



Clean energy, community development, and other credits and incentives in new House legislative proposal

Tax Alert

Overview

On September 10th and September 13th, the U.S. House of Representatives Ways and Means Committee released markups of pieces of the Build Back Better Act (the “Act”) (bill number not yet released), a large legislative proposal that is part of the budget reconciliation proposed legislation. The bill includes numerous measures to combat climate change by stimulating the development of clean energy. The bill also encourages economic and affordable housing and community development, among many other credits and incentives proposals. This Tax Alert outlines some of the notable green energy, community development, and other credits and incentives provisions.

Summary

Of the 645 pages of legislative text released consisting of Subtitles F, G, H and J of the markup proposal for budget reconciliation, nearly 250 pages address “Green Energy” proposals. The bill retains aspects of the House’s GREEN Act, introduced on February 4th, while also adopting proposals of President Biden’s [Greenbook](#) released on May 28th and conforming more closely to the [Clean Energy for America Act](#) that was passed by the Senate Finance Committee on June 17th.

Some of the highlights of the bill’s green energy proposals, summarized below in more detail, include:

- Adoption of an elective payment option (*i.e.*, a “direct pay option” or refundability) for most energy credits including the investment tax credit (ITC), production tax credit (PTC) and [section 45Q](#) carbon oxide sequestration credit (45Q credit).
- Long-term extensions of 10 to 12 years for the ITC (*e.g.*, solar and fuel cell property) and the PTC (*e.g.*, wind and biomass facilities) using begun construction deadlines with phase downs in the credit amounts thereafter.
- New ITCs for energy storage, transmission property, clean hydrogen, zero-emission facilities, and biogas property.

- New PTCs for solar, clean hydrogen, zero emission nuclear facilities.
- Extension of 45Q credit with decreased capture thresholds for qualified facilities.
- Re-instituting the [section 48C](#) clean energy manufacturers credit;
- New requirements relating to wages and labor associated with enhanced tax credit amounts.
- New provisions requiring use of domestic content related to tax credit amounts and qualification for elective payment options.
- Long-term extensions of alternative fuels credits.
- Long-term extensions and enhancements of credits for electric vehicles (for commercial and personal vehicles) and credits for electric vehicle charging property.

Some of the highlights of the bill's community development proposals, also summarized below in more detail, include:

- Permanent extension of the new markets tax credit.
- New tax credit for qualified wildfire mitigation expenditures.
- Modifications and enhancements to the rehabilitation investment tax credit and low-income housing tax credit (LIHTC).
- New neighborhood homes investment tax credit.
- New possessions economic activity credit.

Other notable provisions include:

- Delays the mandatory amortization of [section 174](#) research and experimental expenditures by 4 years.
- Permits the offset of all [section 38](#) general business credits against the base erosion and anti-abuse tax (BEAT).

The following outlines some of the notable green energy and community development provisions.

Green Energy Incentives

- Modifies and extends the [section 45](#) PTC.
 - Extends the beginning of construction deadline by 12 years, through December 31, 2033, for closed-loop biomass facility, open-loop biomass facility, geothermal facility, landfill gas facilities, trash facilities, qualified hydropower facility, and marine and hydrokinetic renewable energy facilities.
 - Extends application of the PTC to solar if construction begins before January 1, 2034.
 - Extends the election to claim the [section 48](#) ITC in lieu of PTC by 12 years, through December 31, 2033.
 - Extends the wind PTC beginning of construction deadline through December 31, 2033.
 - For wind facilities placed in service before January 1, 2022, the current 60% PTC phase down value applies.
 - Eliminates the application of the phase out for wind facilities under section 48(a)(5)(E) to qualified offshore wind facilities.
 - All PTC facilities under section 45(b) would be subject to the following credit phase down percentages:
 - 100% (full value) PTC for facilities that begin construction before January 1, 2032 (and placed in service after December 31, 2021 for wind PTC facilities);
 - 80% PTC for facilities that begin construction in calendar year 2032;
 - 60% PTC for facilities that begin construction in calendar year 2033; and
 - 0% PTC if construction begins after calendar year 2033.
 - Enhanced credit rate available if wage and apprenticeship requirements are met.

- Domestic content bonus credit would be available.
- Effective for facilities placed in service after December 31, 2021.
- Modifies and extends the section 48 ITC at increased rates for energy property (solar, geothermal, qualified fuel cell property, qualified microturbine property, combined heat and power system property, and qualified small wind energy property) that begins construction before January 1, 2034.
 - For solar energy property, the ITC energy percentage would be:
 - o 26% ITC if construction began after December 31, 2019 and is placed in service before January 1, 2022;
 - o 30% (full value) ITC if construction begins before January 1, 2032, and placed in service after December 31, 2021;
 - o 26% ITC if construction begins in calendar year 2032;
 - o 22% ITC if construction begins in calendar year 2033; and
 - o 10% permanent ITC if construction begins in calendar year 2034 or later, or for solar energy property not placed in service before January 1, 2036.
 - For other energy property (*e.g.*, qualified fuel cell property, qualified small wind property, and small wind):
 - o Phase down schedule follows the solar ITC above, except the credits are phased out for construction that begins after December 31, 2033, or for any energy property not placed in service before January 1, 2036.
 - Provides new 30% ITC for energy storage technology that begins construction before January 1, 2034.
 - o Energy storage technology means equipment (other than equipment primarily used in the transportation of goods or individuals and not for the production of electricity) which uses batteries, compressed air, pumped hydropower, hydrogen storage, thermal energy storage, regenerative fuel cells, flywheels, capacitors, superconducting magnets, or other technologies identified by the Secretary to store energy for conversion to electricity (or in the case of hydrogen storage, to store energy) and has a capacity of not less than 5 kilowatt hours.
 - Adds new 30% ITC for qualified biogas property that begins construction before January 1, 2034.
 - o Biogas property means property comprising a system which converts biomass (as defined in [section 45K\(c\)\(3\)](#)) into a gas which consists of not less than 52% methane, or is concentrated by such system into a gas which consists of not less than 52% methane and captures such gas for productive use.
 - This definition may include cleaning and conditioning equipment.
 - o No double benefit for qualified biogas property under section 45(e).
 - Includes new 30% ITC for certain microgrid equipment that begins construction before January 1, 2034.
 - o Microgrid controller means equipment which is part of a qualified microgrid and designed and used to monitor and control the energy resources and loads on such microgrid to maintain acceptable frequency, voltage, or economic dispatch.
 - o Qualified microgrid means an electrical system which includes equipment which is capable of generating not less than four kilowatts and not greater than 20 megawatts of electricity, is capable of operating in connection with the electric grid and as a single controllable entity with respect to such grid, and independent from such grid, and is not part of a bulk-power system.
 - Extends waste energy recovery property ITC by 10 years, through December 31, 2033.
 - Expands definition of fuel cells to include electromechanical processes, among other standard modifications.
 - Adds new dynamic glass ITC included as solar energy property.

- o Solar energy property includes electrochromic glass which uses electricity to change its light transmittance properties in order to heat or cool a structure.
- Coordinates eligible basis provision with LIHTC so that the basis reduction required under [section 50\(c\)\(1\)](#) is not considered for purposes of determining eligible basis under [section 42](#).
- Enhanced credit rate available if wage and apprenticeship requirements are met.
- Domestic content bonus credit available if certain requirements are met.
- Elective payment option, penalty, and exceptions apply as outlined below.
- Applies to property placed in service after December 31, 2021 for all subsections amended by the Act, except for subsection (d) (*i.e.*, energy storage technologies, qualified biogas property, microgrid controllers, and extension of waste energy recovery property) which applies to periods after December 31, 2021, under rules similar to section 48(m).
- Increases solar ITC by 10% or 20%, depending on the project specifications, if such project is in connection with a low-income community and receives an environmental justice allocation.
 - The Secretary of Energy and Administrator of the Environmental Protection Agency may allocate credits to projects representing a maximum of 1.8 gigawatts per year of nameplate capacity for each calendar year starting in calendar year 2022 and ending after calendar year 2031.
- Allows elective payment (*i.e.*, direct pay option/refundability) under the new section 6417 for the following tax credits: section 48 ITC, section 45 PTC, section 45Q credit for carbon oxide sequestration, [section 30C](#) alternative fuel vehicle refueling property, and section 48C qualifying advanced energy project credit.
 - Tax-exempt and governmental entities: may make an election and any credit shall be determined without regard to sections 50(b)(3) and (4)(A)(i), and by treating any property with respect to such credit determined as used in a trade or business of the taxpayer.
 - Partnerships and S corporations: the election is made and paid at the entity level.
 - o The payment shall be treated as a refund due from a credit for purposes of section 1324 (*i.e.*, tax exempt income for purposes of [sections 705](#) and [1366](#)).
 - A payment must be elected not later than the due date (including extensions of time) for the return of tax for the taxable year for which the applicable credit is determined, but in no event later than 180 days after the enactment of the Act.
 - Once an election is made it is irrevocable.
 - As a condition of, and prior to, a payment, the Secretary may require such information or registration as the Secretary deems necessary or appropriate for purposes of preventing duplication, fraud, improper payments, or excessive payments.
 - o If the IRS determines that a taxpayer received a payment in excess of the amount otherwise allowable as a credit for such taxable year that was not the result of reasonable cause, then the taxpayers income tax for the taxable year for which such determination is made will be increased by the amount of the excessive payment plus 20% of such amount.
 - Denial of double benefit, once the election is made, such taxpayer shall be deemed to have taken such credit.
 - Basis reduction and recapture rules under sections 50(a) and (c) apply.
 - Applies to property placed in service after December 31, 2021.
- Establishes a new ITC of up to 30% under [section 48D](#) for electric transmission property the construction of which begins after December 31, 2021.

- Qualifying electric transmission property means tangible property which is a qualifying electric transmission line or related transmission property, the construction, reconstruction, or erection of which is completed by the taxpayer or which is acquired by the taxpayer if the original use of such property commences with the taxpayer and with the respect to which depreciation is allowable.
- Qualifying electric transmission line means an electric transmission line which is capable of transmitting electricity as a voltage of not less than 275 kilovolts, and has a transmission capacity of not less than 500 megawatts.
- Applicable to replacement and upgraded systems.
- No credit is allowed for certain property and projects already in process, meaning any property if (i) a State or political subdivision thereof, any agency or instrumentality of the U.S., a public service or public utility commission or other similar body of any State or political subdivision thereof, or the governing or rate-making body of an electric cooperative has, before the date of the enactment of this section, selected for cost allocation such property for cost recovery; (ii) construction begins before January 1, 2022; or (iii) construction of any portion of the qualifying electric transmission line to which such property relates begins January 1, 2022.
- Enhanced credit rate available if wage and apprenticeship requirements are met.
- Domestic content bonus credit available if certain requirements are met.
- Applies to property placed in service after December 31, 2021, and before December 31, 2031.
- Adds a new section 48E zero emissions facility credit in an amount equal to 30% of the qualified investment for such taxable year.
 - Zero emissions facility means any facility which generates electricity, which does not generate any greenhouse gases, which uses technology or process which, in the calendar year in which an amount of credit is designated with respect to such facility, achieved a market penetration level of less than 3%, no portion of which is a qualified facility under section 45(d), an advanced nuclear power facility under [section 45J\(d\)](#), a qualified facility under section 45Q, or energy property under section 48(a)(3).
 - Eligible property includes any property necessary for the generation of electricity which is tangible personal property or other tangible property but only if such property is an integral part of the zero emissions facility, and with respect to which depreciation is allowable.
 - The Secretary shall establish a program to consider and award certification amounts of zero emissions facility credit limitation to zero emissions facilities. The annual limitation that may be designated is \$250,000,000 for each calendar year 2022 through 2031, and zero thereafter.
 - No credit shall be determined with respect to any zero emission facility which is placed in service 4 years after the date of the designation.
 - Credit is conditioned upon meeting the wage and apprenticeship requirements.
 - The wage requirements must be paid during construction and during the alteration or repair of such facility or property for the 5-year period beginning on the date the facility or property is originally placed in service.
 - The apprenticeship requirements stipulate that a certain percentage of labor hours and apprentice to journeyworker ratio are met.
 - Elective payment option, penalty, and exceptions apply as outlined below.
 - Effective for periods after December 31, 2021.

- Modifies and extends section 45Q carbon oxide sequestration credit by 6 years.
 - Modifies the definition of a qualified facility so that (i) it must begin construction before January 1, 2032 and (ii) reduces the minimum capture thresholds under section 45Q(d) as follows:
 - (A) In the case of a direct air capture facility, not less than 1,000 metric tons of qualified carbon oxide during the taxable year,
 - (B) In the case of an electricity generating facility, not less than 18,750 metric tons of qualified carbon oxide during the taxable year and not less than 75% of the carbon oxide that would otherwise be released into the atmosphere by such facility during such taxable year, and
 - (C) In the case of any other facility, not less than 12,500 metric tons of qualified carbon oxide during the taxable year and not less than 50% of the carbon oxide that would otherwise be released into the atmosphere by such facility during such taxable year.
 - Increases credit amounts for direct air capture facilities to \$180 per metric ton (plus inflation) if the qualified carbon oxide is captured and disposed of in secure geological storage, or \$130 per metric ton (plus inflation) if the captured carbon oxide is used for enhanced oil recovery or natural gas recovery projects, or utilized by the taxpayer in a manner described in subsection (f)(5).
 - Enhanced credit rate available if wage and apprenticeship requirements are met.
 - Applies to taxable years beginning after December 31, 2021.
- Expands rules under [section 7704](#) to include income certain items for green energy publicly traded partnerships.
 - Expands the rules governing publicly traded partnerships in section 7704 to include as qualified income the following items:
 - The generation of electric power or thermal energy exclusively using as its energy source wind, biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, qualified hydropower (as defined in section 45), and marine and hydrokinetic renewable energy.
 - Tipping fees paid to open loop biomass or municipal solid waste facilities for accepting or processing open loop biomass or municipal solid waste.
 - Income from the operation of energy investment credit property (as defined in section 48(a)(3)) without regard to any date by which the construction of such property must begin.
 - The production, storage, or transportation of any fuel which (1) uses as its primary feedstock carbon oxides captured from an anthropogenic source or the atmosphere, (2) does not sue as its primary feedstock carbon oxide which is deliberately released from naturally occurring subsurface springs, and (3) is determined by the Secretary, in consultation with the Secretary of Energy and the EPA Administrator to achieve a reduction of not less than a 60% in lifecycle greenhouse gas emissions (as defined in section 211(o)(1)(H) of the Clean Air Act, as in effect on the date of the enactment of this clause) compared to baseline lifecycle greenhouse gas emissions (as defined in section 211(o)(1)(C) of such Act, as so in effect).
 - Income from the operation of a facility that qualifies under section 45Q(d) (without regard to any sunset date).
 - Effective for taxable years beginning after December 31, 2021.
- Creates a new section 45W zero-emission nuclear power production credit.
 - The credit is an amount equal to 0.3 cents per kilowatt-hour produced by the taxpayer at a qualified nuclear power facility, and sold by the taxpayer to an unrelated person during the taxable year. The credit is reduced as the sale price of such electricity increases, and would be phased out if the qualified facility is able to sell its electricity for an average of at least 4.625 cents per kilowatt-hour during the taxable year.

- A qualified nuclear power facility means any nuclear facility which is (i) owned by the taxpayer and which uses nuclear energy to produce electricity, (ii) has not received an allocation under section 45J(b), and (iii) placed in service before the date of the enactment of the Act.
- Denial of double benefit under section 48E.
- Enhanced credit rate available if wage and apprenticeship requirements are met.
- The elective payment option would be available.
- Applies to taxable years beginning after December 31, 2026.
- Extends incentives for biodiesel, renewable diesel and alternative fuels through December 31, 2031 for [sections 40A\(g\)](#), [6426\(c\)\(6\)](#), [6427\(e\)\(6\)\(B\)](#), [6426\(d\)\(5\)](#), [6426\(e\)\(3\)](#), [6427\(e\)\(6\)\(C\)](#), and [40\(b\)\(6\)\(J\)\(i\)](#).
 - Applies to fuel sold or used after December 31, 2021.
- Provides new sustainable aviation fuel credit under section 40B.
 - The credit amount for the taxable year is, with respect to any sale or use of a qualified mixture which occurs during such taxable year, an amount equal to the product of the number of gallons of sustainable aviation fuel in such mixture multiplied by (1) a base credit amount of \$1.25 plus (2) the applicable supplementary credit amount.
 - Applies to any sale or use of sustainable aviation fuel after December 31, 2022 and before January 1, 2032.
- Creates a new clean hydrogen production credit under section 45X.
 - The credit is equal to an amount up to \$3.00 per kilograms of qualified clean hydrogen produced by the taxpayer during such taxable year at a qualified clean hydrogen production facility during the 10-year period beginning on the date such facility was placed in service.
 - Qualified clean hydrogen means hydrogen that is produced through a process that, as compared to hydrogen produced by steam-methane reforming of non-renewable natural gas, achieves a percentage reduction in lifecycle greenhouse gas emissions of at least 40%. The hydrogen must be produced in the U.S. or a possession of the U.S. in the ordinary course of a trade or business of the taxpayer for sale or use.
 - No credit is allowed with respect to qualified clean hydrogen produced at a facility which includes property for which a credit is allowed under section 45Q or for which an election under section 6417 (relating to an elective payment) is made.
 - The proposal permits a taxpayer to receive both the section 45 credit for electricity produced from renewable resources and the credit for production of clean hydrogen. The electricity will be treated as sold to an unrelated person if such electricity is used at a qualified clean hydrogen production facility to produce clean hydrogen.
 - Enhanced credit rate available if wage and apprenticeship requirements are met.
 - The elective payment option would be available.
 - Applies for facilities that begin construction before January 1, 2029.
 - In lieu of the clean hydrogen production credit, the proposal permits a taxpayer to elect to treat clean hydrogen facilities (or any portion of such facility) as energy property. The energy percentage with respect to such property ranges from 6% to 30% depending on the type of qualified clean hydrogen that the facility is designed and reasonably expected to produce. The election is irrevocable. The specified clean hydrogen facility must be placed in service after December 31, 2021 and with respect to which no credit has been allowed under the new section 45X (the clean hydrogen production credit) or section 45Q (the credit for carbon oxide sequestration) or for which no election under section 6417 (relating to elective payment) has been made.
 - Terminate excise tax credit for hydrogen fuel sold or used after December 31, 2021.
- Extends [section 25C](#) credit for nonbusiness energy property for 10 years through December 31, 2031.

- Increases the credit percentage to 30% for qualified energy efficient improvements and applies an annual limitation in lieu of lifetime limitation of the credit amount.
- Modifies certain definitions.
- Generally applies to property placed in service after December 31, 2021.
- Extends [section 25D](#) residential energy efficient property for 10 years through December 31, 2033 and add qualified battery storage technology as eligible property.
 - The 30% (full value) applicable percentage is available for property placed in service after December 31, 2021, and before January 1, 2032.
 - The 26% applicable percentage is available for property placed in service in calendar year 2032.
 - The 22% applicable percentage is available for property placed in service in calendar year 2033.
- Enhances [section 179D](#) for calendar years 2022 through 2031.
 - The efficiency standard is decreased from 50% to 25%.
 - The maximum energy efficient commercial buildings deduction is changed to an amount equal to \$0.50 per square foot increased (but not above \$1.00) by \$0.02 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%. This maximum amount represents the total section 179D deduction that may be claimed for a building with respect to the current taxable year plus the three preceding taxable years. These amounts are adjusted for inflation and replace both the \$1.80 per square foot maximum deduction and the partial allowance rule.
- Extends and enhances [section 45L](#).
 - Extends section 45L 10 years, through December 31, 2031.
 - Increases the existing credit amounts to \$2,500 credit for new homes that meet certain energy efficiency standards and \$5,000 credit for new homes that are certified as zero-energy ready homes. The credit for multifamily dwelling units is reduced to 20% of the otherwise applicable amount.
 - Provides an enhanced credit amount with respect to multifamily housing where certain wage requirements are met.
 - Effective for dwelling units acquired after December 31, 2021.
- New refundable plug-in electric drive motor vehicle credit for individuals under [section 36C](#), effectively repeals [section 30D](#), nonrefundable new qualified plug-in electric drive motor vehicle.
 - Eliminates the credit's limitation on the number of credit eligible electric vehicles each manufacturer can sell.
 - The base amount of the credit is increased to \$4,000 (from \$2,500). An additional credit of \$3,500 is available for vehicles with a battery capacity of not less than 40 kilowatt hours acquired before January 1, 2027. This additional credit of \$3,500 is available for vehicles with a battery capacity of not less than 50 kilowatt hours acquired after December 31, 2026.
 - The proposal also provides another additional credit amount of \$4,500 for new qualified plug-in electric drive motor vehicles for which the final assembly is at a facility located in the U.S. operating under a collective bargaining agreement negotiated by an employee organization. An additional credit amount of \$500 for new qualified plug-in electric drive motor vehicles with battery cells manufactured in the U.S. and at least 50% of the component parts for final assembly are domestic content (including such battery cells).
 - A new qualified plug-in electric drive motor vehicle is eligible for a maximum credit of \$12,500, for a vehicle that meets the battery capacity, domestic assembly and collective bargaining, and domestic content standards listed above.
 - The credit may not exceed 50% of the purchase price of the vehicle and the credit is reduced to \$0 if the MSRP for the vehicle exceeds

- \$74,000 in the case of a pickup truck, \$69,000 in the case of a sport utility vehicle, \$64,000 in the case of a van, and \$55,000 in the case of a sedan.
 - o The credit is reduced further if a taxpayer's modified adjusted gross income exceeds certain monetary thresholds.
- Limited transferability of credit between dealers and buyers.
- Effective for vehicles acquired after December 31, 2021 and before January 1, 2032; except the transfer of the credit is effective for vehicles purchased or leased after December 31, 2022.
- New credit for previously-owned qualified plug-in electric drive motor vehicles under section 36D.
 - The credit amount is equal to \$1,250 plus \$208.50 times the number of kilowatt hours by which the capacity of the battery of the vehicle exceeds four kilowatt hours (determined at time of sale). The credit amount cannot exceed the lesser of \$2,500 or 30% of the sale price of the vehicle.
 - o The credit is reduced further if a taxpayer's modified adjusted gross income exceeds certain monetary thresholds.
 - A previously-owned qualified plug-in electric drive motor vehicle is a vehicle (1) with a model year at least 2 years earlier than the calendar year of acquisition, (2) for which original use commences with a person other than the buyer, (3) acquired in a qualified sale, (4) registered by the taxpayer for operation in a State or territory of the U.S., and (5) that meets certain requirements of new qualified plug-in electric drive motor vehicles. These requirements are that the vehicle (1) is made by a qualified manufacturer, (2) is treated as a motor vehicle for purposes of title II of the Clean Air Act, (3) weighs less than 14,000 pounds, (4) is propelled to a significant extent by an electric motor drawing electricity from a battery of a capacity of not less than four kilowatt hours and which is capable of being recharged from an external source of electricity, and (5) is not of a character subject to an allowance for depreciation. Effective for vehicles acquired after December 31, 2021 and before January 1, 2032.
- Creates tax credit for qualified commercial electric vehicles under section 45Y.
 - The credit is equal to 30% of the basis of such vehicle.
 - Applies to vehicles acquired after December 31, 2021, and before January 1, 2032.
- Extends [section 30B](#), qualified fuel cell motor vehicles, by 10 years.
 - Modifies the definition of a new qualified fuel cell motor vehicle such that the vehicle, under section 30B(b)(3), is not property of a character subject to an allowance for depreciation.
 - Effective for property placed in service after December 31, 2021.
- Enhances and extends the alternative fuel refueling property credit under section 30C by 10 years.
 - Increases the credit limitation to \$100,000 per location for depreciable property and increased to \$3,333.33 in any other case.
 - Provides a supplemental credit in an amount equal to 20% for certain electric charging property if such property refuels only electricity or fuel consisting of at least 85% hydrogen by volume and is intended for general public use or is intended for use exclusively by fleets of commercial or government vehicles.
 - Includes bidirectional charging equipment, and permits electric charging stations to qualify in limited circumstances for vehicles with 2 or 3 wheels.
 - Enhanced credit rate available if wage and apprenticeship requirements are met.
 - Effective for property placed in service after December 31, 2021.
- Reinstates and expands employer-provided fringe benefits for bicycle commuting.

- Qualified bicycle commuting reimbursements are excludable from an employee’s gross income up to 30% of the dollar limitation on qualified transportation fringe benefits per month.
- A qualified bicycle commuting benefit for a calendar year means (1) any employer reimbursement during the 15-month period beginning with the first day of the calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase (including associated finance charges), lease, rental (including a bikeshare), improvement, repair, or storage of qualified commuting property, or (2) the provision by the employer to the employee during the calendar year of the use (including a bikeshare), improvement, repair, or storage of qualified commuting property. To constitute a qualified bicycle commuting benefit the employee must use the qualified commuting property for travel between the employee’s residence, place of employment, or a mass transit facility that connects an employee to their residence or place of employment.
- Effective for taxable years beginning after December 31, 2021.
- Creates a new credit for electric bicycles under section 36E through December 31, 2031.
 - The credit is equal to 15% of the cost of each qualified electric bicycle (not to exceed \$5,000 per electric bicycle) placed in service by the taxpayer during such taxable year.
 - The credit amount is reduced if the taxpayer’s adjusted gross income exceeds certain threshold amounts.
- Extends and expands section 48C credit for advanced energy manufacturing.
 - Reintroduces the section 48C credit with increased allocation of credits to \$2.5 billion annually for years 2022 through 2031; unallocated credit amounts may be allocated in the succeeding calendar years but no later than 2036.
 - \$400 million of each base annual allocation must be allocated to projects in automotive communities.
 - An automotive community is a census tract that has experienced major job losses in the automotive manufacturing sector since January 1, 1994, as determined by the U.S. Treasury Secretary in consultation with the Secretary of Energy and Secretary of Labor, or a census tract that is immediately adjacent to one such census tract.
 - Each applicant that receives a certification will have 2 years from the date of issuance of such certification to notify the Secretary that such project has been placed in service and the requirements of the certification have been met.
 - Expands definition of qualifying advanced energy projects to include energy storage systems, electric grid property, electric fuel cell vehicles, property for production of hydrogen, among others.
 - The selection criteria will include additional factors, such as which projects will provide the greatest net impact in avoiding or reducing anthropogenic emissions of greenhouse gases, will provide the greatest domestic job creation during the credit period, will provide the greatest job creation within the vicinity of the project with respect to low-income communities and dislocated workers who were previously employed in manufacturing, coal power plants, or coal mining, and will provide the greatest job creation in areas with a population that is at risk of experiencing higher or more adverse human health or environmental effects and a significant portion of such population is comprised of color, low-income communities, or individuals formerly employed in the fossil fuel industry, and give the highest priority to projects which manufacture property described in section 48C(c)(1)(A)(i) and have the greatest potential for commercial deployment of new applications.
 - Provides an elective payment option.
 - Enhanced credit rate available if wage and apprenticeship requirements are met.

- Effective on the date of the enactment of the Act.
- New section 45Z mechanical insulation property labor costs credit.
 - Creates a new 10% credit for mechanical insulation labor costs paid or incurred by the taxpayer during a taxable year.
 - Mechanical insulation labor costs are the labor costs of installing mechanical insulation property with respect to a mechanical system located in the U.S.
 - Mechanical insulation property is depreciable property consisting of insulation materials, as well as facings and accessory products installed in connection to such insulation materials, placed in service in connection with a mechanical system that meets certain requirements, which results in a reduction in energy loss from the mechanical system that is greater than the expected reduction from the installation of insulation materials meeting the minimum requirements of Reference Standard 90.1 (as defined in section 179D(c)(2)).
 - Effective for costs paid or incurred through December 31, 2031.
 - Reinstates the Hazardous Substance Superfund excise taxes.
 - The Hazardous Substance Superfund financing rate is reinstated at 16.4 cents per barrel. The tax is annually indexed for inflation beginning with calendar year 2023.
 - Effective on January 1, 2022.

Wage and Apprenticeship Requirements

- Applies to facilities with a maximum output of at least one megawatt and the construction of which commences after the date of enactment.
- Wage requirements: taxpayers must pay prevailing rates during the construction of a facility and for the alteration or repair of such facility during the applicable credit period (*e.g.*, 10 years for section 45, 12 years for section 45Q, etc.) beginning on the date such property or facility is placed in service.
 - A taxpayer can correct its failure to pay prevailing wages by making payment to such laborer or mechanic in an amount equal to the difference between the amount required to be paid and the amount actually paid plus interest on such true up, and pay a penalty in the amount of \$5,000 per laborer and mechanic paid wages below the prevailing rate for any period during such year, assessed in the form of a tax.
- Apprenticeship requirements: to be eligible for the enhanced credit, a taxpayer must ensure that not less than 15% of the total labor hours for projects that begin construction in calendar year 2023 and later (otherwise, 5% for projects the construction of which begins before calendar year 2023 and 10% for projects beginning in calendar year 2023) of construction, alteration, or repair work on any project are performed by qualified apprentices. In addition, the ratio of apprentice-to-journeyworker must meet the standard set by the Department of Labor.
 - If a project fails to satisfy these requirements, the taxpayer must pay the IRS a penalty equal to \$500 per hour of apprenticeship requirement that has not been met, to exceed the value of the tax benefit, unless the taxpayer demonstrates a lack of qualified apprentices in the geographic area of the construction, alteration, or repair work, and makes a good faith effort to comply, or makes a request to hire qualified apprentices from a registered apprenticeship program and such request is denied.
- Application per credit:
 - Section 45 PTC: Enhanced credit rate equal to 80% of the otherwise applicable rate is added to the reduced credit rate during the extension period if the wage and apprenticeship requirements are met. A taxpayer is not entitled to the enhanced credit rate unless prevailing wages requirements are met during construction, before such facility is placed in service, or the taxpayer brings the facility into compliance. Similarly, once the facility is placed in service, during the 10-year credit period, a

- taxpayer must meet the prevailing wage requirements associated with the alteration or repair of such facility or the taxpayer brings the facility into compliance.
- Section 48 ITC (including an ITC in lieu of PTC election): The wage requirements must be met before the qualifying facility is placed in service and for any year during the period beginning on the date any energy property of such project is originally placed in service. Once a qualifying facility or energy property is placed in service, if it does not continue to meet the wage requirements associated with the alteration or repairs, then the enhanced credits are recaptured under section 50(a)(1).
 - New section 48D ITC for electric transmission property: enhanced credit rate equal to 20% of the otherwise applicable rate is added to the reduced credit rate during the extension period if the wage and apprenticeship requirements are met. A taxpayer is not entitled to the enhanced credit rate unless prevailing wages requirements are met during construction, before such property is placed in service, or the taxpayer brings the property into compliance. Similarly, once the property is placed in service, during the 5-year credit period, a taxpayer must meet the prevailing wage requirements associated with the alteration or repair of such property or the taxpayer brings the property into compliance.
 - New section 45W zero-emission nuclear power production credit: Enhanced credit rate equal to 1.2 cents per kilowatt-hour if the wage and apprenticeship requirements are met during the 5-year credit period. In addition to the enhanced credit, the phaseout range increases from 0.5 cents to 2.5 cents if the wage and apprenticeship requirements are met (adjusted for inflation similarly to the base credit).
 - Section 45Q credit: Enhanced credit rate equal to 4 times the otherwise applicable base credit rate is added if the wage and apprenticeship requirements are met. A taxpayer is not entitled to the enhanced credit rate unless prevailing wages requirements are met during construction, before such facility is placed in service, or the taxpayer brings the facility into compliance. Similarly, once the facility is placed in service, during the 12-year credit period, a taxpayer must meet the prevailing wage requirements associated with the alteration or repair of such facility or the taxpayer brings the facility into compliance.
 - New section 45 production of clean hydrogen credit: An enhanced credit equal to the applicable percentage of \$3.00 if the taxpayer ensures that any laborers and mechanics employed by contractors and subcontractors in the construction, alteration, or repair of such facility prior to it being placed in service or during the 10-year credit period are paid wages at a rate not less than the prevailing wage rates or the taxpayer brings the facility into compliance.
 - Section 179D deduction: During the 10-year period of the proposal, an enhanced deduction equal to 4 times the deduction is available if the taxpayer ensures that any laborers and mechanics employed by contractors and subcontractors in the construction of such facility prior to it being are paid wages at a rate not less than the prevailing wage rates or the taxpayer brings the facility into compliance.
 - Section 45L credit: The enhanced credit is available to dwellings that are part of a building eligible to participate in the Energy Star Multifamily New Construction Program. The enhanced credit amounts are \$2,500 and \$5,000, respectively. The taxpayer shall ensure that any laborers or mechanics employed by contractors or subcontractors in the construction of such residence shall be paid wages at not less than the prevailing rates for construction, alteration, or repair. If a taxpayer fails to satisfy the requirements, rules similar to the newly added section 45(b)(8)(B) apply, which permits conformity by paying a penalty plus interest ([see section 45 PTC above](#)).

- Section 30C credit: During the extension period for depreciable property, an enhanced base credit rate equal to 30% and an enhanced supplemental credit rate of 20% are available if the taxpayer ensures that any laborers and mechanics employed by contractors and subcontractors in the construction of such property prior to it being placed in service are paid wages at a rate not less than the prevailing wage rates and complies with apprenticeship requirements or the taxpayer brings the facility into compliance.

Domestic Content Bonus Credit

- Provides an increase in credit, in an amount that varies per credit, if a qualified facility certifies that any steel, iron, or manufactured product used in the construction of such facility was produced in the U.S. prior to the end of the taxable year in which the facility is placed in service.
 - For purposes of steel and iron, this requirement shall be applied consistently with section 661.5(b) of title 49, Code of Federal Regulations, which stipulates *“all steel and iron manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives”*.
 - For a manufactured product, it will be deemed satisfied if not less than 55% of the total cost of the components of such product is attributable to components which are mined, produced, or manufactured in the U.S.
- An elective payment option at 100% of the value of the allowable credit is available under section 6417 for certain projects that satisfy the domestic content requirements outlined above or for projects with maximum output of less than one megawatt.
 - The elective payment value is reduced to 90% of the otherwise allowable credit value in calendar year 2024, 85% in calendar year 2025, and 0% in calendar year 2026 or later to the extent a taxpayer does not satisfy the domestic content requirements.
 - Exceptions can be provided by Treasury if the inclusion of domestic content increases the overall project costs by more than 25% or relevant manufactured products are produced in the U.S. in available quantities or satisfactory quality.
- Application per credit:
 - Section 45 PTC, section 48 ITC, and new section 48D ITC for electric transmission property: Increases the otherwise applicable credit rate by 2% (10% where the wage and workforce standards have also been met).
 - Section 36C credit: Provides additional credit amount of \$4,500 for new qualified plug-in electric drive motor vehicles for which the final assembly is at a facility located in the U.S. operating under a collective bargaining agreement negotiated by an employee organization. An additional credit amount of \$500 for new qualified plug-in electric drive motor vehicles with battery cells manufactured in the U.S. and at least 50% of the component parts for final assembly are domestic content (including such battery cells).

Community Development and Disaster Relief

- Makes the [section 45D](#) new markets tax credit permanent.
 - Provides allocations in the amount of \$5 billion in 2020 and 2021, \$7 billion in 2022, \$6 billion in 2023, \$5 billion in 2024 and for each year thereafter.
 - Additional allocations for tribal statistical areas.
 - Effective for calendar years after 2021.
- Modifies the [section 47](#) rehabilitation credit to phase up, then phase down the credit percentage.
 - Applicable percentage increased to 30% in 2020 through 2025, 26% in 2026, 23% in 2027, 20% after 2027.
 - Applies to property placed in service after March 31, 2021.
 - Eliminates basis adjustment under section 50(c).

- o Effective for property placed in service after December 31, 2022.
 - Adds 30% credit percentage for certain small projects (less than \$2.5M).
 - Redefines substantially rehabilitated as 50% of the adjusted basis.
- Amends [section 139](#) to add qualified catastrophe mitigation payment as a category not included in gross income.
 - Effective for taxable years beginning after December 31, 2020.
- Repeals temporary limitation on personal casualty losses under [section 165](#).
 - Applies to losses incurred in taxable years beginning after December 31, 2017.
- Adds new credit for qualified wildfire mitigation expenditures in the amount of 30% of such expenditures under [section 28](#).
 - Applicable to expenditures paid or incurred after the date of the enactment, in taxable years ending after such date.
- Modifies section 42 LIHTC, including increase in allocations for 2022 through 2028.
 - Includes Indian areas as difficult development areas for purposes of certain buildings.
 - Effective for calendar years after December 31, 2021.
- Creates a new section 42A neighborhood homes credit.
 - The credit may be provided to (1) taxpayers that develop or rehabilitate property that will be sold to an eligible purchaser who will use the property as the purchaser’s principal residence, or (2) taxpayers that rehabilitate certain owner-occupied property.
 - Effective for taxable years beginning after December 31, 2021.
- Adds a new possessions economic activity credit under section 45V equal to 20% of the sum of qualified possession wages and allocable employee fringe benefit expenses paid or incurred for the taxable year.
 - Applicable to taxable years beginning after the date of the enactment until any taxable year beginning after December 31, 2031.

Other Notable Provisions:

- Enhances the work opportunity tax credit (WOTC) during COVID-19 recovery under [section 51](#).
 - Increases the WOTC to 50% (from 40%) for the first \$10,000 in wages, through December 31, 2023, for all WOTC targeted groups except for summer youth employees.
 - Modifies definition of qualified wages to include wages paid during an employee’s first and second year of employment.
- Amends the definition of clinical testing under section 45C, clinical testing expenses for certain drugs for rare disease or conditions.
- Delays the mandatory capitalization and amortization of section 174 research and experimental expenditures by 4 years, through December 31, 2025.
- Modifies the application of section 38 general business credits to BEAT.
 - All general business credits under section 38 are allowed against BEAT.
 - Regular tax liability is not reduced by any tax credits for purposes of determining the BEAT minimum tax amount.



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