



TaxNewsFlash

United States



No. 2020-343
May 27, 2020

Notice 2020-41: Extension of safe harbor, “beginning of construction” under sections 45 and 48 (COVID-19)

The IRS today released an advance version of Notice 2020-41 that modifies prior IRS guidance concerning the “beginning of construction” requirement for both the production tax credit for renewable energy facilities under section 45 and the investment tax credit for energy property under 48.

[Notice 2020-41](#) [PDF 39 KB] states that this relief is being provided in response to the coronavirus (COVID-19) pandemic.

Today’s notice states that the “Continuity Safe Harbor” as provided and extended by prior IRS notices is being further extended for projects that began construction in either calendar year 2016 or 2017.

Notice 2020-41 also provides a “3½ Month Safe Harbor” for services or property paid for by the taxpayer on or after September 16, 2019, and received by October 15, 2020.

According to a related IRS release—[IR-2020-106](#)—for certain projects that began construction in 2016 or 2017, Notice 2020-41 adds an extra year to the four year “Continuity Safe Harbor” provided by the prior IRS notices. If these projects are placed in service in five years, construction will be deemed continuous. Notice 2020-41 also provides relief for taxpayers that started construction by incurring 5% of project costs, and made payments for services or property and reasonably expected to receive such services or property within 3½ months. If these services or property is received by October 15, 2020, the taxpayer’s expectations at the time of the 2019 payment are deemed reasonable.

Notice 2020-41 concludes that the IRS will not issue private letter rulings or determination letters to a taxpayer regarding the application of this notice, the prior IRS notices, or the beginning of construction requirement under sections 45 and 48.

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