



Inflation reduction act tax credits for solar

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The Inflation Reduction Act provides for an increase to the energy investment credit (under Internal Revenue Code Section 48) for qualifying solar and wind facilities benefitting certain low-income communities.

For a taxpayer to be eligible for this increase, the taxpayer must apply for and receive an allocation of environmental justice solar and wind capacity limitation (capacity limitation) with respect to their facility. If the facility continues to meet eligibility requirements and is placed in service within four years of the allocation award, the taxpayer that received that allocation may then claim the increased energy investment credit for the taxable year in which the facility is placed in service.

Taxpayers that own an eligible solar or wind facility must apply for their facility to be considered for an allocation of capacity limitation. Applications must be submitted to the portal hosted by the Department of Energy (DOE). The DOE will evaluate facility applications and provide a recommendation to the IRS regarding whether to award an applicant an amount of capacity limitation. Based on DOE's recommendation, the IRS will send applicants either an allocation award letter or a denial letter. Applicants may also receive a denial letter if there is no remaining capacity limitation available to award.

For a facility to be eligible for an allocation, and later eligible to claim the increase to the energy investment credit, the facility must be a solar facility or wind facility with a maximum net output of less than five megawatts, as measured in alternating current (AC). Additionally, the facility must qualify under one of the four statutory project categories:

A 10-percentage-point increase to the energy investment credit is available to eligible solar and wind facilities that are placed in service in low-income communities or on Indian land. A 20-percentage-point increase is available to eligible solar and wind facilities that are part of either a qualified low-income residential building project or a qualified low-income economic benefit project.

There are separate criteria for each of the four project categories, including the requirement for facilities under Category 3 and 4 to distribute financial benefits derived from the electricity produced by the facility. The final regulations describe the criteria specific to each category and define financial benefits for Category 3 and Category 4.

The annual capacity limitation for each of the calendar years 2023 and 2024 is 1.8 gigawatts. The annual



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capacity limitation is divided across the facility categories for calendar year 2023 as follows:

For 2023, 50% of the capacity limitation within each category is reserved for facilities meeting certain ownership and/or geographic selection criteria, known as additional selection criteria. The additional selection criteria are described in more detail in the final regulations and Revenue Procedure 2023-27 PDF. Within Category 1, 490 megawatts of capacity limitation are reserved for eligible residential behind the meter facilities.

Facilities that receive an allocation must be placed in service within 4 years of the date of the allocation award. Facility owners will report to the DOE that the facility has been placed in service through the same portal they used to apply. When reporting, the facility owner will need to submit additional information and documentation specified in Revenue Procedure 2023-27 PDF.

The DOE will determine whether the facility, as placed in service, continues to be eligible under the applicable Program requirements and will provide a recommendation to the IRS. After reviewing DOE's recommendation, the IRS will inform the taxpayer that they may claim the increased energy investment credit or that the facility, as placed in service, is no longer eligible and is therefore disqualified from claiming the increase.

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