

Bond Case Briefs

Municipal Finance Law Since 1971

Inflation Reduction Act of 2022: The Newly Added Renewable Electricity Production Tax Credit - Holland & Knight

The IRS is currently in the process of implementing the Inflation Reduction Act of 2022 (IRA), which addresses energy, tax and health policy. The IRA offers, among other incentives, tax credits to an array of organizations (e.g., businesses, nonprofits, educational institutions, and state, local and tribal governments). For additional background on the IRA as it relates to the real estate industry, see Holland & Knight's previous blog posts, "[Inflation Reduction Act Offers a Variety of Green Building Tax Incentives](#)," March 31, 2023, and "[Inflation Reduction Act of 2022: Business Energy Investment Tax Credit](#)," April 6, 2023.

The Renewable Electricity Production Tax Credit (PTC) was added on April 4, 2023. According to the U.S. Environmental Protection Agency (EPA), "The PTC provides a corporate tax credit of up to 1.3 cents/kWh for electricity generated from landfill gas (LFG), open-loop biomass, municipal solid waste resources, and small irrigation power facilities, or up to 2.6 cents/kWh for electricity generated from wind, closed-loop biomass and geothermal resources. The credit is good for 10 years after the equipment is placed in service."

For systems that exceed 1 megawatt (MW) in size, the tax credit starts at 0.5 cents/kilowatt hour (kWh), although projects may qualify for the full credit by satisfying the labor-related qualifications. Projects of any size are eligible for two bonus credits. The first such credit may be obtained in connection with the use of domestic steel/iron materials. The second bonus credit is based on a project's location within an "energy community:" a brownfield site - defined by the EPA as "real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contamination" - or an area with a high unemployment rate and an economy that has historically depended on coal, oil or natural gas extraction.

Projects less than 1 MW in size are eligible if construction began or begins after Dec. 31, 2021, and before Jan. 1, 2025. Projects 1 MW or larger are eligible if construction began or begins on or after Jan. 30, 2023, and no later than Jan. 1, 2025. According to the IRS, a project is "under construction" when "physical work of a significant nature has begun," or a minimum of 5 percent of the project's total cost has already been incurred.

To apply for the Renewable Electricity PTC, use Form 8835. Form 8835, instructions and additional information are available on the [IRS website](#).

Holland & Knight LLP - Marcy Hart, Holly R. Camisa, Maria Z. Cortes and Olufunke Leroy

April 20 2023

