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GENERAL MEMORANDUM 23-008

Department of Treasury and Internal Revenue Service Issue Guidance for Solar and Wind Projects Located on Indian Land or in Low-Income Communities

The Department of the Treasury (Treasury) and Internal Revenue Service (IRS) published the [final regulations](#) and [Revenue Procedure 2023-27](#) on wind and solar energy projects built in connection with low-income communities or on Indian land.

As we reported in our [General Memorandum 23-007](#) of July 23, 2023, the Inflation Reduction Act of 2022 (PL 117-169) amended Section 48 of the Internal Revenue Code (Code) by establishing bonus credits for qualified solar and wind facilities. The bonus credits are available for certain low-income projects and those on Indian land. The bonus credits under Code Section 48(e) contain a capacity cap and, thus, function more like a competitive grant. The four categories of projects that qualify for the bonus credits are: (1) facilities that are located in a low-income community, as defined in Section 45D(e); (2) facilities that are located on Indian land, as defined in section 2601(2) of the Energy Policy Act of 1992 (25 U.S.C. § 3501(2)); (3) facilities that are part of a qualified low-income residential building project; and (4) property that is a qualified low-income economic benefit project.

The final regulations (88 Fed. Reg. 55,506) provide definitions and requirements for projects intending to qualify for the bonus credits. In addition, the regulations:

- Define financial benefits;
- Define energy storage technology installed in connection with the projects;
- Define and describe the additional selection criteria for potential applicants;
- Remind potential applicants that facilities placed in service prior to an allocation are not eligible; and
- Provide the disqualification and credit recapture rules specific to the program.

Revenue Procedure 2023-17 sets out the application process for the bonus credit. Applications must be submitted through a [portal](#) hosted by the Department of Energy (DOE).

Please let us know if we may provide additional information about the bonus credits for qualified solar and wind facilities.

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