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WEBINAR

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

September 27, 2023

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Meet Your Presenters



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Agenda

- How to Monetize Clean Energy Credits
- Updates to Prevailing Wage & Apprenticeship Standards
- Examples of Potential Value of Credits

How to Monetize Clean Energy Credits

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FORVIS is a trademark of FORVIS, LLP, registration of which is pending with the U.S. Patent and Trademark Office.

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- Impact of the IRA
 - Goal is to promote innovation in renewable & clean energy economy
 - Credits expanded to tax-exempt organizations through direct payments
 - Tax-exempt organizations are now eligible, including governmental, higher education (private & public), charitable organizations, healthcare organizations, political organizations, & others

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- Trends in the market
 - ESG emphasis becoming more important
 - + Marketing
 - + Valuation
 - + Compliance (SEC)
 - Tax-exempt entities now involved
 - In 2021, 12% of U.S. energy consumption was from a renewable energy source¹
 - + 27% wind
 - + 19% biofuels
 - + 19% hydroelectric
 - + 17% wood
 - + 12% solar

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- General framework: “base” with “bonus,” given requirements met
 - “Old” credits generally had their “base” value cut 80%
 - “Base” amount increased by
 - + One megawatt threshold, OR
 - + Wage requirement &
 - + Apprenticeship requirement
- Additional available*
- Domestic content bonus credit
 - Energy community
 - Low income community (for certain solar & wind facilities)

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- Elective Payments
 - The IRA created a direct pay election that makes the credit refundable, even if no tax liability exists.
 - Applicable entities include tax-exempt organizations, states, political subdivisions, & agencies/instrumentalities of state, local, tribal, & U.S. territorial governments, among others
 - + All organizations exempt under 501(a) are eligible
 - Elective payments available through December 31, 2032
 - Election is irrevocable for the tax year once made

Applicable Credits for Elective Payments

Credit	Code Section
Alternative Fuel Vehicle Refueling Property Credit	30C
Renewable Energy Production Credit	45
Carbon Oxide Sequestration Credit	45Q
Zero-Emission Nuclear Power Production Credit	45U
Clean Hydrogen Production Credit	45V
Credit for Qualified Commercial Clean Vehicles	45W
Advanced Manufacturing Production Credit	45X
Clean Electricity Production Credit	45Y
Clean Fuel Production Credit	45Z
Renewable Energy Investment Credit	48
Qualifying Advanced Energy Project Credit	48C
Clean Electricity Investment Credit	48E

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Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- How do I make the election & receive payment?
 1. Identify & pursue a qualifying project
 2. Determine the tax year & due date of the return
 3. Complete pre-filing registration with the IRS
 - + Identify applicable credits & projects
 - + IRS will provide a registration number which will need to be included on the tax return
 4. Ensure all eligibility requirements for credit & bonus, if applicable, are met
 - + Documentation is required to substantiate the credit amount

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- How do I make the election & receive payment?
 - The elective payment election is then made on the annual tax return, along with any form(s) required to claim the credit, & a completed Form 3800 General Business Credit
 - Additional information, including supporting calculations, may be required
 - The election can only be made on an original, timely filed return (including extensions)

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- My organization/institution is not required to file a tax return—what do I do?
 - Entities not normally required to file a return must file a tax return to make the elective payment election
 - For tax-exempt organizations – Form 990-T

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

Transferability

- NOT available for certain entities (section 6417 applicable entities)
- If credit is transferred
 - Payment must be in cash
 - Payment is tax-exempt income to transferor (considered tax-exempt (“TE”) income)
 - Payment is non-deductible expense to transferee
- Basis of property is reduced by the amount of the credit
- Energy credits carryforward & carryback changed
 - Carryback – three years
 - Carryforward – 22 years
 - Applies to taxable years beginning after 2022

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

Reduction for Tax-Exempt (TE) Bonds

- If funding is sourced by tax-exempt bonds, the calculated credit is reduced by the lesser of
 - 15%
 - $(\text{Proceeds of TE obligation, current \& prior years used to provide financing for the qualified facility}) / (\text{Aggregate additions to the capital account, current \& prior years, for the qualified facility})$
- Examples of applicability: Sections 48, 45, 45Q

Updates to Prevailing Wage & Apprenticeship Standards

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Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- Prevailing Wage
 - Section 30C, 45, 45Q, 45U, 45V, 45Y, 45Z, 48, 48C, 48E, 179D
 - Paid wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality in which such facility is located
 - www.sam.gov
 - + Consider geographic area & type(s) of construction
 - + Can request an unlisted classification:
IRAprevailingwage@dol.gov
 - Sufficient records required

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- What costs are included in calculating the prevailing wage amount?
 - Prevailing wage includes base wages & certain bona fide fringe benefits, including
 - + Health insurance payments/contributions
 - + Retirement contributions
 - + Pension plan contributions
 - + Life insurance payments

Example Wage Determination Report

Modification Number	Publication Date
0	01/06/2023
1	04/21/2023

ELEC0342-001 06/01/2022

	Rates	Fringes
ELECTRICIAN.....	\$ 27.90	13.12

IRON0848-005 07/01/2022

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 27.35	16.65

* PLUM0421-001 07/01/2022

	Rates	Fringes
PLUMBER/PIPEFITTER.....	\$ 31.66	12.69

* SUNC2011-010 08/24/2011

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- What records should I keep to document compliance with the prevailing wage requirement?
 - Books & records sufficient to establish that the requirement is met
 - Identification of each laborer/mechanic, & for each
 - + Wage determination
 - + Labor classification
 - + Construction type
 - + Locality
 - + Hours worked per classification/construction type/locality
 - + Base wages & fringe benefits paid

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- Apprenticeship Requirement
 - Section 30C, 45, 45Q, 45V, 45Y, 45Z, 48, 48E, 48C, 179D
 - Must be participating in a registered apprenticeship program
 - Not less than the applicable percentage of the total labor hours of the construction, alteration, or repair work
 - + Construction begins after December 31, 2022, & before January 1, 2024, 12.5%
 - + Construction begins after December 31, 2023, 15%
 - + Labor hours exclude any hours worked by foremen, superintendents, owners, or persons employed in a bona fide executive, administrative, or professional capacity
 - + Beginning of construction, either: 1) significant physical work, 2) incurring 5% or more of total cost

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- Apprenticeship Requirement
 - Subject to any applicable requirements for apprentice-to-journeyworker ratios
 - + If employs four or more for the facility, then must have one or more
 - + Good faith effort exception applies: request & either denied/no response in five business days
 - Penalties could apply – \$50 x total labor hours
 - + \$500 if intentional disregard

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- Apprenticeship Requirement
 - Are there any exceptions?
 - + Good faith exception is available if the taxpayer requested an apprentice & the request is denied or the program fails to respond
 - + Keep records documenting the request & response/denial

Examples of Potential Value of Credits

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Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- Section 48: Energy Investment Tax Credit (ITC)
 - Base credit: 6%
 - Bonus credits available: “five times” bonus, energy community, domestic content
 - + Domestic content: either 2% or 10% (if meet five times bonus requirements)
 - + Reduction if elective payment & domestic content not met
 - + Low-income communities for solar & wind facilities
 - Examples:
 - + Solar panels on the roof of facility
 - + Energy storage – Batteries
 - + Heat & power system (specifications required)
 - + Dynamic glass

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- Section 45: Renewable Electricity Production Tax Credit
 - Max credit: 1.8¢ per kWh (indexed for inflation, for 10 years)
 - “Bonus” credit opportunities the same as Section 48
 - Must sell energy to third party
 - Credits over time rather than only when property placed in service
- Note: Either/Or – cannot take Section 48 & 45 credit simultaneously
- Section 48E & 45Y in place January 1, 2025 instead of the above

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

- Section 45W: Qualified Commercial Clean Vehicles
 - Max credit = 30% of basis (15% for hybrids, certain vehicles even less)
 - + Limitation based on weight (GVWR < 14k lbs.: \$7,500, Other = \$40k)
 - Original use not required
 - Dealer treated as taxpayer for purposes of credit in case of sale to certain tax-exempt organizations or governmental units
 - + Example: New clean energy vehicle fleet
- Section 30C: Alternative Fuel Vehicle Refueling Property Credit
 - Property located in low-income communities OR non-urban areas
 - + Example: Electric vehicle recharging stations

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

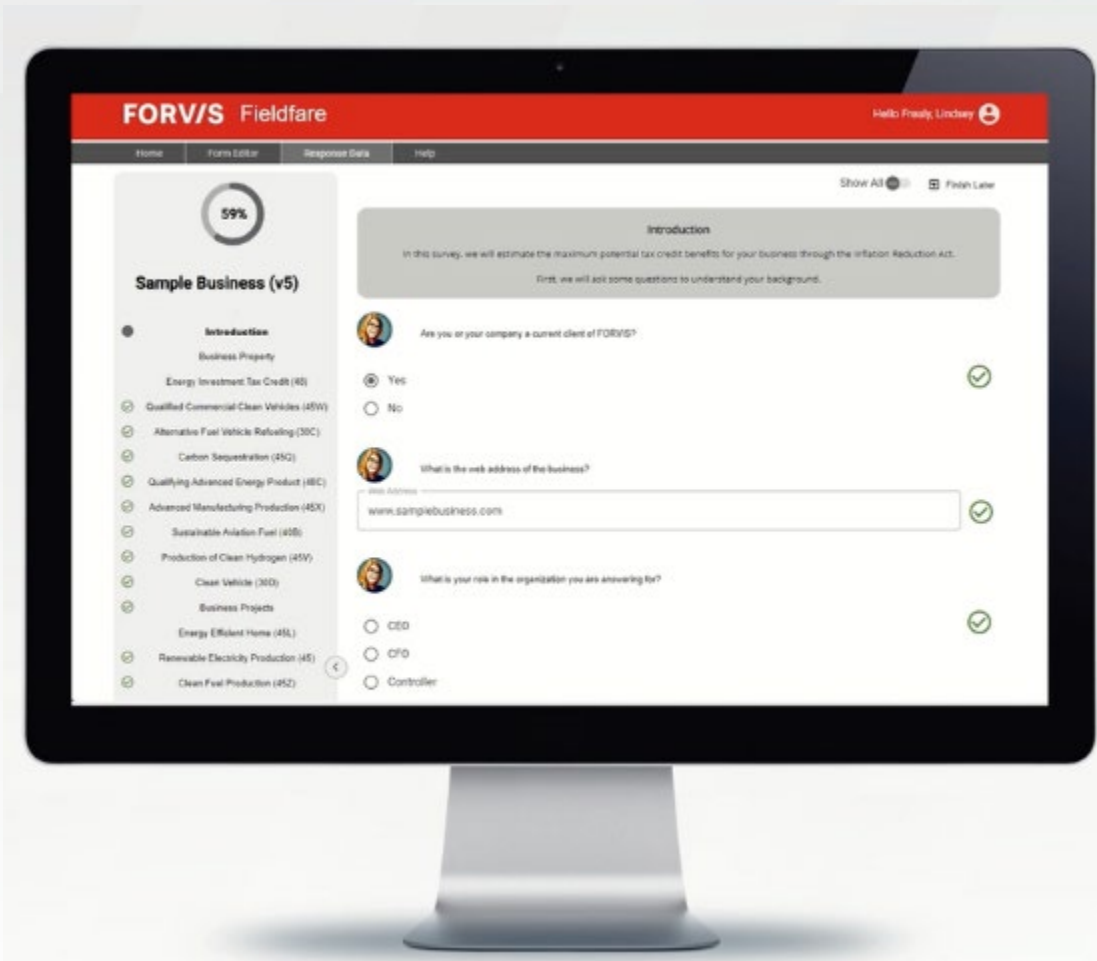
Evaluate Potential Opportunities

- Renewable energy projects
 - Installing solar panels on the roof of facilities
 - Using energy-efficient batteries for energy storage
 - Updating heating & power system
- Building new energy-efficient buildings
- Making ongoing improvements to existing facilities
- Purchasing a new fleet of vehicles, *e.g.*, buses, transportation for parking lots, etc.
- Installing charging stations for electric vehicles

Monetizing Clean Energy Tax Credits for Tax-Exempt Organizations

Evaluate Potential Opportunities

- Is your organization or institution planning for future capital improvements to buildings?
 - + Consider incorporating dynamic glass in its building structure
- Do you have empty land or available roof space to utilize? Land could include undeveloped lots or parking lots
 - + Consider installing solar panels on the roofs of buildings
 - + An organization that has an empty lot or land may consider locating solar panels & battery storage on this land



Questions?

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