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Inflation Reduction Act Set to Boost Standalone Energy Storage

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President Biden signed the Inflation Reduction Act of 2022 (HR 5376) (the Act) into law on August 16, 2022, after the Senate-passed bill sailed through the House of Representatives last week on August 12. The Act includes a range of incentives and tax credits aimed towards accelerating the production of emissions-free energy, and is largely seen as a win for the energy storage sector. Specifically, the Act extends the investment tax credit (ITC) to standalone-storage, and bolsters support for domestic battery manufacturing and supply chains.

Many see storage as an integral part of the transition to renewable energy, since batteries can help to solve intermittence problems associated with solar and wind resources. Previously, the ITC only applied to projects that were paired with solar, which limited the incentive to build out standalone battery storage systems that can provide grid services.

In addition to the expansion, the Act includes direct pay and transfer options under the new tax credits. These options will allow for certain taxpaying entities to transfer clean energy tax credits to an unrelated party in exchange for cash payments treated as non-taxable income, and for certain tax-exempt entities to receive direct payments in lieu of a reduction in tax liability.

According to analysis group Wood Mackenzie Power & Renewables, the ITC, especially one with a direct-pay option that simplifies how it is monetized, could boost storage deployments by a quarter.

ITC Expansion and Modification

Under the new law, the current ITC, which helped to push solar and wind power to the mainstream, will be extended for ten years for projects that "begin construction" before 2025, including standalone energy storage with a capacity of at least 5 kwh. The Act will extend the ITC for up to 30%of the cost of installed equipment for ten years and will then step down to 26% in 2033 and 22% in 2034. For projects beginning construction after 2019 that are placed in service before January 1, 2022, the ITC would be set at 26%.

Clean Energy Investment Tax Credit (48D)

Beginning in 2025, the existing energy ITC will be replaced by a tech-neutral, Clean Electricity Investment Tax Credit (CEITC). The CEITC is available for any investment in a qualified storage facility that is placed in service after December 31, 2024, and stores electricity with a greenhouse gas (GHG) emissions rate of zero. The CEITC has a base credit of 6% and a "bonus" credit up to 30% if prevailing wage and apprenticeship requirements are met. The CEITC would remain in effect until the later of either (i) GHG emissions from US electricity productions are equal to or less than 25% of the annual GHG emissions from US electricity production for calendar year 2022 or (ii) 2032.

Advanced Manufacturing Production Credit (45X)

The Act also creates the Advanced Manufacturing Production Credit (AMPC), which applies to clean energy technology components produced in the United States, or by United States Possessions, and sold after December 31, 2022. Eligible components under the AMPC include electrode active materials, battery cells, battery modules, and the critical minerals needed to produce these components. The AMPTC will begin to phase out in 2030 and will not be available for eligible components sold after December 31, 2032.

Direct-Pay Option

For many of the tax credits established under the Act, including the ITC, CEITC, and AMPC, certain tax-exempt entities (applicable entities) may elect to receive direct payment from the federal government in lieu of a reduction in tax liability. Applicable entities that may elect the "direct-pay" option include state or local governments, Indian tribal governments, and Alaska Native corporations. This option will be applied on a facility-by-facility basis in the taxable year that the facility is placed into service.

Transfer Option

Beginning in January 1, 2023, taxpayers may elect to transfer their ITC or CEITC to an unrelated taxpayer on a facility-by-facility basis for each year in which the credit is available. Under this option, the transferred credit must be exchanged for cash and is neither included in the transferor's income, nor deductible by the transferee. Transfers may occur only once, meaning that the transferee cannot further transfer any credits it receives. This option is not available to applicable entities described above.

A 20 percent penalty may apply for both direct payments and transfers, where excessive payments have occurred.

Residential Clean Energy Credit (25D)

On the residential side, the Act extends the existing Residential Clean Energy Credit (RCEC) through 2034 at the previous credit rate and expands eligibility to battery storage technology. The RCEC applies a 30% credit for projects started between 2022 and 2032, 26% credit for projects started in 2033 and a 22% credit for projects started in 2034.

If you have questions or need assistance, please contact one of the attorneys listed below.

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