

Energy Tax Update:

"The One, Big, Beautiful Bill" and Recent Executive Order

Speakers



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Today's Agenda

- General overview of changes impacting ITC and PTC
- Credit adders and other items of interest
- "Prohibited foreign entity" (PFE) rules
- Executive Order Issued July 7, 2025
- Q&A

Biggest Losers

Business Credits	Personal Credits
45W (commercial EVs)	25C (energy efficient home improvements)
45L (new energy efficient home)	25D (residential clean energy)
30C (alternative fuel vehicle refueling property)	25E (used EVs)
30D (EVs)	30C
	30D

- Effective Dates between September 30, 2025 and June 30, 2026

PTC/ITC Phaseouts

Credit	Asset type	Effective	Notes
45Y	Wind and solar	BOC after the date which is 12 months after the date of enactment	Must be PIS by December 31, 2027
45Y	Other facilities		Phase-out: BOC 2034 = 75% BOC 2035 = 50% BOC after 2036 = 0%
48E	Wind and solar	BOC after the date which is 12 months after the date of enactment	Must be PIS by December 31, 2027
	EST and other qualified facilities		Phase-out: BOC 2034 = 75% BOC 2035 = 50% BOC after 2036 = 0%
	EST placed in service at wind or solar facility		Not subject to wind and solar phaseout

Phaseouts

Credit	Asset type	Effective	Notes
45X	Advanced manufacturing production	Taxable years after enactment	<p>Phase-out for applicable critical minerals (other than metallurgical coal):</p> <p>Produced 2031 = 75%</p> <p>Produced 2032 = 50%</p> <p>Produced 2033 = 25%</p> <p>After 2033 = 0%</p> <p>Termination for wind energy components produced and sold after 12/31/27.</p>
48C	Advanced energy project credit program		Some limitations added
45V	Clean hydrogen		BOC before 2028

Winners

Credits	
45 (historic PTC)	No changes
48 (historic ITC)	No changes (other than elimination of credit for "other" energy property if BOC on or after June 16, 2025)
45Z (clean fuel PTC)	Extension through 2029 (+2 years) Fuel must be exclusively derived from a feedstock which was produced or grown in the United States, Mexico, or Canada
45Q (carbon capture)	Generally no changes (other than PFE-related and conforming credit values)
45U (nuclear)	No changes (other than PFE-related)

Fuel Cells (48E)

- Beginning for start of construction after 2025:
 - No zero greenhouse gas emissions requirement
 - ITC locked in at 30%
 - No PWA requirement
 - No credit adders

Credit Adders

- Section 48E domestic content percentage “fix”: adopts increasing percentages for BOC on or after 6/16/25:
 - Before that date: 40% (lower thresholds for off-shore)
 - 6/16/25-12/31/25: 45%
 - 2026: 50%
 - 2027+: 55%
- New nuclear energy community adder



Other Items of Interest

- Transferability not addressed (other than certain restrictions on transfers to PFEs and the addition of certain biodiesel fuel credits under 40A)
- 100% bonus depreciation made permanent
- R&D Expensing made permanent
- 163(j) Business interest limitations made permanent
- Residential wind and solar
- Geothermal heat pumps: Relaxation of limited use property rule
- Super BEAT provisions
- Low-Income Housing (LIHTC), New Markets (NMTC) and Opportunity Zones

Prohibited Foreign Entities (PFE)

- Prohibited Foreign Entities
 - Specified Foreign Entities
 - Foreign Entity of Concern (FEOC)
 - Other listed foreign entities
 - Foreign-controlled entities
 - Foreign-influenced entities
- Material Assistance



PFE – Definitions (Specified Foreign Entity)

■ Specified Foreign Entity

- Foreign Entity of Concern: generally, North Korea, Russia, China, Iran (covered nations) or an entity controlled by the government or entity controlled by a covered nation or formed or headquartered in a covered nation
- Other listed entities (e.g., Chinese military companies)
- Foreign-controlled entity
 - Government of a covered nation (including any level of government below the national level)
 - Agency or instrumentality of such government
 - Citizens or nationals of covered nations (except an individual who is a citizen or lawful permanent resident of the United States)
 - Entities formed in a covered nation or with a principal place of business in a covered nation
 - Entity controlled by another foreign-controlled entity

PFE – Definitions (Foreign-Influenced Entity)

- Foreign-Influenced Entity

- Entity that meets any of the following criteria during the taxable year:
 - Entity in which a specified foreign entity has the direct authority to appoint a covered officer (includes board of directors, C-suite executives, and those with similar responsibilities)
 - Entity in which a single specified foreign entity owns at least 25% or more than one specified foreign entity owns at least 40% (in the aggregate)
 - Entity in which at least 15% of debt has been issued to one or more specified foreign entities
 - Publicly Traded Entity exception may apply in certain cases
- Entity which, during the previous taxable year, made a payment to specified foreign entity pursuant to a contract, agreement or other arrangement which entitles such specified foreign entity (or a related party) to exercise effective control over project or eligible component
 - Effective Control
 - Licensing and Other Agreements

PFE – Material Assistance

- **Material Assistance** means, with respect to any qualified facility or EST or production of eligible component, a **material assistance cost ratio** which is less than the applicable threshold percentage
- **Threshold Percentage** (for Qualified Facilities and EST)
 - BOC during 2026 = 40% (55% for EST)
 - BOC during 2027 = 45% (60% for EST)
 - BOC during 2028 = 50% (65% for EST)
 - BOC during 2029 = 55% (70% for EST)
 - BOC after 2029 = 60% (75% for EST)
- **Material Assistance Cost Ratio** (for Qualified Facilities and EST)

$$\frac{\text{Total costs of all manufactured products (including components)} - \text{Total costs of PFE manufactured products (including components)}}{\text{Total costs}}$$

- Manufactured Products defined by reference to domestic content guidance
- Safe Harbor Tables and Supplier Certification
- Supplier/Taxpayer Penalties and Statute of Limitations

PFE – New Recapture Rule under Section 48E

- 100% recapture for payments to a specified foreign entity during 10-year period after PIS pursuant to a contract, agreement or other arrangement which entitles such specified foreign entity (or a related party) to exercise **effective control** over project
 - Effective Control rules in Foreign-Influenced Entity definition
- Applies to taxpayer who are allowed a credit under Section 48E for any taxable year beginning after the date which is 2 years after the date of enactment
- No vesting

Making a Deal for HFC Votes: Executive Order Issued July 7, 2025



By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. Purpose. For too long, the Federal Government has forced American taxpayers to subsidize expensive and unreliable energy sources like wind and solar. The proliferation of these projects displaces affordable, reliable, dispatchable domestic energy sources, compromises our electric grid, and denigrates the beauty of our Nation's natural landscape. Moreover, reliance on so-called "green" subsidies threatens national security by making the United States dependent on supply chains controlled by foreign adversaries. Ending the massive cost of taxpayer handouts to unreliable energy sources is vital to energy dominance,

IRS Notices – Beginning of Construction

- Notice 2022-61 confirmed pre-IRA start of construction rules apply for grandfathering
- Two methods to establish when construction begins; both methods have two prongs:
 - **Prong 1:** Commence construction
 - Physical Work Test
 - Five Percent Safe Harbor
 - **Prong 2:** Make continuous progress toward completion
 - Facts and circumstances analysis
 - Continuity safe harbor

Executive Order Issued July 7, 2025

- Secretary of Treasury ordered to take all action necessary to strictly enforce the termination of Sections 45Y and 48E for wind and solar
- Directive to issue new and revised guidance to ensure that policies concerning beginning of construction are not circumvented



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Questions?



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Thank you!

