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KPMG report: Wind facilities can requalify for another 10 years of production tax credit (PTC) after previously claiming PTC

The production tax credit (PTC) is a per-kilowatt hour federal income tax credit for electricity generated by eligible renewable sources, such as wind. The PTC is generally claimed for 10 years after the facility is placed in service.

Under current law, a wind facility that began construction in 2016 is eligible for the PTC at the full statutory rate of 2.5 cents per kilowatt hour. The PTC has been statutorily phasing down such that a decreasing portion of the credit is available for construction that begins in years after 2016. Under current law, no credit is available from projects that begin construction in 2022. IRS guidance requires that after construction begins, the construction must be continuous. The guidance further provides that construction will be deemed continuous if the project is placed in service within a specified number of years (continuous construction safe harbors):

- Six years for projects that began construction in 2016-2019
- Five years for projects that began construction in 2020
- Four years for all other eligible years

How to requalify for PTCs?

The IRS guidance expressly allows a previously placed-in-service project to be retrofitted or repowered to be treated as newly placed in service and therefore requalify for the PTC. Under the IRS guidance, a wind turbine may requalify although it contains some used property, provided that the fair market value of the used property is not more than 20% of the facility's total value that is calculated by adding the tax capitalized costs of the new property plus the fair market value of the used property—this is the so-called “80/20 rule.”

KPMG observation

The first step to determining if a wind facility can requalify is to obtain a valuation of the used property that will remain. Read more about this process in a [KPMG brochure](#) [PDF 711 KB]

Note that the valuation may be much lower than taxpayers expect, because:

- The only parts of the wind facility that are considered for the 80/20 rule are the turbines, towers, and pads (and not land or leasehold rights, interconnects, and power purchase agreement and other intangibles, etc.)
- The fact that the facility may be in the rate base of a regulated utility is not considered.
- The cost to tear down the windmill is considered and can be quite expensive.

The next step is adding up the tax capitalized costs (and comparing them to the valuations) on a turbine-by-turbine basis to see which wind turbines requalified and when they did so, to start another 10-year run of PTC. If not enough tax capitalized costs have been incurred yet, taxpayers need to consider the following:

- Analyzing and determining how much tax capitalized costs to incur before the end of the continuous construction safe harbor period for the requalification
- Making capitalization elections such as section 266 to increase tax capitalized costs
- Analyzing and filing tax accounting method changes under the tangible property regulations to capitalize additional costs previously deducted for tax

Note that a careful analysis of tax capitalization may also lead to a determination that construction started on the wind facility in a year during which a higher PTC rate is available—for example, 2.5 cents versus 2.0 cents per kilowatt hour based on the beginning of construction and continuous construction safe harbor rules.

Lastly, opportunities could exist during these analyses for sales and use tax planning, property tax planning, and state credit planning purposes as well.

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