The Real Estate Roundtable Fact Sheet

Clean Energy Provisions Relevant to U.S. Real Estate in the U.S. House's "One, Big, Beautiful Bill"

Summary

This fact sheet summarizes the treatment of clean energy tax incentives in "The One, Big Beautiful Bill," marked-up by the House Ways & Means Committee on May 13-14, 2025. The summary is based on the Joint Committee on Taxation's description. (JCX-18-25, May 9, 2025).

For a summary of the tax incentives passed by Congress in 2022 in the *Inflation Reduction Act (IRA)* – which the May 2025 House bill would proposed to alter, phase-out, or eliminate – see RER fact sheet (updated July 31, 2023).

48E Investment Tax Credit

- **For "qualified facilities" like solar, storage, geothermal, CHP, and grid interconnection projects for commercial and multifamily buildings.**
- **The ITC would phase-out over time, based on the calendar year (CY) in which the facility is "placed in service":**
    - In calendar years 2025, 2026, 2027, and 2028 … No change. Eligible for full rates as under the *IRA*.
    - In CY 2029 … a roll-back to 80% of the credit value
    - In CY 2030 … a roll-back to 60% of the credit value
    - In CY 2031 … a roll-back to 40% of the credit value
    - In CY 2032 and after – The ITC is proposed for elimination.

  Note: The House bill proposes that the ITC is available based on the calendar year in which energy property is **"placed in service."** This differs from prior, more generous approaches that stretched the ITC's availability longer into the future based on the year in which **"construction begins"** of energy property.

- **"Transferability" of the ITC to 3rd parties**
    - 2-year grace period
    - Transferability is terminated for facilities and storage technology that "begin construction" after the date that is 2 years after enactment.
    - E.g: If the law passed May 15, 2025, you'd have until May 16, 2027 to "begin construction" to take advantage of transferability.
    - The bill does not define "beginning of construction." IRS Notice 2018-59 will likely continue to provide the governing definition for "beginning of construction" for purposes of any clean energy incentives that remain in the federal tax code. Either must be met:
        - **"Physical Work Test":** Subjective and fact-based, requires starting "physical work" of a "significant nature"
        - **"5% Safe Harbor":** Objective, satisfied by paying or incurring 5% or more of the total cost of the facility.

- **Subject to the "phase-outs" above, there do not appear to be any changes to the ITC regarding:**
    - The "small solar" provision: If the project generates <1 MW of electricity, it qualifies for a credit totaling 30% of the energy property's cost
    - Davis-Bacon Prevailing Wage and Registered Apprentice (PW/RA) Increase: Projects that meet PW/RA qualify for 30% tax credit. If PW/RA not satisfied, project qualifies for 6% tax credit.

- Domestic Content Bonus: 2% increase to credit amount remains if "domestic content" requirements are met.
  - Low Income Communities Bonus: Remains subject to phase-out, with some changes to the calculation of "gigawatt capacity" for qualified facilities.

- **"Prohibited Foreign Entities:" Cannot "Control," "Influence," or Provide "Material Assistance" to, the Taxpayer Claiming the ITC**
  - **Immediately Upon enactment:** Taxpayer cannot be a "specified foreign entity" (e.g., a designated terrorist organization; a Chinese military company; on the "blocked list" maintained by Treasury's Office of Foreign Asset Control (OFAC); the governments of China, Russia, Iran or North Korea).
  - **1 Year After Enactment:** Facilities that begin construction cannot receive "material assistance" from a prohibited foreign entity.
    - "Material assistance" includes whether any component, subcomponent, or critical mineral is manufactured, processed, or extracted by a prohibited foreign entity.
    - ***Seeking clarification:*** Whether a facility that installs solar panels manufactured in China can claim the ITC.
  - **2 Years After Enactment:** Taxpayer cannot be a "foreign influenced entity," or provide dividends, compensation, or other payments to a prohibited foreign entity.
    - "Foreign-influenced" depend on factors such as whether a "specified" foreign entity has direct or indirect authority to appoint the taxpayer's corporate officers, or the percentage of equity ownership in the taxpayer.

45L Tax Credit

- For new single-family and multifamily construction
- Grace period through 12-31-26 -- For any home for which construction began before May 12, 2025
- Generally, 45L is eliminated for any new energy efficient home acquired after 12-31-25.

179D Tax Deduction

- For energy efficient new commercial construction and existing building retrofits (HVAC, hot water, lighting, envelope improvements that improve efficiency on a per square foot basis)
- Not addressed at all in the W&M bill (!?)
- 179D became permanent in the *IRA*, so apparently it lives on unscathed.

30C Tax Credit

- For EV charging stations
- Eliminated for charging property placed in service on or after Jan 1, 2026.