

Clean Energy Tax Incentives for Nonprofit Organizations

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The Inflation Reduction Act of 2022 (“IRA”), which was signed into law on August 16, 2022, introduced various tax benefits that are available to eligible tax-exempt organizations. Listed below are some of the more salient tax incentives that qualifying nonprofit organizations are permitted to claim:

Tax Provision under IRA	Type of Clean Energy Expenditure
§ 48 Investment Tax Credit for Energy Expenditure	Investment in renewable energy projects (fuel cell, solar, geothermal, small wind, energy storage, biogas, microgrid controllers, and combined heat/power properties); available credit – from 6% and 30% of investment based on PWA requirements.
§ 48E Clean Electricity Investment Tax Credit	Investment in facilities that generate clean electricity and qualified energy storage technologies (for facilities that begin construction and are placed in service after 2024); available credit – from 6% and 30% of investment based on PWA requirements.
§ 48(e) §48E(h) Low-Income Communities Bonus Credit	Additional investment tax credit for small-scale solar and wind (§48(e)) or clean electricity (§48E(h)) facilities on Indian land, federally subsidized housing, in low-income communities or facilities that benefit low-income households.
§ 45W Credit for Qualified Commercial Clean Vehicles	Purchases of commercial clean vehicles, including passenger vehicles, buses, ambulances, and certain vehicles on public roads/highways.
§ 30C Alternative Fuel Vehicle Refueling Property Credit	Alternative fuel vehicle and charging property including electricity ethanol, natural gas, hydrogen, and biodiesel.
IRC 179D Energy Efficient Commercial Buildings Deduction	Energy-efficient building improvements, including the installation of interior lighting, HVAC systems, water systems, and adjustments to the building envelope.

Eligible tax-exempt organizations can claim clean energy tax incentives through elective pay. Elective pay, also referred to as “direct pay,” is a federal program available to entities such as tax-exempt organizations who would not otherwise be able to claim applicable tax credits because they do not pay federal income tax. Tax-exempt organizations can benefit from these clean energy tax incentives by treating the credits as a payment of tax and receiving a refund for any resulting overpayment. A nonprofit qualifying for the tax credit would file IRS Form 990-T to claim elective pay for the value of the tax credit. The IRS would then issue a refund in the amount of the credit to the tax-exempt organization.

Tax-exempt organizations interested in making the direct payment election must complete the Pre-Filing Registration Requirement described in the Temporary Regulations and obtain a registration number for each applicable credit property.

Tax-exempt organizations are generally unable to benefit from enhanced tax deductions. However, the Sec. 179D program allows certain tax-exempt organizations to allocate the deduction to architecture, engineering, and design-build contractor businesses primarily responsible for designing the property. The tax-exempt organization may be able to negotiate the allocation of the deduction (and tax savings) to the designer for a decrease in the total cost of the project.

If you have any questions about the IRA or whether your organization may be eligible for clean energy tax benefits, please contact Johnson O'Connor's Nonprofit team. We have the experience and expertise to help you take advantage of these beneficial tax incentives while they are still available.

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