



TaxNewsFlash

United States



No. 2020-787
December 30, 2020

KPMG report: Favorable tax provisions for renewable energy industry enacted

The “Consolidated Appropriations Act, 2021” includes several tax provisions favorable to the renewable energy industry.

The legislation was signed by the president on December 27, 2020. The following discussion briefly summarizes the tax measures concerning the renewable energy industry. Read a summary of the tax provisions in the new law: [TaxNewsFlash](#)

Wind energy

The new law (“Act”) includes a one-year extension of the production tax credit (PTC) for wind energy facilities. Under prior law, a taxpayer had to begin construction on a facility by December 31, 2020, to qualify for the PTC. Under the Act, taxpayers that begin construction on a wind facility in 2021 continue to be eligible for the PTC. The PTC rate for such facilities is 60% of the otherwise available statutory rate (currently 2.5 cents per kilowatt hour and adjusted annually for inflation). A taxpayer may elect the investment tax credit (ITC) in lieu of the PTC, in which case the ITC rate would be 18% of eligible basis.

The table below summarizes the current applicable credit rates for onshore wind facilities based on the date construction of the facility began/begins:

Construction begins in	Applicable credit rate	
	PTC	ITC
2016	100%	30%
2017	80%	24%
2018	60%	18%
2019	40%	12%
2020	60%	18%
2021	60%	18%
2022	0%	0%

Significantly, the Act includes a special rule for offshore wind farms. Under the Act, a taxpayer that begins construction on an offshore wind farm after 2016 and before 2026 is eligible to claim the PTC or ITC at the full statutory credit rate—currently 2.5 cents per kilowatt hour (adjusted annually for inflation) for the PTC and 30% for the ITC.

Under IRS guidance, once construction begins, it must be continuous. The guidance provides a safe harbor under which taxpayers developing energy facilities have up to four years to complete construction from the year construction began for the construction to be deemed to be continuous. Thus, with the extensions provided by the new law, onshore wind energy facilities that begin construction in 2021 and are placed in service before 2026 would be within the continuous construction safe harbor. However, offshore wind energy facilities that begin construction after 2016 and are placed in service before 2030 will need to establish continuous construction based on facts and circumstances if they do not satisfy the four-year safe harbor.

Solar energy

The Act includes a two-year extension of the phase down of the ITC for solar energy. Under prior law, a taxpayer that began construction of a solar energy facility in 2021 was eligible for only a 22% credit. Further, a taxpayer that began construction of a solar energy facility in 2022 or thereafter—or that was placed in service after 2023—was eligible for only a 10% credit.

Under the Act, the 26% ITC rate is available for projects that begin construction in 2021 or 2022, and a 22% ITC rate is available for projects that begin construction in 2023. Projects that begin construction thereafter or that are placed in service after 2025 will remain eligible for a 10% ITC. Note that this extended statutory placed-in-service deadline is separate from the four-year continuous construction safe harbor applicable to PTC and ITC eligible projects.

The table below summarizes the current applicable credit rates for solar facilities based on the date construction of the facility began (or begins):

	Applicable credit rate
Construction begins in	ITC
2019	30%
2020	26%
2021	26%
2022	26%
2023	22%
2024 and after	10%

Other extensions

The Act also extends the PTC and ITC for other types of renewables.

The PTC is extended one year for geothermal, biomass, trash combustion, landfill gas, hydropower, and wave and tide power. Under prior law, a taxpayer had to begin construction on such a facility by December 31, 2020, to qualify for the PTC. Under the new law, taxpayers that begin construction on such a facility in 2021 are eligible for the PTC (or, in lieu thereof, the ITC). Unlike the extension for wind energy, the extension for other types of renewable energy is at the full statutory rate—currently 2.5 cents per kilowatt hour for geothermal, and half that rate for other forms of renewable energy. The ITC rate is 30% of eligible basis.

Further, fuel cell powerplants, fiber optic solar property, and small wind projects received a two-year ITC extension under the Act.

Under prior law, fuel cell powerplants, fiber optic solar property, and small wind projects were eligible for a 26% ITC if construction began in 2020 and a 22% ITC rate if construction began in 2021, but no credit was available if construction began thereafter or if the project was placed in service after 2023. Under the Act, these projects will qualify for a 26% ITC rate if construction begins in 2021 or 2022, and a 22% ITC if construction begins in 2023. No credit is available for projects that are not placed in service by the end of 2025.

Additionally, the 10% ITC for combined heat and power property, microturbines, and geothermal heat pumps was extended two years to property that begins construction prior to 2024.

Finally, the Act extended the section 45Q credit for carbon capture and sequestration facilities. Previously the credit was available for qualified facilities the construction of which begins before January 1, 2024. The Act extends this deadline by two years, such that projects that begin construction by the end of 2026 are eligible for the credit.

New credit for waste energy recovery property

While not strictly a credit for renewables, the Act includes a new ITC for waste energy recovery property. A 26% ITC is available if construction of the eligible property begins in 2021 or 2022. A 22% ITC is available if construction of the eligible property begins in 2023.

Waste energy recovery property is defined as property that generates electricity solely from heat (such as exhaust heat) from buildings or equipment the primary purpose of which is not the generation of electricity. Eligible property cannot exceed a maximum capacity of 50 MW.

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