Alert | Energy Project Finance & Development

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How the Inflation Reduction Act May Impact the Renewable Energy Industry

In September 2021, congressional Democrats introduced the Build Back Better Act (BBBA) in the House of Representatives with ambitious goals related to climate change and social policy. All 50 Senate Democrats needed to back the BBBA for it to pass Congress and then go to the president. During negotiations Sen. Joe Manchin (D-WV) pulled his support, effectively ending the legislation.

Fast-forward to this summer, when Sen. Manchin and Majority Leader Chuck Schumer (D-NY) announced the Inflation Reduction Act of 2022 (IRA). The IRA is a proposed $739 billion reconciliation package that provides $370 billion in spending on climate change, $300 billion in deficit reduction, along with other changes to health care and tax reform. With a few changes, the House and Senate passed the IRA with Vice President Kamala Harris' tiebreaking vote.

Although some final revisions may be made to the bill during negotiations and parliamentary procedures, the IRA will likely go to the president for signature without delay. The following list outlines how the IRA would apply to the renewable energy industry:

- Investment Tax Credit (ITC) under section 48 receives an extension through 2024. After 2024, there would be a transition to technology-neutral credits.
- ITC and Production Tax Credit (PTC) will be determined using a "base" rate and then a five times multiplier if the project meets prevailing wage and apprenticeship requirements. These are new concepts in the Tax Code. The new ITC base rate will be 6%, and the multiplier will increase it to 30%. The new PTC base rate will be 0.3 cents/kwh and the multiplier will increase it to 1.5 cents/kwh. That

said, the prevailing wage and apprenticeship requirements will be deemed satisfied (meaning that ITC and PTC will benefit from these multipliers) for all projects that start construction before the date that is 60 days after the U.S. Treasury Department issues guidance interpreting these new concepts.

- An option to take the PTC under section 45 of the Tax Code for solar (and other ITC-eligible energy properties) will become available.
- Standalone energy storage is added to the ITC and a normalization opt-out is included.
- Clean hydrogen will benefit from a PTC.
- A new advanced production manufacturing credit provides an incentive to manufacture solar components in the United States after 2022. The advanced production manufacturing credit includes components for thin film photovoltaic cells, crystalline photovoltaic cells, photovoltaic wafers, solar grade polysilicon, solar modules, wind energy components, battery cells and modules, polymeric backsheets, critical minerals, among others. These provisions closely align with Sen. Jon Ossoff's (D-GA) Solar Energy Manufacturing for America (SEMA) Act that the solar industry largely supported.
- Interconnection costs for projects under 5 MW will be subject to the ITC.
- While transmission ITC was not included in the IRA, there are provisions to boost transmission.
- Bonus 10% ITC or PTC credits will be available if the project meets domestic content requirements.
- Bonus 10% ITC or PTC credits will be available for siting projects in communities where a coal mine has closed or where a coal-fired electric generating unit has been retired (defined as "energy communities" in the bill).
- For the first time, taxpayers have an option to transfer many of the energy-related tax credits included in the Tax Code to an unrelated party. All payments provided for the transfer of these tax credits must be made in cash and the IRA includes penalties for excessive payments.
- An option for "Direct Pay" is included in the IRA, but it generally is not available to taxable entities. That said, other than for projects qualifying for the new clean hydrogen credit, carbon-capture credit, and the advanced manufacturing production credit, direct pay generally is available to all taxpayers.
- The IRA appropriates $2.8 billion for Environmental and Climate Justice Block grants to develop air and other pollution monitoring, prevention, and remediation, and investments in low- and zero-emission technologies, to mitigate climate and health risks, to develop climate resiliency and adaptation, to reduce indoor air pollution, and to facilitate engagement of low-income and disadvantaged communities in state and federal permitting and rulemaking processes.
- Nearly $13.3 billion for farm bill energy title programs to improve rural electric systems.

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