Tax-Exempt Entities and the Investment Tax Credit (§ 48 and § 48E)

Tax-exempt and governmental entities, such as state and local governments, Tribes, religious organizations, and non-profits may install energy-generation and storage property to meet energy demands, reach clean energy transition goals, or save money on energy costs. This tax credit can help offset the costs associated with qualified energy property and facilities.

How can a tax-exempt entity use these Investment Tax Credits (ITC)?

Eligible tax-exempt and governmental entities can claim the § 48 ITC and § 48E Clean Electricity ITC for qualified energy property through a new mechanism called elective pay (also known as "direct pay"). To learn more about the process and relevant deadlines, see pre-filing registration.

What kinds of projects can I use the § 48 ITC and § 48E Clean Electricity ITC for?

§ 48E: Qualified facilities and energy storage technology placed in service on or after January 1, 2025 may be eligible for the § 48E Clean Electricity ITC. The § 48E Clean Electricity ITC is *"technology-neutral"*. Electricity generation technologies are eligible so long as the clean energy facility achieves net zero greenhouse gas emissions. Certain types of energy storage technologies also qualify. Examples of technologies eligible under the final section 48E regulations include:

- Wind energy property
- Solar energy property
- Hydropower
- Energy storage (such as batteries)
- Marine and hydrokinetic
- Nuclear
- Geothermal
- Certain types of Waste Energy Recovery Property

§ 48: Projects that begin construction before January 1, 2025 may be eligible. Only certain types of technologies are eligible. The following technologies are examples of eligible energy property under the § 48 ITC:

- Solar energy property
- Energy storage (such as batteries)
- Qualified small wind energy property
- Offshore wind facilities
- Geothermal energy property
- Geothermal heat pumps property (eligible if construction begins before Jan. 1, 2035)
- Qualified biogas property
- Qualified fuel cell property
- Qualified microturbine property
- Combined heat and power (CHP) system property
- Waste energy recovery property
- Microgrid controllers

How much is the Investment Tax Credit?

- **For projects where the maximum net output is less than 1 megawatt (MW)** of electrical (as measured in alternating current) or thermal energy, or where construction began prior to January 29, 2023, the tax credit is worth 30% of the taxpayer's basis i n the energy property or qualified facility (or energy storage technology).[1]
- **For projects beginning construction on or after Jan. 29, 2023 or where the maximum net output is 1 MW or greater**, the base tax credit is 6% of the taxpayer's basis in the energy property or qualified facility (or energy storage technology). The rate is 30% if Prevailing Wage and Registered Apprenticeship (PWA) requirements are met, meaning (1) laborers and mechanics employed in construction, alternation, and repair are paid no less than applicable prevailing wage rates, and (2) apprentices are employed from registered apprenticeship programs for a certain number of hours.
- For projects beginning construction in 2024 or later and owned by entities claiming the section 48 or 48E credits through elective pay (such as tax-exempt and governmental entities), the credit amount may be reduced if the facility or project does not satisfy domestic content requirements, unless certain exceptions apply. [2]

Bonus credits that can further increase the value of the ITC (§ 48, § 48E) include:

- The Energy Communities Bonus Credit – Projects located in energy communities are eligible for a 2- or 10-percentage point increase (depending on whether they meet one of three requirements including the one-megawatt exception, beginning of construction before January 29, 2023, or the PWA requirements). Energy communities are: (1) Brownfield sites; (2) areas meeting certain requirements for past fossil fuel-related employment or revenue, and with prior year unemployment at or above the national average; and (3) census tracts that have experienced the closure of a coal mine or coal-fired power plant in recent years, and directly adjoining tracts. For more, see Frequently asked questions for energy communities and the Department of Energy's mapping tool at energycommunities.gov.[3]
- ***The Domestic Content Bonus Credit*** – Projects meeting domestic content requirements are eligible for a 2- or 10-percentage point increase (depending on whether they meet one of three requirements including the one megawatt exception, beginning construction before January 29, 2023, or the PWA requirements). All structural steel or iron products that are components of a facility used must be produced in the United States and a threshold percentage of the total costs of manufactured products (including components) of the facility need to be mined, produced, or manufactured in the United States. As mentioned above, for elective pay-eligible projects or facilities beginning construction starting in 2024 or later, failure to meet these domestic content requirements will also result in a reduction of the § 48 or § 48E tax credit unless an exception applies.
- ***The Low-Income Communities Bonus Credit*** – Increases credit value by 10-percentage points for projects located in a low-income community or on Indian land, or by 20-percentage points for projects that are part of affordable housing developments or benefiting low-income households. You must first separately apply and receive an allocation before placing your facility in service to claim this bonus.

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1 Prevailing wage and apprenticeship and domestic content requirements do not apply to these projects.

2 For information on the process to claim statuary exceptions for projects beginning construction in 2024, see Notice 2024-09. For information for projects beginning construction in 2025, 2026, or until further guidance is issued (whichever is later), see Notice 2024-84.

3 The energycommunities.gov mapping tool may not be relied upon by taxpayers to substantiate a tax return position or for determining whether certain penalties apply and will not be used by the IRS for examination purposes. The mapping tool does not reflect the application of the law to a specific taxpayer's situation, and the applicable Internal Revenue Code provisions ultimately control. The energycommunities.gov mapping tool does not include Brownfield sites.

What costs are covered by the § 48 ITC and § 48E Clean Electricity ITC and how is it calculated?

To calculate the amount your § 48 or § 48E project is eligible for, multiply the applicable tax credit percentage by the "tax basis," or the amount spent on an eligible unit of energy property or qualified facility (or energy storage technology). For energy property or qualified facilities (or energy storage technology) with a maximum net output of not greater than 5 megawatts (as measured in alternating current), amounts paid or incurred by the taxpayer for certain interconnection property may also be included in the ITC credit base.

Can a taxpayer claim both § 48 (or § 48E) ITC and § 45 (or § 45Y) Production Tax Credit (PTC) for the same energy property or qualified facility (or energy storage technology)?

No, you must choose between claiming the PTC or ITC and may not claim both. Among project specific considerations, some factors to consider when choosing between the two tax credits include financing considerations and estimated electrical generation capacity.

What if my energy property is also receiving grant or forgivable loan funding?

For entities claiming the ITC through elective pay (such as tax-exempt or governmental entities), IRS regulations provide rules that may allow a project to be financed with tax-exempt grants or forgivable loans without reducing the taxpayer's basis, within certain limits. For more on this, see the Elective pay and transferability frequently asked questions.

Example: ITC Enables a university to Install a New Solar Array and Provide Reduced Utility Costs for Low-Income Patients

A tax-exempt not-for-profit entity, recently installed an ***on-campus 356-kW solar array installation***. They expect to receive the ITC base credit amount (presumably at the 30% rate) plus the low-income communities and energy communities bonus credits, ***covering a total of 60% of the cost***.

The solar array is part of the university's new pilot program that provides clean power at a reduced cost to students that report difficultly affording household utility payments. The energy savings are passed along to their students, as program enrollees receive a monthly credit on their electric bills totaling $600 over 12 months.

Related Resources

- Elective Pay
- Form 3468, Investment Credit
- Clean Electricity Investment Credit
- Treasury Inflation Reduction Act