

## Deloitte Tax looks at guidance on tax credit transfers, ‘direct pay’ elections

Two new tax alerts from Deloitte Tax LLP examine recent guidance from the IRS and Treasury Department on two novel tax provisions—one permitting taxpayers to transfer certain tax credits to unrelated taxpayers and one permitting taxpayers to treat certain credits as direct payments—that were added to the Internal Revenue Code under the Inflation Reduction Act of 2022 (P.L. 117-169).

**URL:** <https://www.taxnotes.com/research/federal/legislative-documents/public-laws-and-legislative-history/inflation-reduction-act-of-2022-%28p.l.-117-169%29/7dybc>

### Credit transfers

The Inflation Reduction Act added a “transferable credit” provision—section 6418—to the code, which provides that “eligible taxpayers” may elect to transfer (*i.e.*, sell) certain credits to unrelated taxpayers rather than using the credits against their federal income tax liabilities.

The IRS and Treasury Department on June 14 released proposed regulations (REG-101610-23) under section 6418, as well as temporary regulations (T.D. 9975) setting forth mandatory information and registration requirements for transfer elections.

**URL:** <https://www.taxnotes.com/research/federal/proposed-regulations/proposed-regs-provide-guidance-on-transfer-of-certain-credits/7gw63>

**URL:** <https://www.taxnotes.com/research/federal/treasury-decisions/temporary-regs-provide-prefiling-registration-requirements-for-some-credit-elections/7gw62>

Find out more about the credit transferability guidance from Deloitte Tax.

**URL:** [https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/TNV/230623\\_3\\_suppA.pdf](https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/TNV/230623_3_suppA.pdf)

### ‘Direct pay’ election

Another new tax code provision—section 6417—enacted under the Inflation Reduction Act provides that “applicable entities” (or “electing taxpayers” for credits provided in sections 45V, 45Q, or 45X) may elect to treat certain credits as a direct payment made against their federal income tax liabilities, thereby allowing such entities a federal tax refund of the amount of the direct payment in excess of any tax liability.

Proposed regulations (REG-101607-23) under section 6417 were released on June 14, along with temporary regulations (T.D. 9975) that set forth mandatory information and registration requirements for direct-payment elections.

**URL:** <https://www.taxnotes.com/research/federal/proposed-regulations/proposed-regs-address-energy-credit-elective-payment-election%28a0/7gw67>

**URL:** <https://www.taxnotes.com/research/federal/treasury-decisions/temporary-regs-provide-prefiling-registration-requirements-for-some-credit-elections/7gw62>

Find out more about the “direct pay” guidance from Deloitte Tax.

**URL:** [https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/TNV/230623\\_3\\_suppB.pdf](https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/TNV/230623_3_suppB.pdf)

— Michael DeHoff  
Tax Policy Group  
Deloitte Tax LLP

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

#### **About Deloitte**

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at [www.deloitte.com](http://www.deloitte.com).