OBBBA Energy Credit Provisions

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Pre-OBBBA: Inflation Reduction Act Clean Energy Credits

The Inflation Reduction Act of 2022 established and enhanced tax credits for:

- **Clean vehicles and clean vehicle infrastructure**
- **Home energy efficiency and residential clean energy**
- **Clean electricity generation**
- **Clean energy-related manufacturing**
- **Clean fuels**
- **Carbon capture**

New credit bonuses:
- Most credits are 5x if prevailing wage and apprenticeship rules are met.
- Domestic content, energy communities, low-income communities bonuses for PTC/ITC

Direct pay and transferability
- Direct pay extends clean energy tax incentives to governmental and tax-exempt entities.
- Transferability ensures businesses such as early-stage companies can benefit.

Long term extension: IRA put credits in place for about a decade, with some variation.

OBBBA abruptly ends tax credits for consumers

Vehicles	**30D: Clean Vehicle Credit** *Up to $7,500 per vehicle* **25E: Pre-owned Clean Vehicle Credit** *Up to $4,000 per vehicle*	Vehicles must have been acquired by **9/30/25.**
Home energy / energy efficiency	**25C: Energy Efficient Home Improvement Credit** *Various incentives for energy efficient windows, doors, insulation, heat pumps, water heaters, home energy audits* **25D: Residential Clean Energy Credit** *Incentives for home energy such as rooftop solar and battery storage*	Property must be placed in service/installed by **12/31/25.***
Charging/ refueling equipment	**30C: Alt. Fuel Refueling Property Credit** *Up to $1,000 for alternative refueling equipment (e.g. charging stations) installed at princpal residences in low-income or nonurban areas*	Must be placed in service by **6/30/26**

Note: There is some disagreement about whether OBBBA's text actually terminates 25C. IRS guidance says that the credit will terminate after 12/31/25. But see letter from House Ways and Means Democrats: https://horsford.house.gov/sites/evo-subsites/horsford.house.gov/files/evo-media-document/horsford-25c.pdf.

Post-OBBBA: Several business incentives have short runways

Commercial vehicles	**45W: Commercial Clean Vehicle Credit** *Up to $7,500 for light vehicles; $40k for other vehicles*	**Must have acquired by 9/30/25**
Charging Equipment	**30C: Alternative Fuel Refueling Property Credit** *30% credit (with labor rules met), up to $100k per single item. Must be located in low-income or nonurban area.*	Must be placed in service by **6/30/26**
Energy efficiency	**179D: Commercial Energy Efficient Bldgs. Deduction** *Per square foot deduction for energy-efficient construction or retrofits*	Must begin installation by **6/30/26**
Wind & solar	**45Y: Clean Electricity Production Tax Credit** ***or*** **48E: Clean Electricity Investment Tax Credit** *Credit per kilowatt-hour of electricity produced by zero-emissions facilities or percentage credit of investment in such facilities*	Must begin construction (*under new rules*) by **7/4/26** **or** be placed in service by **12/31/27**.
Hydrogen	**45V: Clean Hydrogen Production Credit** *Credit of up to $3 per kilogram of clean hydrogen produced*	Must begin construction by **12/31/27**.

Post-OBBBA: Business incentives that still have long runways

Ground-source heat pumps	48: Energy Credit (ITC) *Credit is a percentage of investment in ground-source heating/cooling property*	Must **begin construction by end of 2032**, then two-year phasedown
Energy storage (including connected to solar/wind projects)	48E: Clean Electricity Investment Tax Credit *Credit is a percentage of investment in energy storage.*	Must **begin construction by end of 2033**, then two-year phase down
Zero-emission electricity generation other than wind/solar • ***e.g. geothermal, hydropower, nuclear, fuel cells****	45Y: Clean Electricity Production Tax Credit *or* 48E: Clean Electricity Investment Tax Credit *Credit per kilowatt-hour of electricity produced by zero-emissions facilities or percentage credit of investment in such facilities*	Must **begin construction by end of 2033**, then two-year phase down

*Under OBBBA, fuel cells do not need to meet the zero-emissions requirement for the ITC.

Post-OBBBA: Business incentives that still have long runways

Carbon capture	**45Q: Carbon Oxide Sequestration Credit** *Credit per metric ton of CO2 captured and sequestered, used in enhanced oil recovery (EOR), or otherwise utilized.*	Still available for equipment **beginning construction by 2032**
Existing nuclear facilities	**45U: Zero-emission Nuclear Production Credit** *Credit per kilowatt-hour of electricity produced by nuclear facilities existing at time of IRA passage. Credit depends on electricity prices.*	Still available through **2032**
Clean energy manufacturing and critical minerals	**45X: Advanced Manufacturing Production Credit** *Credit for US manufacturing of components of solar and wind facilities, batteries, and inverters, and US production of critical minerals.*	Generally still available through **2032** (phases down over 2030-32). • Wind components made ineligible after **2027**.
Clean transportation fuels	**45Z: Clean Fuels Credit** *Credit for production of fuels that are suitable for use in highway vehicles or aircraft and that meet emissions requirements.*	**Extended two more years; now available through 2029**

Direct pay, transferability, bonuses generally unchanged

OBBBA leaves direct pay and transferability in place

- Direct pay and transferability mechanisms remain in place as long as underlying credits, virtually unchanged.

OBBBA leaves credit bonuses in place

- Prevailing wage and apprenticeship rules are unchanged, still increase credits by 5x
- Bonuses for PTC and ITC are still in place with only limited changes:
    - Energy communities
    - Domestic content
    - Low-income communities (allocated bonus credit)

OBBBA introduces highly complex "prohibited foreign entity" rules (aka "FEOC")

- **Three sets of PFE rules** apply to the **45Y PTC, 48E ITC, and 45X manufacturing credit**
    1. **Entity-level rules** (ownership, influence)
    2. **Payments rules** (payments/contracts conferring "effective control")
    3. **Material assistance rules** (supply chain)
        - PTC/ITC projects are excepted from material assistance rules if they begin construction by 12/31/25 (under longstanding begin-construction guidance)
- **Entity-level rules also apply to 45Q carbon capture, 45U existing nuclear, and 45Z clean fuels credits**
- **None of the PFE rules apply to projects that can claim the "legacy" PTC or ITC (§§ 45, 48), including:**
    - PTC/ITC projects that began construction before 2025
    - ITC for ground-source heat pumps, including going forward

Entity-level rules ***Apply to 45Y/48E, 45X, 45Q, 45U, 45Z credits***	**Payments rules** ***Apply to 45Y/48E & 45X credits***	**Material assistance rules** ***Apply to 45Y/48E & 45X credits***
Prohibited foreign entities (PFEs) are barred from claiming six tax credits. PFEs include: Specified foreign entities • China, Russia, Iran, N.Korea ("covered nations") • Citizens/nationals of covered nations (unless also US citizen/national/LPR) • Companies based in covered nations • Entities controlled by any of the above • Entities on various US govt. lists Foreign-influenced entities, *e.g.* • Single specified foreign entity has direct authority to appoint covered officers of the entity • Entities that are 25%+ owned by a specified foreign entity (or 40% by SFEs in total) • Entities that issue 15% of debt to SFEs *Significant uncertainty on issues such as how to determine what debt counts, to whom debt is issued.*	**Payments made under contracts that confer "effective control" over production to a specified foreign entity can trigger loss of credits.** *Major uncertainty about the breadth of contracts that are deemed to confer "effective control" as well as consequences of payments.*	**Material assistance rules examine supply chains for clean electricity facilities, energy storage, and clean energy-related manufacturing. Essentially, too many PFE-produced inputs can disqualify a taxpayer's facilities (for 45Y/48E) or the components they manufacture (for 45X).** Material assistance rules are based on varying threshold percentages: • E.g., for energy storage projects beginning construction in 2026, 55% of the costs of manufactured products (including components) that go into the project must be from non-PFE sources. *Major uncertainty on how to determine these percentages.*

"Beginning of Construction" – Stakes for solar and wind projects

- Under OBBBA, solar and wind projects must either begin construction by 7/4/26, or be placed in service by 12/31/27 to be eligible for the PTC (45Y) or ITC (48E).

  - A recent IRS notice pursuant to an executive order eliminated one of the two ways that wind and solar projects can establish that they have begun construction under longstanding IRS guidance.

    - The new rules apply only for the 7/4/26 deadline for wind and solar.

    - The new rules do not apply to projects that had begun construction under existing rules by 9/2/25, or to small solar projects (<1 MW).

- Additionally, all types of projects must begin construction by 12/31/25 to be excepted from material assistance rules for the PTC or ITC (within the meaning of the longstanding begin-construction rules).

Thank you!

For further reading on OBBBA energy credits, please see our recent explainer and slides with additional detail on foreign entity rules, and our explainer of the recent beginning-of-construction guidance.

Contact information:

Seth Hanlon, Senior Fellow

seth.hanlon@nyu.edu