DWEA Webinar
INVESTMENT TAX CREDIT (ITC) UPDATE

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January 25, 2016

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RECENT LEGISLATION

- Two acts, approved by the Congress, were signed by the President on December 18, 2015:
  - Consolidated Appropriations Act, 2016 (the “Appropriations Act”); and
  - Protecting Americans from Tax Hikes Act of 2015 (the “PATH Act”)

RECENT LEGISLATION

- The Appropriations Act addresses wind and solar.
- The PATH Act addresses Production Tax Credit ("PTC") technologies other than wind (i.e., biomass, geothermal (for electricity), landfill gas, municipal solid waste, qualified hydropower, and marine and hydrokinetics), as well as certain other fuels and Indian coal.
- There are no changes to the Investment Tax Credit ("ITC") for fuel cells, microturbines, cogeneration and geothermal (for heat).
- Also, no changes for the small wind ITC.

PTC FOR WIND

- Prior to the Appropriations Act, to be eligible for the PTC, construction must have begun by 2014
- The PTC for 2015 was 2.3 cents per kilowatt hour of electricity produced and sold to an unrelated third party, a price which is annually adjusted for inflation
- Now, construction must begin by December 31, 2020, but the PTC is reduced over that time
- If construction begins in 2015 or 2016, the PTC is not reduced
- If construction begins in 2017, the PTC is reduced by 20%
- If construction begins in 2018, the PTC is reduced by 40%
- If construction begins in 2019, the PTC is reduced by 60%
- There is no wind PTC if construction does not begin by December 31, 2019

ITC FOR WIND

- There is now a similar phase-down of the 30% ITC for wind projects opting out of the PTC into the ITC
- If construction begins in 2015 or 2016, the ITC remains at 30%
- If construction begins in 2017, the ITC is reduced by 20%, to a 24% ITC
- If construction begins in 2018, the ITC is reduced by 40%, to an 18% ITC
- If construction begins in 2019, the ITC is reduced by 60%, to a 12% ITC
- There is no wind ITC if construction does not begin by December 31, 2019

PTC FOR TECHNOLOGIES OTHER THAN WIND

- Biomass, geothermal (for electricity), landfill gas, municipal solid waste, qualified hydropower, and marine and hydrokinetics are now eligible for the full PTC for which they were eligible before the recent legislation if construction begins in 2015 or 2016
- These facilities are also eligible to elect the full ITC if construction begins in 2015 or 2016
- There is no phase down for these facilities; if construction does not begin by December 31, 2016, then here is no PTC and no ITC

ITC FOR SOLAR

- Solar has not been eligible for the PTC since 2005, so solar can claim only the ITC
- Prior to the recent legislation, solar was eligible for a 30% ITC if placed in service by December 31, 2016 and a 10% ITC if placed in service thereafter
- Under the recent legislation, the solar ITC has been provided an extended and gradual phase down.
- Also, the solar paradigm has moved from placement in service to beginning construction

ITC FOR SOLAR

- If construction begins in 2016, 2017, 2018 or 2019 and the facility is placed in service by December 31, 2023, there is a full 30% ITC
- If construction begins in 2020 and the facility is placed in service by December 31, 2023, there is a 26% ITC
- If construction begins in 2021 and the facility is placed in service by December 31, 2023, there is a 22% ITC
- If construction does not begin by December 31, 2021 or the facility is not placed in service by December 31, 2023, there is a 10% ITC
- The 10% ITC is a permanent provision

ITC FOR OTHER TECHNOLOGIES

- The ITC for other technologies continues to require placement in service by December 31, 2016
- This covers fuel cells, microturbines, cogeneration and geothermal (for heat)
- The separate small wind (under 100kW) ITC was also not extended
- However, there is no size requirement on the wind PTC and the ability of a wind facility to opt out of the PTC into the ITC

BONUS DEPRECIATION

- Depreciation is a writing down, or amortizing, of the cost of an asset
- Renewable energy facilities are generally depreciated over 5 years, using 5-year MACRs
- Depreciation “losses” can be used to offset income and reduce taxable income (subject to certain requirements)
- Bonus Depreciation does not mean “extra” depreciation, but the ability to claim depreciation on a more accelerated basis

BONUS DEPRECIATION

- For 2012, 2013 and 2014, 50% Bonus Depreciation was available, so that 50% of a facility's depreciable basis could be claimed the day the facility was placed in service, and the remaining 50% would be claimed over five-years, using five-year MACRs
- Under the PATH Act, 50% Bonus Depreciation was extended for facilities placed in service in 2015, 2016 and 2017
- Also, a phase-down was provided of 40% Bonus Depreciation for facilities placed in service in 2018 and 30% Bonus Depreciation for facilities placed in service in 2019