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ALERT MEMORANDUM

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# Big Beautiful Changes to Renewable Energy Incentives

*July 3, 2025*

On July 3, 2025, Congress passed and sent to the President for his signature the “One Big Beautiful Bill Act” (the “Act”), which made sweeping changes to the tax landscape for renewable energy developers and investors. These changes include significant modifications to many types of credits, less favorable depreciation schedules for renewable energy property, and new restrictions on investments and activities involving “prohibited foreign entities.”

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**Significant Changes to Existing Credits**

Type of Credit	Significant Changes
New and Used Consumer and Commercial Clean Vehicle Credits (Sections 25E, 30D, and 45W)	<ul style="list-style-type: none"> <li>Phased out for vehicles acquired after September 30, 2025.</li> </ul>
Refueling Property Credit (Section 30C)	<ul style="list-style-type: none"> <li>Phased out for property placed in service after June 20, 2026.</li> </ul>
Energy Efficient Home Property Credit (Section 45L)	<ul style="list-style-type: none"> <li>Phased out for homes acquired after June 30, 2026.</li> </ul>
Residential Clean Energy Credit (Section 25D)	<ul style="list-style-type: none"> <li>Phased out for expenditures made after December 31, 2025.</li> </ul>
Energy Efficient Home Improvement Credit (Section 25C)	<ul style="list-style-type: none"> <li>Phased out for property placed in service after December 31, 2025.</li> </ul>
Energy Efficient Commercial Building Deduction (Section 179D)	<ul style="list-style-type: none"> <li>Phased out for property that begins construction after June 30, 2026.</li> </ul>
Clean Hydrogen Production Credit (Section 45V)	<ul style="list-style-type: none"> <li>Terminated for facilities that begin construction after December 31, 2027.</li> </ul>
Clean Electricity Production Credit (Section 45Y)	<ul style="list-style-type: none"> <li>Phased out for facilities that begin construction after 2032, except for solar and wind projects. No credits are available for solar or wind projects that are placed in service after December 31, 2027 unless they begin construction within 12 months of enactment.</li> <li>Material assistance rules apply to facilities that begin construction after December 31, 2025.</li> </ul>
Clean Electricity Investment Credit (Section 48E)	<ul style="list-style-type: none"> <li>Phased out for facilities that begin construction after 2032, except for solar and wind projects. No credits are available for solar or wind projects that are placed in service after December 31, 2027 unless they begin construction within 12 months of enactment.</li> <li>Higher thresholds for domestic content requirements take effect for facilities that begin construction starting June 16, 2025.</li> </ul>
Advanced Manufacturing Credit (Section 45X)	<ul style="list-style-type: none"> <li>Wind components are not eligible for credits if they are produced and sold after December 31, 2027.</li> <li>Integrated components: Starting after December 31, 2026, an eligible component (the “primary component”) that is integrated into another component (the “secondary component”) is eligible for the section 45X credit only if at least 65% of the total direct material costs of producing the secondary component are attributable to primary components mined, produced, or manufactured in the U.S.</li> <li>Battery modules must now be comprised of all other essential equipment needed for battery functionality, including essential energy collection equipment.</li> </ul>

	<ul style="list-style-type: none"> <li>Metallurgical coal is now an applicable critical mineral eligible for credit.</li> </ul>
Clean Fuel Production Credit (Section 45Z)	<ul style="list-style-type: none"> <li>Terminates for fuel sold after December 31, 2029 (rather than 2027, under current law).</li> <li>After December 31, 2025, to qualify for credits, fuel must be from feedstock produced or grown in the United States, Mexico, or Canada.</li> </ul>
Advanced Manufacturing Investment Credit (Section 48D)	<ul style="list-style-type: none"> <li>Credit percentage is increased from 25% to 35%.</li> </ul>
Carbon Oxide Sequestration Credit (Section 45Q)	<ul style="list-style-type: none"> <li>Base credit rate is now the same across the different uses of sequestered carbon oxide (including use as a tertiary injectant into oil wells).</li> </ul>

### **Less Favorable Depreciation Schedule for Energy Property**

- Historically, most renewable energy property (solar, wind, geothermal, and biomass energy property) has had a 5-year useful life under the “modified accelerated cost recovery system,” or “MACRS.”
- The Act makes 100% bonus depreciation permanent for many asset types, but removes the following types of energy property from the list of 5-year property under MACRS:
  - Solar energy and heating equipment;
  - Fiber-optic distributed sunlight equipment and electrochromic glass;
  - Geothermal energy equipment;
  - Fuel cells and microturbines;
  - Combined heat and power systems;
  - Qualified small wind energy property;
  - Ground and ground water thermal heating and cooling equipment;
  - Waste energy recovery property;
  - Energy storage technology;
  - Qualified biogas property; and
  - Microgrid controllers.

Qualified facilities and qualified property under sections 45Y and 48E (the technology-neutral clean energy production and investment credits) continue to be designated as 5-year MACRS property.

- In the absence of a statutory MACRS designation under the Code, the renewable energy assets listed above fall under the general MACRS rules regarding the determination of useful life. Certain types of property, including solar, wind, and geothermal, may continue to qualify as 5-year MACRS property under general rules and existing IRS guidance. However, without the protection of explicit statutory designation as 5-year property, the IRS could issue revised guidance changing these existing designations.
- Under the newly permanent bonus depreciation rules, some renewable energy property may still be eligible for bonus depreciation.

### **New Restrictions on Investments and Activities Involving of Certain Foreign Entities**

- **Prohibited Foreign Entity – The Taxonomy:** The Act introduces the new concept of a “prohibited foreign entity,” a term that includes “specified foreign entities,” which are generally subject to more stringent rules throughout the Act and “foreign influenced entities,” which are

generally subject to more relaxed rules under the Act.

- ***Specified foreign entity*** generally means:
  - Foreign terrorist organizations and sanctioned persons;
  - Chinese military companies, companies involved in Uyghur forced labor, and certain Chinese battery producers (including CATL and BYD); and
  - “Foreign-controlled entities,” which include governments, citizens, and residents of, and entities that are “controlled” (which means more than 50% ownership by vote or value, applying corporate attribution principles) by residents or entities of certain nations.

But the rule contains an exception for certain publicly traded entities.

- ***Foreign influenced entity*** generally means entities (including U.S. entities) that have certain equity, debt, or contractual relationships with specified foreign entities. Specifically, foreign influenced entities include entities where:
  - A specified foreign entity has direct authority to appoint a board member or executive-level officer;
  - A single specified foreign entity owns at least 25% of the entity;
  - Specified foreign entities own at least 40% of the entity in aggregate;
  - At least 15% of the debt is issued to specified foreign entities; or
  - The entity made a payment to a specified foreign entity, or an entity related to a specified foreign entity, that gave the specified foreign entity “effective control” over any qualified facility or energy storage technology owned by the taxpayer or eligible component produced by the taxpayer.

- ***Effective control*** includes the unrestricted contractual rights:
  - to determine the quantity or timing of production,
  - to determine the buyer or use of the output,
  - to restrict access to critical data or personnel, or
  - to the exclusive repair or operation of necessary plants or equipment.
- Until guidance is issued by the IRS, any intellectual property licensing agreement with respect to a qualified facility, energy storage technology, or the production of eligible components entered into on or after the date of the enactment of the Act is treated as granting effective control. In addition, for intellectual property licensing agreements in effect on the date of enactment of the Act, effective control includes:
  - the right to specify sources of components or property,
  - the right to direct the operation of a facility,
  - the right to limit the taxpayer’s utilization of intellectual property related to the credit activity,
  - the right to receive royalties for more than 10 years,
  - the right to require the taxpayer enter into a service agreement for more than 2 years, or
  - an agreement that does not provide the licensee with all required information to produce the eligible component without further involvement from the licensor or a specified foreign entity.

— These rules are extremely broad in scope. Restrictions on prohibited foreign entities would apply to a taxpayer who makes a payment to a specified foreign entity for any facility or component, to all of the taxpayer’s facilities and components.

— **Material Assistance from a Prohibited Foreign Entity:** New rules restrict the availability of the Section 45Y, 48E, and 45X credits to a taxpayer who receives “material assistance from a prohibited foreign entity.” An entity is treated as receiving “material assistance” if its “material assistance cost ratio” for a facility or component is less than a listed threshold percentage.

- The threshold percentages differ among the various energy property and component types, and increase each year starting in 2026.
- “Material assistance cost ratio” is calculated as the ratio between (1) direct costs incurred by the taxpayer that are not for components mined, produced, or manufactured by a prohibited foreign entity and (2) total direct costs incurred by the taxpayer.

The “material assistance” and “effective control” rules will require careful management of supply chains, including analysis into whether existing commercial contracts and IP licensing agreements need to be revised to be brought into compliance with the new restrictions.

— **Limitations on Transferability:** Prior to the Act, taxpayers could sell 12 types of renewable tax credits to other taxpayers for cash, which buyers could then use to offset their own U.S. federal income tax liability. Under the Act, credits cannot be transferred to specified foreign entities (although no such prohibition exists for foreign influenced entities).

— **Limitations Under Specific Credits:** The Act restricts the availability of specific credits based on prohibited foreign entity status:

- Section 45U (Nuclear) and Section 45Z (Clean Fuel) – No credit is available if the taxpayer is a specified foreign entity, and no credit is available for taxable years beginning two years after date of enactment if the taxpayer is a foreign influenced entity.
- Sections 45Y and 48E (Clean Electricity) – No credit is available if the taxpayer is a prohibited

foreign entity, or if a specified foreign entity has “effective control” over the facility.

- Section 45X (Advanced Manufacturing) – No credit is available for eligible components produced with “effective control” by a specified foreign entity.
- Section 45Q (Carbon Capture): No credit is available if the taxpayer is a prohibited foreign entity.

### **Open for Drilling**

— In addition to restricting and phasing out credits for renewable energy activities and investment, the Act slashes royalty rates payable for oil and gas drilling on federal lands, mandates that 80 million acres be made available in the Gulf of Mexico for drilling, and directs 4 million acres of federal land to be made available for coal mining.

### **Not in the Act**

— The Act omits several provisions discussed at various stages of the legislative process, including termination of the credit transferability program, an additional excise tax for solar and wind facilities, and even earlier phase-out dates beginning as soon as 60 days after enactment. However, a few House Republicans have indicated that their votes for passing the Act into law were conditioned on Trump’s promise to enact even further restrictions on solar and wind projects, either through executive action or future legislation – with the goal of “getting 90-plus percent of all future projects terminated.”

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