

Leveraging Clean Energy Credits for Nonprofits

December 5, 2024



forv/s
mazars

Meet the Presenters



Troy Taylor
Partner, Federal Tax Specialty

817.276.4110
troy.taylor@us.forvismazars.com



Lauren Denton
Managing Director, Nonprofit Tax

260.460.4099
lauren.denton@us.forvismazars.com

IRA – Why It Matters

- The Inflation Reduction Act (IRA) provides many clean energy credits for energy production and clean energy property investment
- The IRS has provided FAQs, Notices, and Proposed Regs for many credits over the past year
- Guidance is constantly changing, work with your trusted tax advisor to assist with IRA credit discovery, modeling, and compliance needs

IRA – Legislative History

- History of the Act:
 - Based on the Build Back Better framework
 - Originally included in the Biden Administration’s policy goals
 - Signed into law on 8/16/22 by President Biden
- Included within the IRA:
 - ***Clean energy provisions***
 - Credits expanded to tax-exempt organizations
 - Direct Pay Election is added

IRA

Clean Energy Credits



Capital Expenditures

- Clean energy property
- Construction/renovation



Manufacturing

- Manufacture of clean energy property
- Re-equip/expand manufacturing facility of clean energy property



Carbon Sequestration

- Capture – dispose or utilize



Alternative Fuels

- Clean nuclear
- Biodiesel & others
- Clean hydrogen
- Aviation fuels



Electric Vehicles

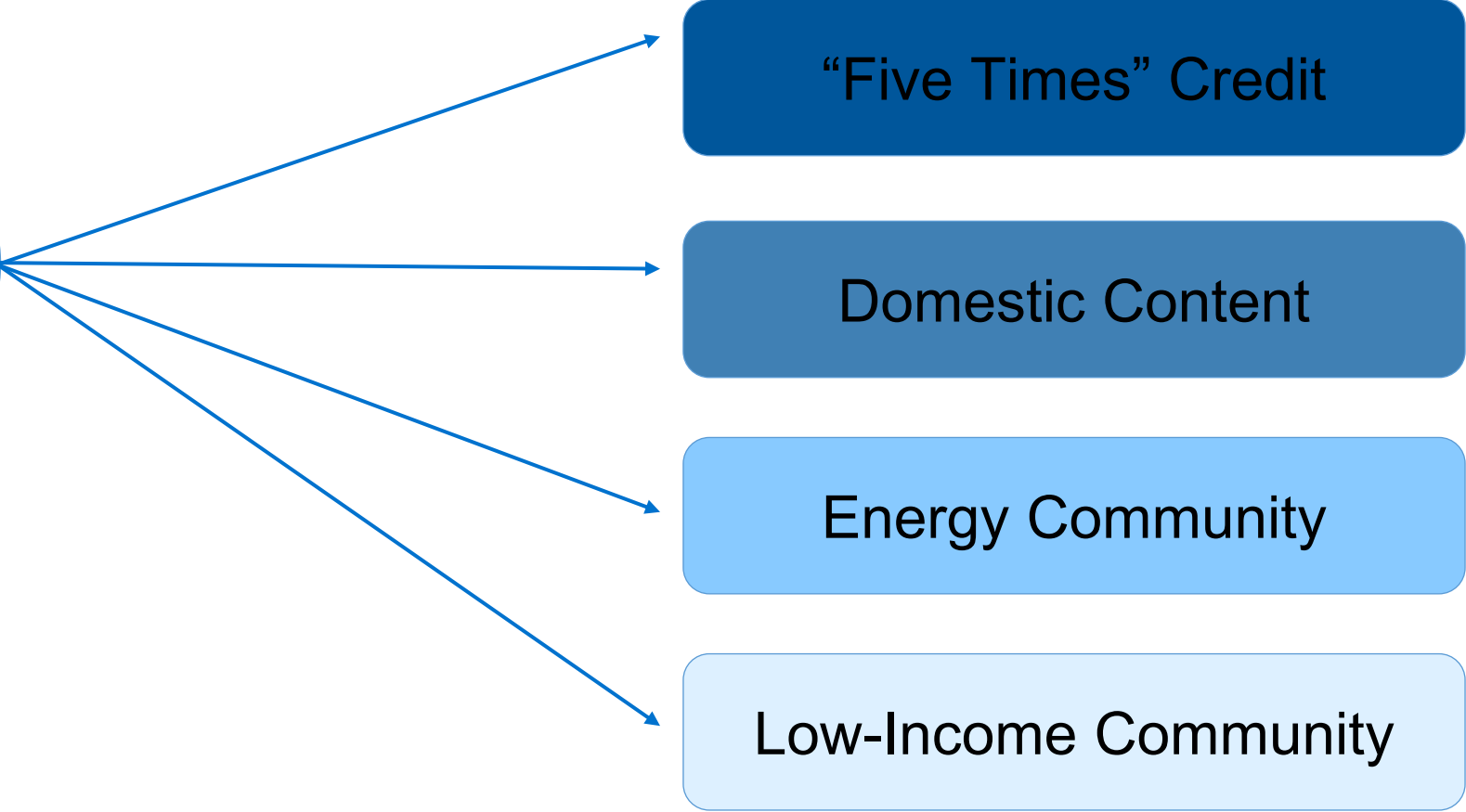
- Vehicles
- Charging stations
- Mobile machinery



Energy Production

Credit Mechanics

Bonus Credits



Bonus Credits

Base x 5

- “Five Times” Bonus Credit – Either:
 - Project less than 1 megawatt, OR
 - Prevailing wage and apprenticeship requirements (PWA)

Prevailing Wage Requirement

- Pay at least prevailing wage to all laborers and mechanics on project
 - Employed by taxpayer, contractor, or subcontractor
 - Consider including in contracts
- Wage determination: <https://www.sam.gov>
- Recordkeeping requirements
- Cost/benefit analysis of increased pay versus credit benefit

Apprenticeship Requirement

- If 4 workers, must have at least one qualifying apprentice
- Total hours component
- Request from qualifying apprenticeship programs
- Recordkeeping requirements
 - Daily “proof” required

Clarifications – PWA

Proposed Regs – Prevailing Wage and Apprenticeship (PWA)

- General guidance
 - Good Faith Exception (apprenticeship requirement)
 - Request denied or not replied to within 5 business days
 - Follow-up request required within 365 days
 - Partial denial not full denial
- Documentation and Retention
 - Supplemental determination requests/Recordkeeping
- Penalty, interest, and correction payments
 - “Cure” now available – penalty and correction payments, allows for increased credit despite not meeting PWA requirements
 - “Cure” responsibility of transferor

Bonus Credits

Domestic Content

10%

- Steel & Iron – 100% U.S. Sources
- Manufactured product – 40% U.S. components
- Safe Harbor rules

Energy Community

10%

- Brownfield Site
- Statistical area – specific requirements
- Census tract with (or adjoining) closed coal mine
- Website/map available

Low Income Community

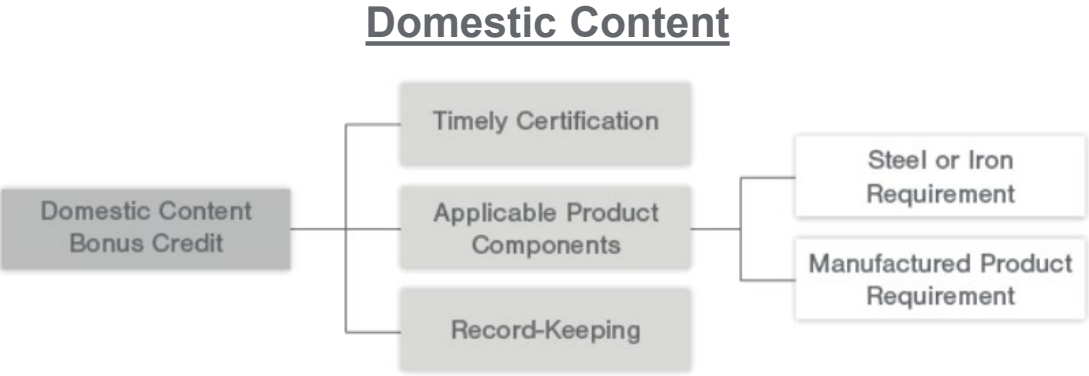
10%-20%

- Solar facilities
- Wind facilities
- Applies to additional clean energy technologies beginning in 2025

Clarifications – Bonus Credits

- Domestic Content – Notice 2023-38
 - Elements for bonus credit
- Energy Communities – Notices & FAQs
 - Mapping tool available (DOE website)
 - Brownfield site safe harbor
- Low-Income Communities – Notice 2023-17
 - Applications:
 - DOE website portal
 - One application per facility per allocation year
 - 30-day period at the start of each program year
 - Capacity limitations for 2023 & 2024:

1. Category 1: Located in a Low-Income Community	700 megawatts	10% Bonus
2. Category 2: Located on Indian Land	200 megawatts	10% Bonus
3. Category 3: Qualified Low-Income Residential Building Project	200 megawatts	20% Bonus
4. Category 4: Qualified Low-Income Economic Benefit Project	700 megawatts	20% Bonus



IRA – Example

Hospital group places solar panels on rooftop in 2024. The basis of the property is \$1,000,000. Assuming all bonus credit requirements are met, the credit calculation would be:

Pre IRA

Description	Rate/ Calculation	Credit Amount
Base credit	30%	<u>\$30,000</u>

Post IRA

Description	Rate/Calculation	Credit Amount (Cumulative)
Base credit	6%	\$ 60,000
5 times bonus	x5	\$300,000
Domestic content	10%	\$400,000
Energy community	10%	\$500,000

Monetizing Credits



Direct Pay – Cash “Refund”

- Generally available for tax-exempt entities
- Elective Payment
 - Creates a refundable credit even if no tax liability exists
 - Election is irrevocable for the tax year once made
- Registration of projects required
- Credit is claimed on Form 990-T
 - Organizations that normally would not file 990-T are required to file to receive the Direct Payment and claim the credit

Monetizing Credits



Transferability – “Selling” Credits

- Taxable entities eligible
- Potentially expected discount: 10–20%
- Registration of projects required – timing is key
- Exchanges/venues for transfer available
- Risk involved – recapture with transferee, PWA requirements with transferor
 - Insurance available
 - Contracts important

Clarifications – Transfers

- Transferring Credits (REG-101610-23)
 - Credits can only be sold for cash, and within a certain time frame to unrelated third parties
 - Cash received = tax-exempt income to transferor and not a deduction for the transferee
 - Transferee cannot resell or transfer the credit a second time
 - Taxpayers subject to Section 469 will normally characterize these credits as passive
 - No direct pay on transferred credits

Clarifications – Registration

- Registration requirements (T.D. 9975 & FAQs)
 - Registration required to transfer credits or make direct pay election
 - Register on [IRS electronic portal](#)
 - [Publication 5884](#) provides step-by-step guide to using the portal
 - IRS has stated to expect up to 120 day “lag” from submission to receipt of registration number
 - Note: Taxpayers not normally required to file an annual tax return (such as state or local governments) would file a Form 990-T with the registration number to claim direct pay

Clarifications – Registration

- Registration Portal
 - Registration number is unique to each credit property for one year
 - Annual renewal required for multi-year credits
 - Reported with annual tax returns and requisite credit Forms
 - One submission suggested, with multiple registration numbers included
 - Changes or additional submissions must wait until prior submissions are processed
 - “Bulk” upload feature via Excel available
 - General and credit specific information required, for example:
 - Dates: beginning of construction and placed in service
 - Source of funds
 - Facility information: permits, title, interconnection agreements

IRA Case Studies



IRA Tax Credit Case Study #1

Organization Facts

- Long-Term Care Facility
- \$62M total assets
- Rooftop Solar System installed in June 2023
- Cost basis of project – \$135,781

Credit Calculation

- System produces less than 1 megawatt

Base Credit Only

$$\begin{aligned} & \$135,781 \times \\ & 30\% = \$40,734 \end{aligned}$$

Anticipated Energy Cost Reduction

$$\begin{aligned} & \$5,360 \text{ per month} \\ & \text{Annual Savings} = \\ & \$64,320 \end{aligned}$$

IRA Tax Credit Case Study #2

Organization Facts

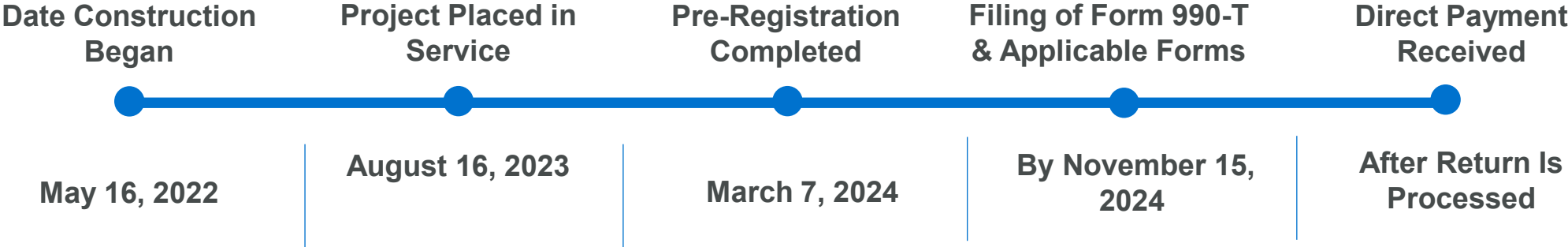
- Community College with enrollment of 1,289
- \$45M total assets
- Solar Panel Farm installed in August 2023
- Cost basis of project – \$1,813,389

Credit Calculation

- System produces more than 1 megawatt
- Met Prevailing Wage & Apprenticeship standards
- Located in an Energy Community

Claim & Monetize

- Direct Pay Registration
- Returns, Elections, Special Forms
- Tax Return Preparation & Filing



IRA Tax Credit Case Study

Base Credit

Energy Community Bonus

Total Section 48 Tax Credit

$$\begin{aligned} & \$1,813,389 \times \\ & 30\% = \$544,017 \end{aligned}$$

$$\begin{aligned} & \$1,813,389 \times 10\% = \\ & \$181,339 \end{aligned}$$

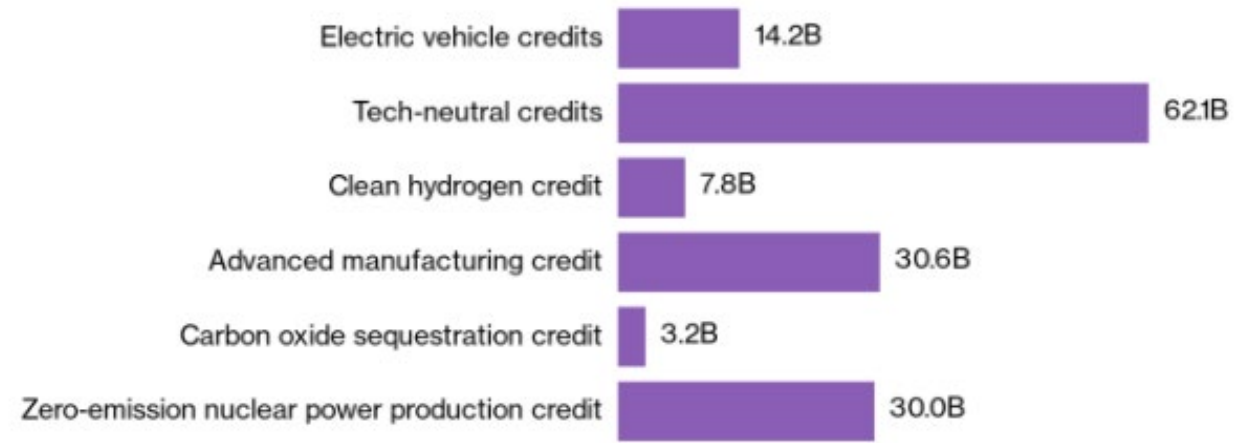
\$725,356



Tax Legislation Policy Outlook

Potential ways to pay for Trump administration tax law changes/extensions

- Inflation Reduction Act (IRA) cuts
 - Most likely target is EV credits
 - Shorten life of tech-neutral credits
- Limit foreign aid
- Tariffs: 10–20% baseline, 60% Chinese



TaxCred PRO™ for Clean Energy

- Free dynamic questionnaire
- Users: individuals and businesses
- Easy questionnaire, resulting in educational reports
 - Summarizes opportunities
 - Calculates an estimated credit benefit based on the answers provided
- Next steps – Meeting with: Client, IRA Consulting Leader, Engagement Executive
- Access on the Forvis Mazars website – forvismazars.us/clean-energy

The screenshot displays the 'TaxCred PRO™ for Clean Energy' interface. At the top left is the 'forvis mazars' logo. The main header area includes 'TaxCred PRO™ for Clean Energy' and a 'Hello' greeting with a user profile icon. Below the header is a navigation bar with 'Home' and 'Help' links. On the right side of the header, there are 'Show All' and 'Finish Later' options. The main content area is divided into a left sidebar and a main panel. The sidebar shows a progress indicator of 53% and a list of sections: 'Introduction' (checked), 'Business Property' (selected), 'Business Projects', and 'Finish Survey'. The main panel features a 'Business Property' section with an explanatory text block and a note. Below this is a question: 'Which type of CLEAN ENERGY PROPERTY/EQUIPMENT will you or have you invested in? Select all that apply.' Three options are listed with checkboxes: 'Equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure or to provide solar process heat, excepting property used to generate energy for the purposes of heating a swimming pool (colloquially referred to as solar panels)', 'Equipment used to produce, distribute, or use energy derived from certain geothermal deposits but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage', and 'Equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight or photoluminescence which uses electricity to change the light transmission'.

Investment/Production Tax Credit

	Section 48 – Investment Tax Credit	Section 45 – Production Tax Credit
How is it calculated?	<ul style="list-style-type: none"> • Credit is a % of cost 	<ul style="list-style-type: none"> • Credit is dependent on energy produced
How much is the credit?	<ul style="list-style-type: none"> • 6% base • Bonus credits eligible (50% possible) 	<ul style="list-style-type: none"> • 0.3 cents/kWh • Bonus credit eligible (1.8 cents/kWh possible) • Adjust for inflation
When can I take the credit?	<ul style="list-style-type: none"> • Taken when property placed in service • Construction to begin before 1/1/25 for some property (then Section 48E) 	<ul style="list-style-type: none"> • Credit over 10-year period • Construction to begin before 1/1/25 for some property (then Section 45Y)
Examples	<ul style="list-style-type: none"> • Battery storage • Heating/cooling equipment using ground or ground water • Combined heat and power system • Dynamic glass • Solar panels 	<ul style="list-style-type: none"> • Closed or open-loop biomass facilities • Qualified hydropower facilities • Gas or trash facilities • Wind facilities • Solar or geothermal facilities

Investment/Production Tax Credit

- Section 48 Proposed Regulations
 - Updated definitions of each eligible property category now available
 - Components included in energy property if functionally interdependent and an integral part of energy property
 - Retrofitted energy property – “80/20 Rule”
 - Dual use property – “50 percent cliff”
 - Interconnection property:
 - Included if net output not greater than 5 megawatts
 - Specific property types may *not* include interconnection property as eligible basis, for example:
 - Microgrid controllers, electrochromic glass property, fiber optic solar energy, among others

EV Related Credits

- Section 45W – Qualified Commercial Electric Vehicle Credit
 - Electric vehicle OR mobile machinery
 - Credit limits: \$7,500 (GVWR <14,000 lbs.) or \$40,000 (all other)
 - Examples:
 - Electric transport trucks
 - Electric vehicle fleet
 - Qualifying mobile machinery
- Section 30C – Alternative Fuel Vehicle Refueling Property
 - “Charging stations”
 - Recharges electric vehicles
 - Stores or dispenses clean-burning fuel to a motor vehicle tank
 - 6% base, bonus eligible up to 30%
 - \$100,000 credit limit per item of property
 - Non-urban or low-income area required
 - Examples:
 - Electric charging stations/Clean fuel recharging stations

Building & Construction

- Section 179D – Energy Efficient Commercial Buildings Deduction
 - Deduction for construction and improvement of buildings
 - Property reduces energy costs by 25% or more vs. building meeting ASHRAE standards
 - Available for improvements or new construction
 - Building envelope, HVAC, hot water systems, interior lighting
 - Changes made by IRA:
 - Now a permanent credit
 - “Max” potential credit \$1 or \$5 per square foot (subject to inflation)
 - Annual rather than lifetime cap
 - Lower ASHRAE standards
 - ***Tax-exempt entities can “transfer” deduction to designer & negotiate benefit***

Clean Energy/IRA Bills Introduced

Name of Act	Description of Bill
Methane Reduction and Economic Growth Act of 2023	Amend §45Q to qualify methane to be acquitted equivalent to the capture of CO2
No Fuel Credits for Batteries Act of 2023	Bar electric vehicle equipment manufacturers from the renewable fuel program
Lower Energy Costs Act	Includes proposals like repealing the natural gas tax and all restrictions on importing and exporting natural gas, and other energy-related policies
Renewable Natural Gas Incentive Act	\$1 times the number of gallons of renewable natural gas or gasoline gallon equivalent of nonliquid renewable natural gas for use as a fuel in a motor vehicle or motorboat or for use as a fuel in aviation
Restricting Electric Vehicle Outlays from Kleptomaniac Enemies (REVOKE) Act of 2023	Restrict Chinese companies from accessing tax credits under the Inflation Reduction Act
Natural Gas Repeal Act	Strike the “Natural Gas Tax” imposed by the Inflation Reduction Act
Electric Motorcycle Parity Act of 2023	Make motorcycles eligible for the 30D clean vehicle tax credit
Ending Duplicative Subsidies for Electric Vehicles Act	Prohibit the automobile industry from double-dipping on federal subsidies, specifically electric vehicle (EV) tax credits, grants, and loans for EV manufacturing
Book Minimum Tax Repeal Act	Repeal the corporate alternative minimum tax enacted under the IRA
Sustainable Aviation Fuel Act	Extend the IRA’s clean fuel production credit for sustainable aviation fuel through 2032, as well as create a new Investment Tax Credit to help finance new sustainable aviation fuel facilities and infrastructure.

Credit Summary

Credit	Credit Description	Eligible Property/Project
48/45	Investment/Production Tax Credits	Clean energy property, for, e.g., Solar panels, energy storage, heat & power systems, dynamic glass
30C	“Charging Station” Credit	Refueling property located within either a low-income community or non-urban area. Electric charging stations, bidirectional charging equipment, clean-burning fuel storage & dispensing
45W	Qualified Commercial Electric Vehicle	Electric vehicles or mobile machinery
45X	Advanced Manufacturing Production	Eligible solar or wind energy component, inverter, battery component, or critical mineral produced in the year & sold to an unrelated party
48C	Qualifying Advanced Energy	Project that re-equips, expands, or establishes an industrial or manufacturing facility for the production or recycling of certain clean energy property
45Q	Carbon Capture	Carbon capture equipment that either captures & sequesters or utilizes/injects carbon dioxide

Credit Summary

Credit	Max Credit	x5	Domestic Content	Energy Community	Low-Income	Transferable	Ending Date
48	50%	•	•	•	•	•	12/31/24 (change to 48E)
45	1.8 cents/kWh	•	•	•		•	12/31/24 (change to 45Y)
48C	30%	•		\$ earmarked for ECs			Limited by allocations
45Q	\$130 or \$180 per metric ton	•				•	1/1/2033 construction commencement
30C	30%	•				•	12/31/32
45W	\$7,500 or \$40,000						1/1/33
45X	Varies					•	12/31/33

Questions & Answers



Thank You!



Troy Taylor

Partner

Federal Tax Specialty

817.276.4110

troy.taylor@us.forvismazars.com



Lauren Denton

Managing Director

Nonprofit Tax

260.460.4099

lauren.denton@us.forvismazars.com