

# Bond Case Briefs

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## McGuire Woods: President Signs Extender Package for PTC and ITC - Renewable Energy Tax Credits.

Nearly two weeks ago, Congress passed the omnibus Consolidated Appropriations Act, 2016 (the “Omnibus Bill”), and the Protecting Americans from Tax Hikes Act of 2015 (the “Act”), both parts of a package that President Obama signed into law on Friday, December 19, 2015. Both the Omnibus Bill and the Act make substantial changes to numerous expiring or already expired tax provisions, many of which will directly impact renewable energy development.

The more important provisions of the Omnibus Bill and the Act affecting renewable energy projects include:

- **Production Tax Credits (PTC)** - The PTC under Section 45 of the Code had expired at the end of 2014 and the Act extends the PTC through the end of 2019 for wind; however, the credit is phased out beginning in 2017 (i.e., 100 percent PTC in 2015 and 2016, 80 percent for 2017, 60 percent for 2018 and 40 percent for 2019). Other technologies – such as geothermal, municipal waste, landfill gas, and open- and closed-loop biomass – received only a two-year extension of the PTC, through the end of 2017. The ability to elect from the PTC into the ITC was extended on the same basis, and with the phase-out for wind beginning in 2017. The PTC still contains the requirement that construction must have “begun” before the applicable tax year.
- **Investment Tax Credits (ITC)** - The ITC under Section 48 of the Code also received a favorable extension through 2019 for qualifying solar projects. The ITC was set to phase down from its current 30 percent credit to 10 percent for qualifying solar equipment at the end of 2016. The Omnibus Bill maintains the 30 percent ITC for qualifying solar projects through the end of 2019.
- **Residential Solar Tax Credit** - The residential solar tax credit under Section 25D of the Code was set to expire at the end of 2016 and now has been extended through the end of 2019. The residential solar tax credit allows the homeowner to take a 30 percent tax credit related to the construction costs of a qualifying solar installation, most commonly residential rooftop solar panels.
- **Bonus Depreciation** - The 50 percent bonus depreciation was extended through 2019 but begins phasing out in 2018 (i.e., 50 percent in 2015, 2016 and 2017; 40 percent in 2018; and 30 percent in 2019).
- Among other renewable tax provisions included were extensions for credits applicable to alternative fuel, renewable diesel and biodiesel.

Additionally, there was a two-year extension through 2016 for the deduction applicable to energy-efficient commercial buildings under Section 179D of the Code. Lastly, there was a five-year extension of the New Markets Tax Credit Program under Section 45D of the Code. The extension applies for the five years beginning 2015 and ending 2019, with \$3.5 billion in allocation for each year. The carryover availability for unused limitation has been extended through 2024.

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