

Elective Pay for Clean Energy Tax Credits: Public Power Utilities



Disclaimer: This document provides an overview of certain Inflation Reduction Act (IRA) tax provisions for general informational purposes only. It does not constitute professional tax advice or other professional financial guidance. Please refer to guidance issued by the IRS for detailed information on the rules associated with Inflation Reduction Act tax provisions. This guide should not be used as the only source of information when making purchasing decisions, investment decisions, tax decisions, or when executing other binding agreements.

What is Elective Pay? Cash for Clean Energy!

Elective Pay (also called “direct pay”) allows applicable entities that do not owe Federal income taxes to, for the first time, receive a payment equal to the full value of tax credits for building qualifying clean energy projects or making qualifying investments. Unlike a competitive grant program, entities are eligible to get their payment if they meet the requirements for both elective pay and the underlying tax credit (however, some incentives do require an application and allocation; see below).

Who is Eligible?

- Public power utilities, including municipal electric utilities, rural electric cooperatives, and the Tennessee Valley Authority.
- State, Local, Tribal, and Territorial governments.
- Agencies and instrumentalities of State, Local, Tribal, and Territorial governments. Examples include water districts, school districts, economic development agencies, and energy or natural resource agencies.

- All tax-exempt organizations under sections 501 through 530 of the U.S. tax code, including all 501(c)(3) organizations and religious 501(d) organizations. Examples include public charities, private foundations, social welfare organizations, labor organizations, schools, and hospitals

Note: Partnerships, even if all the partners are individually eligible, are not eligible for elective pay.

- However, certain joint operating arrangements can “elect out” of being treated as a partnership under the tax code in order to permit eligible co-owners to elect to receive an elective payment on their share of eligible credits.



What tax credits are eligible for elective pay?

Twelve clean energy tax credits are eligible for elective pay, including the:

- **Production Tax Credit for Electricity from Renewables** (Section 45, begins construction pre-2025), which supports the production of electricity from eligible renewable sources including wind, biomass, geothermal, solar, small irrigation, landfill and trash, hydropower, marine and hydrokinetic energy.
- **Investment Tax Credit for Energy Property** (Section 48, begins construction pre-2025), which supports capital investment in renewable energy including fuel cells, solar, geothermal, small wind, energy storage, biogas, microgrid controllers, and combined heat and power properties.
- **Clean Electricity Production Tax Credit** (Section 45Y, 2025 onwards), a technology-neutral tax credit that supports the production of clean electricity.
- **Clean Electricity Investment Tax Credit** (Section 48E, 2025 onwards), a technology-neutral tax credit which supports investment in renewable energy projects.
- **Commercial Clean Vehicle Tax Credit** (Section 45W), which supports the purchase of electric vehicles including passenger vehicles, busses, ambulances, and others.
- And numerous other credits supporting technologies including EV chargers, carbon oxide sequestration, renewable fuels, and clean hydrogen.

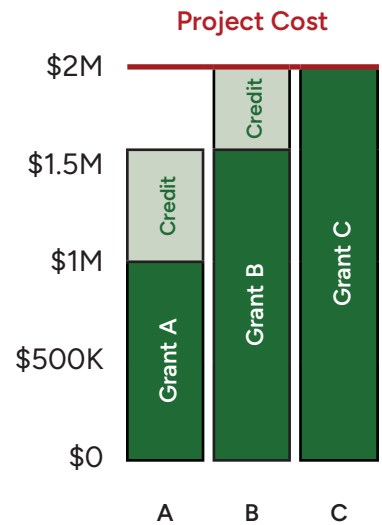
Refer to [IRS documentation](#) for the complete list of eligible credits and additional details.

Tax Credits can combine with grants and loans

Investment projects can benefit from a combination of funding mechanisms, including grants, forgivable loans, and tax credits. The total grant or forgivable loan funding received for a specific project (restricted tax-exempt amount), plus the tax credit for that investment, cannot exceed the cost of the investment.

For example, consider a rural electric cooperative (REC) that receives a tax-exempt grant towards the construction of a \$2 million geothermal power plant. This project meets prevailing wage and apprenticeship requirements (see below) and is eligible for a 30% Investment Tax Credit through elective pay (\$600,000). The amount of grant funding received determines whether the REC can receive the full value of the tax credit from the IRS. Consider the following scenarios:

- A. The grant amount is \$1,000,000. This amount combined with the \$600,000 tax credit is less than the project cost, so the REC will receive the full credit amount.
- B. The grant amount is \$1,500,000. This amount combined with the \$600,000 tax credit is greater than the project cost, so the tax credit amount is reduced to \$500,000.
- C. The grant amount is \$2,000,000, which fully covers the cost of the project. The REC will not receive an Investment Tax Credit. They may instead consider claiming a Production Tax Credit for the electricity produced by the power plant.



Bonuses can substantially increase tax credit value

Bonus Type	Eligible Credits	Bonus Value
Low-Income Communities Bonus* for clean electricity facilities on Indian land or federally subsidized housing, in low-income communities, or benefiting low-income households	Clean Electricity Investment Tax Credits (§ 48, 48E) for small-scale solar and wind	10 or 20 percentage point increase, depending on eligibility category
Energy Communities Bonus** for projects located in areas with closed coal mines or coal-fired power plants, brownfield sites, and areas with significant employment or local tax revenues from fossil fuels and higher than average unemployment	<ul style="list-style-type: none"> Clean Electricity Production Tax Credits (§ 45, 45Y) Clean Electricity Investment Tax Credits (§ 48, 48E) 	<ul style="list-style-type: none"> 10 percent increase in the Production Tax Credits Up to 10 percentage point increase in the Investment Tax Credits
Domestic Content Bonus† for projects or facilities that meet domestic content requirements		

*An application is required for this bonus, and more information is available at <https://www.energy.gov/justice/low-income-communities-bonus-credit-program>

** More information, eligibility criteria, and a map of eligible energy communities are available at energycommunities.gov/energy-community-tax-credit-bonus/

†Starting in 2024, for taxpayers using elective pay, the domestic content requirement can also result in a reduction of the applicable credit amount if it is not met. More information is available at <https://www.irs.gov/credits-deductions/domestic-content-bonus-credit>

Supercharge the Clean Electricity ITC with Bonus Stacking!

Up to 60% total tax credit!

- 10% Low-Income Communities Bonus
- 10% Energy Communities Bonus
- 10% Domestic Content Bonus
- 30% Base ITC Meets PWA Requirements

Bonus Stacking Example – A municipal electric utility constructs a solar array located in a qualified coal community. Through the Clean Electricity Investment Tax Credit, the utility can receive a direct payment from the IRS for 30% of the project cost, if PWA requirements are met. The utility will receive an additional 10% Energy Communities Bonus Credit because the project is located in an energy community. It also may receive an additional 10% Low-Income Communities Bonus Credit if the project is located in a low-income community and the utility applies for and receives an allocation under that program. Lastly, if the project meets domestic content requirements, the utility is eligible to receive the 10% Domestic Content Bonus Credit. This results in a potential total tax credit that covers 60% of the project cost through elective pay.



Prevailing Wage and Apprenticeship (PWA) Requirements: For most of the clean energy tax credits eligible for elective pay, the base credit amount is increased by five times for projects that ensure that laborers and mechanics are paid no less than applicable prevailing wage rates and employ apprentices from registered apprenticeship programs for a certain number of hours. Exceptions apply for some applicable credits or projects, including for certain facilities, energy projects, or energy storage technology of less than 1 megawatt when claiming § 45, 45Y, 48, and 48E credits. Learn more about these requirements at [Publication 5855, IRA Prevailing Wage & Registered Apprenticeship Overview](#).

How to Claim Credits using Elective Pay

1. Identify the project you want to pursue and the corresponding tax credit and bonuses.
2. Complete your project and place it into service.
3. Determine your tax year, if not already known, to determine when your tax return will be due.
4. Register with the IRS using the IRA and CHIPS Pre-Filing Registration Tool
 - Recommended to submit registration packet 120 days before intended filing date.
 - One submission per entity per taxable year (can contain multiple credits and projects).
5. File a tax return with the IRS by the due date (including any extensions) and make a valid elective pay election. Provide your registration number on your tax return as part of making the elective pay election.
 - Check IRS guidance and FAQs for more details on required forms, deadlines, and how to apply for an extension.
 - i. For most tax exempt and government entities, the deadline is 4.5 months after the end of the entity's tax year (for example, May 15 for a calendar tax year).
 - ii. Entities without an annual filing requirement will receive an automatic 6-month extension; others can request an automatic 6-month extension.
6. Once the tax return is processed, the IRS will send out the direct payment!
 - Payment will occur after the tax return is processed (assuming requirements are met).
 - The earliest possible date of payment is the due date of the return (not including extensions), even if an entity files the return before that date.

Where can I find more information?

IRS Webpages:

[Elective Pay and Transferability Resources](#)
[Frequently Asked Questions - Elective Pay](#)
[Pre-Registration Tool & User Guide](#)
[Frequently Asked Questions - PWA Requirements](#)

The White House: [Direct Pay Through the Inflation Reduction Act](#)

U.S. Department of Labor: [PWA Requirements Information](#)

U.S. Department of the Treasury: [Inflation Reduction Act Homepage](#)