

Inflation Reduction Act Clean Energy Tax Credits: Elective (Direct) Pay for Non-Taxable Entities



WHAT IS ELECTIVE PAY?

The Inflation Reduction Act of 2022 reauthorized a wide array of clean energy tax credits through 2033 and also enabled **non-taxable entities** to access those tax credits directly through a process called Elective Pay (also known as Direct Pay)¹.

WHO IS ELIGIBLE FOR ELECTIVE PAY?

“Applicable Entities” include tax-exempt organizations, state and local governments and their agencies and instrumentalities, school districts, tribal governments, and consumer-owned utilities².

WHAT TAX CREDITS ARE WE TALKING ABOUT?

The Inflation Reduction Act specifies twelve commercial tax credits applicable entities can access via elective pay. These three are the most relevant³:

1. The (Clean Energy) **Investment Tax Credit (ITC)** for **Energy Property** (section 48, pre-2025) and for **Clean Electricity** (section 48E, 2025 and onwards) provides a **base 30% credit** for solar, geothermal, storage, and other qualifying projects for systems **under 1MW in size** (see the next question for larger systems). In addition to receiving the financial value of the 30%, some projects may also qualify for additional tax credits⁴. These include a 10% bonus for projects in “energy communities”⁵ a 10% bonus for “domestic content,” and a 10 or 20% bonus for certain low-income projects⁶. The credits are “stackable” up to 70% (this is rare), but the total amount of the credit cannot exceed the project's cost.

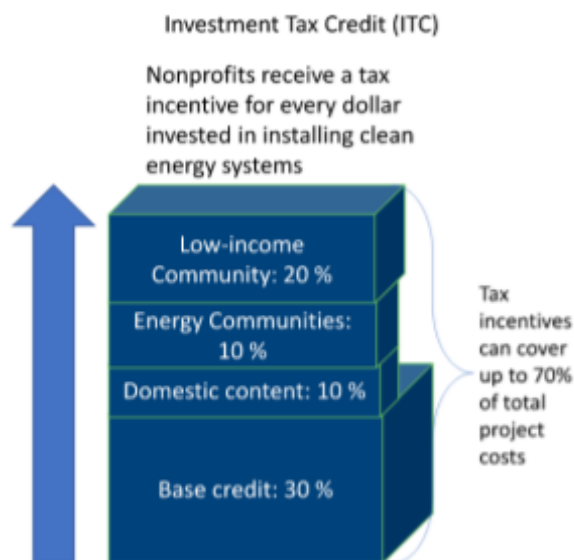


Figure SEQ Figure * ARABIC 1, from *Direct Pay: Nonprofits Can Now Benefit From Clean Energy Tax Credits*; Environmental and Energy Study Institute; Miguel Yanez-Barnuevo

¹ See these key IRS web sites

- a) [Elective pay and transferability | Internal Revenue Service \(irs.gov\)](https://www.irs.gov/efile)
- b) [Publication 5817 \(6-2023\) \(irs.gov\)](https://www.irs.gov/pub/irs-soi/230605pub5817)
- c) [Elective Pay and Transferability Frequently Asked Questions: Elective Pay | IRS.gov](https://www.irs.gov/efile/elective-pay-frequently-asked-questions)
- d) And this helpful White House site [Direct Pay | Clean Energy | The White House](https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/16/)

² See question #1 in the [FAQ document](#) listed in 1(c)

³ See question #13 in the [FAQ document](#) listed in 1(c), and see [Publication 5817-G \(6-2023\) \(irs.gov\)](https://www.irs.gov/pub/irs-soi/230605pub5817)

⁴ See this DOE site for a comprehensive discussion [Federal Solar Tax Credits for Businesses | Department of Energy](https://www.energy.gov/eere/solar/federal-solar-tax-credits-for-businesses)

⁵ See [Energy Community Tax Credit Bonus - Energy Communities](https://www.energy.gov/eere/solar/energy-community-tax-credit-bonus)

⁶ See [Low-Income Communities Bonus Credit Program | Department of Energy](https://www.energy.gov/eere/solar/low-income-communities-bonus-credit-program)

2. The **Clean Vehicle Credit** (section 45W)⁷ provides a commercial clean vehicle credit of up to \$40,000 (\$7,500 for vehicles <14,000 lbs), and the **Refueling Property Credit** (section 30C)⁸ provides up to 30% for refueling/recharging property.

WHAT ARE THE LABOR AND DOMESTIC CONTENT REQUIREMENTS?

There are no labor and domestic content requirements for projects under 1 MW in capacity. For all projects (not only elective pay) over 1MW, the clean energy investment tax credit (48 and 48E) base rate is 6% and jumps to 30% when prevailing wage and apprenticeship requirements are met⁹. For elective pay projects over 1MW that do not meet the domestic content requirements, there is a 10% reduction in the base value for projects beginning construction in 2024, a 15% reduction in 2025, and a 100% reduction thereafter¹⁰. For projects over 1MW this could be a race against time¹¹.

WHAT IS THE PROCESS TO ACCESS THE CREDITS?

Entities eligible for elective pay will need to¹²

1. Identify a qualifying project and the related tax credit(s)
2. Determine your tax year
3. Pre-file for a registration number for each applicable property,
4. Satisfy requirements within a given tax year, and
5. File an annual tax return and make the valid elective payment election.

SELECT NON-GOVERNMENTAL RESOURCES

[International City/County Management Association](#)

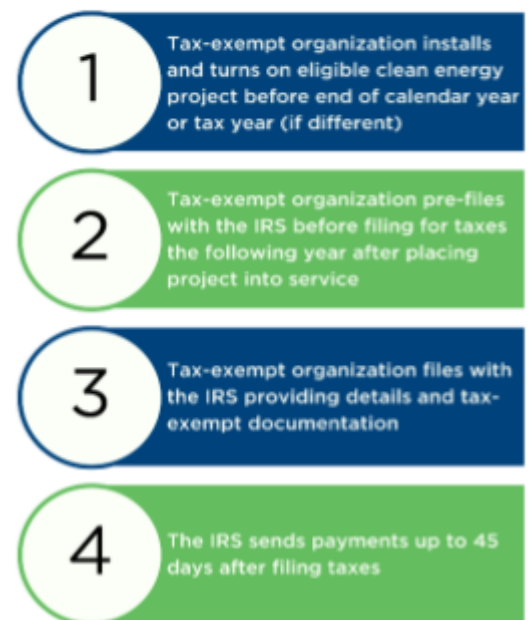
[World Resources Institute](#)

[Environmental and Energy Study Institute](#)

[BlueGreen Alliance](#)

[CPE Elective Pay Model](#)

Direct Pay Timeline



The entire process can take anywhere between four and 18 months

Figure SEQ Figure * ARABIC 2: , from Direct Pay: Nonprofits Can Now Benefit From Clean Energy Tax Credits; Environmental and Energy Study Institute; Miguel Yanez-Barnuevo

⁷ See [Commercial Clean Vehicle Credit | IRS.gov](#), [Publication 5724-H \(4-2023\) \(irs.gov\)](#), and [Topic G — Frequently asked questions about Qualified Commercial Clean Vehicle Credit | \(irs.gov\)](#)

⁸ See [Alternative Fuel Vehicle Refueling Property Credit | Internal Revenue Service \(irs.gov\)](#)

⁹ See [Prevailing wage and apprenticeship requirements | irs.gov](#), [FAQs about the prevailing wage and apprenticeship under the IRA | irs.gov](#), and [Inflation Reduction Act Tax Credit | U.S. Department of Labor](#)

¹⁰ See Q15 in [Elective Pay and Transferability FAQ | irs.gov](#), and [The Clean Energy Investment Tax Credit \(ITC\): Direct Pay Claimants' Race Against Time - Climate Law Blog \(columbia.edu\)](#)

¹¹ See [blogs.law.columbia.edu](#)

¹² See [Register for elective payment or transfer of credits | irs.gov](#) and [Publication 5884 \(irs.gov\)](#)