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GENERAL MEMORANDUM 23-007

Bonus Credits for Wind and Solar Facilities on Indian Land Added to Internal Revenue Code

The Inflation Reduction Act of 2022 (PL 117-169) amended Section 48 of the Internal Revenue Code (Code) by establishing bonus credits for qualified solar and wind facilities. The bonus credits are available for low-income projects and those on Indian land.

On February, 13, 2023, the Department of the Treasury (Treasury) and Internal Revenue Service (IRS) published Notice 2023-17. The notice establishes a program for allocating energy capacity to qualifying wind and solar projects. Projects that receive an allocation will be eligible for an enhanced energy investment tax credit.

The bonus credits under Code Section 48(e) contain a capacity cap and, thus, function more like a competitive grant. Treasury is expected to release guidance on the application process in the upcoming months. The benefit of this process, however, is that the taxpayers may know they have received the credit before construction starts.

The four categories of projects that qualify for the bonus credits are: (1) facilities that are located on a low-income community, as defined in Section 45D(e); (2) facilities that are located on Indian land, as defined in section 2601(2) of the Energy Policy Act of 1992 (25 U.S.C. § 3501(2)); (3) facilities that are part of a qualified low-income residential building project; and (4) property that is a qualified low-income economic benefit project.

Categories 1 and 2 may receive up to 10 percent bonus tax credit, while Categories 3 and 4 may receive up to 20 percent. Additionally, if a Category 1 or Category 2 facility also qualify as Category 3 or Category 4, then the Category 1 or Category 2 facility will also receive the 20 percent increase.

The table below provides a snapshot summary of the four (4) categories, relevant Code provisions, and allocated capacity for 2023.

Category #	Type	Code Section	Credit Increase	Allocated Capacity for 2023
1	Low-Income Community	48(e)(1)(A)(i)	10%	700 MW (DC)
2	Indian land	48(e)(1)(A)(i)	10%	200 MW (DC)

3	Qualified low-income residential building project	48(e)(2)(B)	20%	200 MW (DC)
4	Qualified low-income economic benefit project	48(e)(2)(C)	20%	700 MW (DC)

Please let us know if we may provide additional information about the bonus credits for qualified solar and wind facilities.

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