

Alert | Energy Project Finance & Development



February 2023

IRS Establishes a Program to Allocate Credits to Qualifying Advanced Energy Projects

The Internal Revenue Service issued [Notice 2023-18](#) establishing a program to allocate \$10 billion of credits for qualified investments in eligible qualifying advanced energy projects under Internal Revenue Code Section 48C(e). The goal of the program is to expand U.S. manufacturing capacity and quality jobs for clean energy technologies, to reduce greenhouse gas emissions in the United States, and to secure domestic supply chains for critical materials that serve as inputs for clean energy technology production.

Notice 2023-18 specifies that, under the Section 48C(e) program, the government anticipates at least two rounds of allocations. The first round will begin on May 31, 2023, for an anticipated allocation of \$4 billion of qualifying advanced energy project credits. To be considered for an allocation during Round 1, taxpayers must submit concept papers to the Department of Energy (DOE) by July 31, 2023. Following submission of a concept paper, DOE will encourage or discourage taxpayers from submitting a joint application for an allocation.

The IRS will only consider projects for an allocation upon receiving a recommendation and ranking from the DOE. The DOE will only provide a recommendation and ranking if it determines that the project has a reasonable expectation of commercial viability and merits a recommendation based on the criteria provided in the additional Section 48C(e) guidance, which according to Notice 2023-18 is intended to be issued by May 31, 2023.

The anticipated program timeline is as follows:

- 1) Taxpayer submits a concept paper to DOE through an online portal;
- 2) DOE reviews the concept paper and sends the taxpayer a response letter;
- 3) Taxpayer submits an application through the online portal;
- 4) DOE reviews the applications for compliance with eligibility and other threshold requirements;
- 5) DOE conducts a technical review of the application to form a recommendation for applications that comply with all eligibility and threshold requirements;
- 6) DOE provides a recommendation letter to the IRS including acceptance or rejection of each application and a ranking;
- 7) The IRS sends an acceptance (Allocation Letter) or a rejection (Denial Letter) to the taxpayer based on DOE's recommendation and ranking;
- 8) Within two years of receiving an Allocation Letter, the taxpayer must notify DOE that the certification requirements have been met;
- 9) DOE notifies the taxpayer and the IRS that it has received the notification;
- 10) IRS certifies the project by sending a Certification Letter;
- 11) Within two years of receiving the Certification Letter, the taxpayer notifies the DOE that the project has been placed in service;
- 12) DOE notifies taxpayer and the IRS that it has received the notification;
- 13) Upon placing the project in service and notifying the DOE, the taxpayer then claims the Section 48C credit on its income tax return for the taxable year in which the project is placed in service.

Allocation Letters only apply to the taxpayer who requested it. Any successor may request that the IRS transfer the credit allocation for the project no later than 30 days prior to the due date of the successor's federal income tax return for the taxable year in which the transfer occurs.

The Department of the Treasury and the Internal Revenue Service intend to issue supplemental guidance by May 31, 2023. In addition, subsequent guidance will be issued prescribing the procedures applicable to future allocations of the Section 48C(e) program after Round 1.

Authors

This GT Alert was prepared by:

- [John Eliason](#) | +1 202.331.3188 | John.Eliason@gtlaw.com
- [Margaret J. Weil](#) | +1 612.259.9739 | weilm@gtlaw.com
- [Braxton T. Roam](#) | +1 202.530.8516 | roamb@gtlaw.com

Albany. Amsterdam. Atlanta. Austin. Berlin. ~ Boston. Charlotte. Chicago. Dallas. Delaware. Denver. Fort Lauderdale. Houston. Las Vegas. London.* Long Island. Los Angeles. Mexico City.+ Miami. Milan.» Minneapolis. New Jersey. New York. Northern Virginia. Orange County. Orlando. Philadelphia. Phoenix. Portland. Sacramento. Salt Lake City. San Diego. San Francisco. Seoul.∞ Shanghai. Silicon Valley. Tallahassee. Tampa. Tel Aviv.^ Tokyo.‡ Warsaw.~ Washington, D.C.. West Palm Beach. Westchester County.

*This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. ~Greenberg Traurig's Berlin office is operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. *Operates as a separate UK registered legal entity. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. »Greenberg Traurig's Milan office is operated by Greenberg Traurig Santa Maria, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ∞Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. ^Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. ‡Greenberg Traurig's Tokyo Office is operated by GT Tokyo Horitsu Jimusho and Greenberg Traurig Gaikokuhojimbengoshi Jimusho, affiliates of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ~Greenberg Traurig's Warsaw office is operated by GREENBERG TRAUIG Nowakowska-Zimoch Wysokiński sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in GREENBERG TRAUIG Nowakowska-Zimoch Wysokiński sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2023 Greenberg Traurig, LLP. All rights reserved.*