

Part III – Administrative, Procedural, and Miscellaneous

Extension of Transition Process for Claiming the Statutory Exceptions to the Elective Payment Phaseouts

Notice 2024-84

SECTION 1. PURPOSE

This notice extends the transition process for claiming a statutory exception to the elective payment phaseouts contained in section 5 of Notice 2024-9, 2024-2 I.R.B. 358. Thus, if an Applicable Entity provides an attestation described in section 5.02 of Notice 2024-9 with respect to an Applicable Credit Property the construction of which begins before the later of January 1, 2027, or the issuance of further guidance, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) will treat the attestation as establishing that a Domestic Content Exception is met with respect to such Applicable Credit Property.

The Treasury Department and the IRS intend to propose regulations addressing the process by which the Secretary of the Treasury or her delegate (Secretary) will implement the statutorily-required exceptions to the phaseouts under §§ 45Y(g)(12) and 48E(d)(5) of the Internal Revenue Code (Code).¹ The provisions of this notice apply with respect to an Applicable Credit Property the construction of which begins before

¹ Unless otherwise specified, all “section” or “§” references are to sections of the Code.

the later of January 1, 2027, or the issuance of further guidance.

SECTION 2. BACKGROUND

On January 8, 2024, the Treasury Department and the IRS published Notice 2024-9, 2024-2 I.R.B. 358, providing that an Applicable Entity may attest, under penalties of perjury, that it has reviewed the requirements for the Increased Cost Exception and the Non-Availability Exception (each defined in section 2 of Notice 2024-9) provided under §§ 45(b)(10)(D), 48(a)(13), 45Y(g)(12)(D), or 48E(d)(5), as applicable, and has made a good faith determination that the Applicable Credit Property qualifies for the Increased Cost Exception, the Non-Availability Exception, or both. The attestation must be signed by a person with the legal authority to bind the Applicable Entity in federal tax matters and must be attached to a Form 8835, *Renewable Electricity Production Credit*; Form 3468, *Investment Credit*; or other applicable form required to be filed by the Applicable Entity to make an elective payment election under § 6417. The notice states that the Treasury Department and the IRS will accept such attestations as establishing that one or both statutory exceptions to the application of the Statutory Elective Payment Phaseouts are met with respect to Applicable Credit Property the construction of which begins before January 1, 2025.

SECTION 3. CONTINUED TRANSITION

.01 Exception for Eligible Construction. If an Applicable Entity provides an attestation described in section 3.02 of this notice with respect to an Applicable Credit Property the construction of which begins before the later of January 1, 2027, or the issuance of further guidance (Eligible Construction), the Treasury Department and the IRS will treat the attestation as establishing that one or both statutory exceptions to the

application of the Statutory Elective Payment Phaseouts are met with respect to the Applicable Credit Property.

.02 Attestation. An attestation is described in this section 3.02 if an Applicable Entity attests, under penalties of perjury, that it has reviewed the requirements for the Increased Cost Exception and the Non-Availability Exception provided under §§ 45(b)(10)(D), 48(a)(13), 45Y(g)(12)(D), or 48E(d)(5), as applicable, and has made a good faith determination that the qualified facility, energy project, or qualified investment with respect to a qualified facility or energy storage technology, as applicable, qualifies for either the Increased Cost Exception or the Non-Availability Exception, or both. The attestation described in this section 3.02 must be signed by a person with the legal authority to bind the Applicable Entity in federal tax matters and must be attached to a Form 8835, *Renewable Electricity Production Credit*; Form 3468, *Investment Credit*; or other applicable form required to be filed by the Applicable Entity to make an elective payment election under § 6417.

.03 Recordkeeping. An Applicable Entity providing an attestation described in section 3.02 of this notice must meet the general recordkeeping requirements under § 6001 and the regulations thereunder to substantiate its attestation.

SECTION 4. PAPERWORK REDUCTION ACT

Any collection burden associated with this notice is accounted for in Office of Management and Budget (OMB) control numbers 1545-0123 and 1545-0047. The collection of information (the attestation detailed in section 3 of this notice) is associated with the IRA-related changes to Form 3468 and Form 8835 and is approved, and will continue to be approved, under OMB control numbers 1545-0123 and 1545-0047. The

IRS will use this attestation to allow exceptions to the phaseout of elective payments.

This notice does not alter any previously approved information collection requirements and does not create new collection requirements not already approved by OMB.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Notice 2024-9 is modified by extending the date for Eligible Construction.

SECTION 6. DRAFTING INFORMATION

The principal author of this notice is the Office of Associate Chief Counsel (Passthroughs & Special Industries). However, other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this notice, call the energy security guidance contact number at (202) 317-5254 (not a toll-free call).