, as described in more detail below, a taxpayer can become an FIE if SFEs own more than specified percentages of its debt. Again, recognizing that the definitions are complex, as a big picture matter, this analysis will start by checking for connections to persons from China, Russia, Iran, and North Korea. These rules will apply to tax years beginning after July 4, 2026.

Second, the effective control rules can cause a project to lose its credits if an SFE has certain rights with regard to determining who buys the project's power, accesses its data, directs its operation, or repairs the facility, or a range of other rights. The IRS is directed to write rules as to what constitutes effective control. Importantly, if a taxpayer makes an "applicable payment" to a PFE within 10 years of placing in service a property eligible for the ITC, then 100% of the tax credit is recaptured in the taxable year of the applicable payment. While earlier drafts of the OBBBA

provided more specificity regarding the definition of “applicable payment,” the enacted OBBBA vaguely refers to a payment made to an SFE pursuant to a contract, agreement, or other arrangement which entitles such SFE to exercise effective control. Note that the provision runs for 10 years, despite the normal 5-year recapture period for the ITC. This may result in a change in representations and warranties, as well as the length of insurance policies to protect against this possibility. This recapture provision applies to ITCs claimed in tax years starting after July 4, 2027.

And here are some of the definitions that we referred to above.

A “prohibited foreign entity” (PFE) includes:

- / A specified foreign entity (SFE) is generally (i) a foreign entity of concern listed in 15 U.S.C. 4651; (ii) a Chinese military company; or (iii) an entity with ties to North Korea, China, Russia, or Iran. SFE also includes a foreign-controlled entity (FCE) which itself includes governments, agencies, instrumentalities, and citizens of North Korea, China, Russia, or Iran (provided that such person is not an individual who is also a citizen, national, or lawful permanent resident of the US) and entities controlled by an FCE.
- / A foreign-influenced entity (FIE) is generally an entity: (i) to which an SFE can appoint an executive-level officer or board director; (ii) of which an SFE controls at least 25%; (iii) of which SFEs in the aggregate own at least 40%; (iv) of which an SFE holds at least 15% of the debt; or (v) over which an SFE has “effective control” (defined as specific authority over key aspects of the energy project’s components through measures of control other than authority, ownership, or debt described above).

In addition, the Section 45X credit (for manufacturing many renewable-related products) can also be reduced or eliminated on account of the new FEOC rules.

President Trump has directed the Treasury secretary to take action to implement these enhanced FEOC provisions by August 18, 2025. In addition, we expect that the IRS will apply focus on compliance with these provisions in the years to come.

Other energy and efficiency provisions

The OBBBA rolls back or sunsets many other renewable energy and energy efficient incentives, including:

SECTION 25C—ENERGY EFFICIENT HOME IMPROVEMENT CREDIT

- / Terminates the credit for projects placed in service after December 31, 2025 (previously December 31, 2032)

SECTION 25D—RESIDENTIAL CLEAN ENERGY CREDIT

- / Terminates the credit for any expenditures made after December 31, 2025 (previously was available for projects placed in service through December 31, 2034)

SECTION 25E—PREVIOUSLY OWNED CLEAN VEHICLE CREDIT

- / Terminates the credit for vehicles acquired after September 30, 2025 (previously December 31, 2032)

SECTION 30C—ALTERNATIVE FUEL VEHICLE REFUELING CREDIT

- / Terminates the credit for property placed in service after December 31, 2025 (previously December 31, 2032)

SECTION 30D—CLEAN VEHICLE CREDIT

- / Terminates the credit for vehicles acquired after September 30, 2025 (previously December 31, 2032)

SECTION 45L—NEW ENERGY EFFICIENT HOME CREDIT

- / Terminates the credit for homes acquired after June 30, 2026 (previously December 31, 2032). In Notice 2023-65, the IRS wrote “[t]he term “acquired” includes purchased. The IRS also will consider a qualified home that is leased by a person from an eligible contractor for use as a residence during the taxable year as ‘acquired’ for purposes of § 45L(a)(1)(B).” For residential rental projects, this means that placement in service and leasing of the unit must occur on or before June 30, 2026.

SECTION 45V—CLEAN HYDROGEN PRODUCTION CREDIT

- / Terminates the credit for projects that begin construction after December 31, 2027 (previously December 31, 2032)

SECTION 45W—COMMERCIAL CLEAN VEHICLE CREDIT

- / Terminates the credit for vehicles acquired after September 30, 2025 (previously December 31, 2032)

Other types of projects under the ITC and PTC, such as geothermal, fuel cells, biogas systems, waste energy recovery, and battery storage continue through their pre-existing phaseouts: 100% credit available if construction begins on or before December 31, 2033; 75% if construction begins

in 2034; 50% if construction begins in 2035; and no credit if construction begins on or after January 1, 2036.

The OBBBA includes a variety of new sunset dates. It is vitally important to be cognizant of the relevant dates, whether tied to the beginning of construction, when a project is placed in service, or the date a vehicle is acquired.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

Andrew P. Rubin

202.585.8622

arubin@nixonpeabody.com

Forrest David Milder

617.345.1055

fmilder@nixonpeabody.com

Nicholas J. Anderson

202.585.8442

nanderson@nixonpeabody.com

Michael J. Goldman

202.585.8289

mjgoldman@nixonpeabody.com

David Kavanaugh

617.345.1134

dkavanaugh@nixonpeabody.com