



CHP in the IRA: Tax Credit Transferability

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Speakers

Webinar



CHP in the IRA: Tax Credit Transferability



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Tax Credit Monetization

- Tax Credit Monetization is game changing as one of the all-time significant modifications to the Internal Revenue Code
- Renewable Energy Tax Credits direct pay or transferable on a tax-free basis
- PTC versus ITC election
- Briefing will cover ITC Monetization – Transferability given for-profit developers



Determining the Eligible Credit – ITC Basics

- Measure of ITC – 30% of asset's cost
- Prevailing Wage and Apprenticeship Requirements
- Up to 40% Additional Bonuses for ITCs and PTCs



Substantiation of ITC

- Due Diligence
- Due Diligence Time Period
- IRS Tax Credit Number Portal to be established



Fundamentals of Federal Transferability

- Mechanism to sell tax credits to another who will claim the tax credit
- Existed at the state level since 2020
- Historically increases targeted activity
- Tax Gain is Tax-Free
- Ineffective Transfers – Really Bad



Transferability Transactional Issues

◆ Tax Credit Selling Process:

- ◆ Complete Electronic Pre-Filing Registration On New IRS Portal
- ◆ Arrange For A Sale Of A Tax Credit To An Unrelated Party
- ◆ Seller Completes the Necessary IRS paperwork To Affect The Sale Of A Tax Credit
- ◆ Parties Exchange Appropriate Documents
- ◆ Parties Properly Complete Their Tax Returns To Reflect The Tax Credit Transfer

◆ Quarterly Sales:

- ◆ For PTCs – Use Against Estimated Tax Payment
- ◆ ITCs Placed In Service and Substantiation
- ◆ Recapture for ITCs (Audit for PTCs)



Transferability Transactional Issues Cont'd

◆ Transactional Issues:

- ◆ Accounting For Tax Credit In Proper Tax Year
- ◆ Identify Eligible Credit (Detail Any Fragmentation)
- ◆ Purchase Price
- ◆ For Cash To Unrelated Party
- ◆ Eligible Entity To Receive Tax Credit Award
- ◆ Closing Date – Particular Periods In Which Cash Must Trade Hands
- ◆ Closing Procedures
- ◆ Proper And Timely Transfer Election
- ◆ Contingencies
- ◆ Proper Warranties
- ◆ Contractual Rights To Be Involved In Audits
- ◆ Excessive Transfer Penalty Safe Harbor

◆ Aggregation Of ITCs:

- ◆ Commoditizing - Pulling Out Core Data To Pattern Match
- ◆ Bundle Smaller Tax Credits With Others
- ◆ ITC Homogeneity Issue
- ◆ Aggregation Is A Misnomer
- ◆ Market Has Not Spoken



Pricing

- Owner and tax credit size matter
- ITCs generally command lower pricing than PTCs
- Drifting upward
- Seller provided indemnification – Parent Company status likely to drive insurance cost



State of the Marketplace

- State of the Marketplace becoming compressed
- Term Sheets and Purchase Agreements being arranged





Q&A Discussion



Thank You!

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