American Society of
Cost Segregation Professionals

Bipartisan Budget Act of 2018

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Bipartisan Budget Act (BBA) of 2018

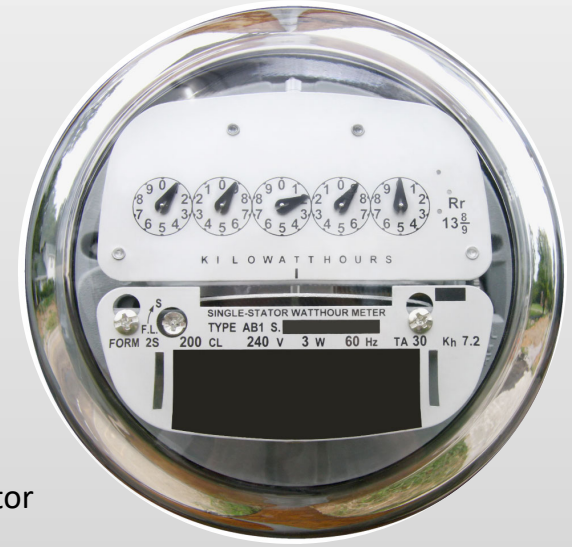
P.L. 115-123

- Legislation signed on February 9, 2018, includes 2017 tax extenders, some with modifications
- **Cost segregation specific** extensions of deductions and recovery provisions
  - **A one-year extension of 179D energy efficient commercial building deduction**
  - **A one-year extension of 7-year recovery period for motorsports entertainment complexes**
  - **A one-year extension of accelerated depreciation for business property on an Indian Reservation**

Bipartisan Budget Act (BBA) of 2018 (cont.)

P.L. 115-123

- Extensions of energy credits
  - A one-year extension of the Section 25C nonbusiness energy property credit
  - **A five-year extension of the Section 25D residential energy efficient property credit**
  - A one-year extension of the Section 45 production tax credit
  - **A one-year extension of the Section 45L new energy efficient home credit**
  - **A five-year extension of the Section 48 energy investment tax credit**
    - **Geothermal heat pump property – 10%**
    - **Combined heat and power property – 10%**
  - A modification of the Section 45J credit for production from advanced nuclear power facilities
  - A one-year extension of the Section 30B alternative motor vehicle credit
  - **A one-year extension of the Section 30C alternative fuel vehicle refueling property credit**
  - A one-year extension of the Section 30D new qualified plug-in electric drive motor vehicles credit
  - A one-year extension of the Section 45(e)(10)(A) Indian coal production facilities credit
  - A one-year extension of the Section 45N mine rescue team training credit
  - An extension and enhancement of the Section 45Q carbon dioxide sequestration credit



Bipartisan Budget Act (BBA) of 2018 (cont.)

P.L. 115-123

- Extensions of disaster relief credits
  - Enactment of an employee retention credit for employers affected by California wildfires
  - A modification of applicable dates and locations to the employee retention credit for Hurricanes Harvey, Irma and Maria
- Extensions of other general business credits
  - A one-year extension of the Section 45A Indian employment tax credit
  - A one year extension of the Section 45G railroad track maintenance credit
- Extensions of fuel excise tax credits
  - One-year retroactive extension of the federal alternative fuel credit for 2017
  - One-year retroactive extension of the federal alternative fuel mixture credit for 2017
  - One-year retroactive extension of the federal biodiesel mixture credit for 2017
  - One-time filing of all 2017 alternative fuel and biodiesel claims
  - Extension of second generation biofuel incentives
  - Reinstatement of the Oil Spill Liability Trust Fund (OSLTF) tax effective March 1, 2018

Sections 45 and 48 Energy Tax Credits

Overview

Investment Tax Credit

- The Investment Tax Credit (ITC) under IRC Section 48 is available for the costs incurred in acquiring, constructing, reconstructing, or erecting certain qualified energy property.
- Calculated by multiplying the eligible basis of the energy property placed in service by the credit percentage for the applicable energy technology.
- Improvements to existing eligible systems, such as adding a new boiler to a Combined Heat and Power (CHP) system may also qualify for the credit.
- The ITC is earned when the energy producing property is placed in service.
- The ITC is subject to a 5-year recapture period. Credit vests 20% each year.

Production Tax Credit

- The Production Tax Credit (PTC) under IRC Section 45 provides for 1.2 – 2.4 cent per kWh produced from qualified facilities.
  - Credit generated over a 10-year period from the date the project is placed in service.
- Election available for taxpayers to claim ITC in lieu of PTC.

Sections 45 and 48 Energy Tax Credits (cont.)

Section 48 ITC – Extension

- The Protecting Americans from Tax Hikes (PATH) Act of 2015 modified Section 48 ITC by extending and phasing down for **solar** projects that **commence construction** before 1/1/22. However, the PATH Act did not address the other technologies in Section 48 ITC, essentially creating "orphaned credits".
- The **BBA addressed the "orphaned credits"** under Section 48 ITC: **CHP system property**, fuel cells, microturbines, small wind, and **geothermal**. The extenders provisions harmonize these credits with the solar credit, providing the same begun construction and placed in service dates EXCEPT there is no permanent 10% credit for these technologies.

Sections 45 and 48 Energy Tax Credits (cont.)

Section 48 ITC – Summary Table

Qualified Resources/Facilities	ITC Rate	Begun Construction/Statutory Deadline
Solar	30%	Before 1/1/2020
	26%	Calendar 2020
	22%	Calendar 2021
	10%	Calendar 2022 or Placed in Service after 12/31/2023
Fuel Cell	30%	Before 1/1/2020
	26%	Calendar 2020
	22%	Calendar 2021
	0%	After Calendar 2021 or Placed in Service after 12/31/2023
Stationary Microturbine	10%	Before 1/1/2022
Geothermal	**10%**	**Placed in Service before 1/1/2017**
Small Wind	30%	Before 1/1/2020
	26%	Calendar 2020
	22%	Calendar 2021
	0%	After Calendar 2021 or Placed in Service after 12/31/2023
Combined Heat & Power	**10%**	**Before 1/1/2022**
Thermal	10%	Before 1/1/2022

Sections 45 and 48 Energy Tax Credits (cont.)

Section 45 PTC and ITC in lieu of PTC – Summary Table

Qualified Resources/Facilities	Credit Amount for 2018	Construction Beginning	Phase-Out (PTC Amount)	ITC Election Rate
Wind	2.4 cents/kWh	Before 1/1/2017	100%	30%
		Calendar 2017	80%	24%
		Calendar 2018	60%	18%
		Calendar 2019	40%	12%
Geothermal	2.4 cents/kWh	Before 1/1/2018	None	30%
Closed-Loop Biomass	2.4 cents/kWh	Before 1/1/2018	None	30%
Open-Loop Biomass	1.2 cent/kWh	Before 1/1/2018	None	30%
Municipal Solid Waste (landfill gas, trash)	1.2 cent/kWh	Before 1/1/2018	None	30%
Hydropower	1.2 cent/kWh	Before 1/1/2018	None	30%
Marine and Hydrokinetic Renewables (including small irrigation power)	1.2 cent/kWh	Before 1/1/2018	None	30%

Section 25D Residential ITC

The BBA also harmonizes Section 25D residential ITC extended at 30% to include for qualifying residential geothermal, fuel cell or small wind property along with the PATH Act extension for **solar** projects that are placed in service before 1/1/20 and then phased out:

Qualified Resources/Facilities	ITC Rate	Placed-in-Service Statutory Deadline
Solar / Fuel Cell / Geothermal Heat Pump / Small Wind	30%	Before 1/1/2020
	26%	Calendar 2020
	22%	Calendar 2021
	10%	Calendar 2022 or After

Section 179D Energy Efficient Commercial Buildings Deduction

Overview

- A taxpayer may deduct the cost of energy-efficient commercial building property placed in service before **January 1, 2018**.
  - This deduction may not exceed the excess of the product of $1.80 and the square footage of the building, over the aggregate amount of Section 179D deductions allowed for all prior years
- "**Energy-efficient**" property is –
  - Depreciable to the taxpayer
  - Installed in the United States and within the scope of Standard 90.1-2007
  - Installed as part of the –
    - Interior lighting systems **or** heating, cooling, ventilation (HVAC) and hot water systems **or** the building envelope
  - Must be certified by licensed engineer or contractor unrelated to taxpayer
    - Modeling generally required using certified software to compare energy and power consumption against baseline reference building
    - Certification must include field inspection of the building after placed in service to confirm the building has achieved the savings goals

Energy Credits

The BBA has created opportunities for organizations to take a fresh look at energy incentives.

Combined Heat and Power Investment Tax Credit

- The BBA extended the 10% IRC Section 48 ITC to include projects that begin construction on CHP assets prior to January 1, 2022.
- **CHP systems**: Use heat or steam from the same fuel/combustion source to:
  - Generate electricity or steam power, and
  - Produce thermal heat.
- **Criteria for Qualification**:
  - At least 20% of the useful energy from each CHP system must be used for thermal applications, and at least 20% of the useful energy must be used to produce electricity or mechanical shaft power.
  - Each CHP system must be at least 60% efficient, and cannot produce more than 50MW of electricity.
- **Identification**: CHP systems are typically recorded individually as fixed assets such as **"Boilers," "CoGen Units," "Turbines," and "Generators"** rather than as "CHP Systems."
- **Common Industries**: CHP Systems are found in a wide range of industries or commercial applications.
- **Calculation**: The CHP ITC is equal to 10% of the depreciable assets that comprise a CHP system.

Energy Credits (cont.)

Examples of how the extended tax credit benefits are calculated are provided below

Combined Heat and Power Investment Tax Credit – For Profit Hospital

A for profit hospital constructs a new facility with a 5 megawatt, Gas Turbine and Heat Recovery Steam Generation Unit.
Criteria met:

- 30% of the useful energy is used for thermal applications, and at least 30% of the useful energy is used to produce electricity or mechanical shaft power.
- System is 65% efficient.

ITC Amount

$10 Million	Gas Turbine and Heat Recovery Steam Generation Unit
X 10%	Effective ITC Percentage (based on certain limitations of 10% credit)
$1,000,000	ITC Value

Adjusted Tax Basis

$10 Million	Gas Turbine and Heat Recovery Steam Generation Unit
<$500,000>	Tax Basis Adjustment (50% of ITC)
$9,500,000	**MACRS Class D, 5 year**

Questions?