



# TaxNewsFlash

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## Notice 2024-41: Modified domestic content bonus credit guidance under sections 45, 45Y, 48, and 48E, including new elective safe harbor

The IRS today released [Notice 2024-41](#) which modifies the existing domestic content safe harbor in Notice 2023-38 and provides a new elective safe harbor for determining the domestic content bonus credit amounts under sections 45, 45Y, 48, and 48E.

### Background

H.R. 5376 (commonly called the “Inflation Reduction Act of 2022” (IRA)) amended sections 45 and 48 to provide a domestic content bonus credit amount for certain qualified facilities or energy projects placed in service after December 31, 2022, and added new sections 45Y and 48E, which also incorporate a domestic content bonus credit amount, for projects placed in service after December 31, 2024.

Very generally, the domestic content bonus provides taxpayers claiming clean energy tax credits with the opportunity to claim up to an additional 10% credit for constructing projects using domestically produced steel, iron, and manufactured products.

Manufactured products are considered domestically produced if not less than an adjusted percentage of the total costs of such manufactured product are mined, produced, or manufactured in the United States. The adjusted percentage starts at 40% for projects on which construction begins before 2025 and increases thereafter.

Importantly, while satisfying the domestic content rules provide a bonus credit opportunity, not satisfying domestic content may also result in a haircut to the amount of a credit claimant’s “direct pay” tax credit, when applicable.

The IRS in May 2023 released [Notice 2023-38](#) describing certain rules that the Treasury Department and IRS intend to include in forthcoming proposed regulations regarding the domestic content bonus credit requirements under sections 45, 45Y, 48, and 48E. In particular, section 3.04 of the notice described a safe harbor regarding the classification of certain components in representative types of qualified facilities, energy projects, or energy storage technologies. Read [TaxNewsFlash](#)

## Notice 2024-41

Notice 2024-41 modifies section 3.04 of Notice 2023-38 in the following three ways:

- Expands the list of Applicable Projects in “Table 2—Categorization of Applicable Project Components” to include hydropower and pumped hydropower storage facilities
- Redesignates the “Utility scale photovoltaic system” Applicable Project as the “Ground-mount and rooftop photovoltaic system”
- Includes certain Manufactured Product Components with respect to previously listed Applicable Projects

Notice 2024-41 also provides a new safe harbor in Table 1 of the notice that taxpayers may elect to use to classify Applicable Project Components and to calculate the Domestic Cost Percentage in an Applicable Project to qualify for the domestic content bonus credit amounts under sections 45, 45Y, 48, and 48E. Taxpayers may elect to use the classifications and cost percentages in the new elective safe harbor in lieu of the Domestic Manufactured Products and Components Cost and Total Manufactured Products Cost provisions of the Adjusted Percentage Rule in section 3.03(2)(b) and (c) of Notice 2023-38, which provisions require taxpayers to use the manufacturer’s direct costs of producing Manufactured Products and Manufactured Product Components in an Applicable Project. Taxpayers who elect to use the new elective safe harbor for any Applicable Project must use the classifications and cost percentages provided under the new elective safe harbor when applying the Adjusted Percentage Rule and may not use a different method or substitute any cost percentages into Table 1 to determine any classifications and costs.

The notice requests comments to inform any potential updates to Table 2 and the new elective safe harbor under Table 1, and specifically requests comments with respect to the following questions:

- Are there any other technologies, or technology subsets, that should be addressed by Table 1 of the notice, and what criteria should be used for new additions? How often should the table be updated?
- Are there instances in which the nameplate capacity allocation approach in section 4.03 of the notice for calculating domestic content for a mix of foreign and domestic Manufactured Product Components should be clarified, either for current technologies or technologies that may be addressed in the future? In those instances, how should the Assigned Cost Percentages be allocated to Applicable Project Components with a mix of foreign and domestic Manufactured Product Components?

Comments are requested by July 15, 2024, but the notice states that consideration will be given to any written comments submitted after July 15, 2024, if such consideration will not delay the issuance of future published guidance.

The notice further states that taxpayers may rely on Notice 2023-38, as modified by Notice 2024-41, for the domestic content bonus credit requirements for any Applicable Project the construction of which begins before the date that is 90 days after the date of publication of the forthcoming proposed regulations on the domestic content bonus credit requirements in the Federal Register. In addition, taxpayers may rely on the new elective safe harbor provided in Table 1 of Notice 2024-41 for the domestic content bonus credit requirements for any Applicable Project the construction of which begins before the date that is 90 days after any future modification, update, or withdrawal of the new elective safe harbor.

In addition, a related [Treasury release](#) states that “Treasury and IRS continue to consider stakeholder comments and plan to issue further domestic content guidance to address issues not in the scope of this guidance, including adding further sectors, including offshore wind, to the new elective safe harbor table and issuing proposed rules for projects using elective pay (sometimes referred to as direct pay). In particular, Treasury and IRS, with DOE and other agencies, continue to evaluate potential options to further the IRA’s goal of incentivizing U.S. solar manufacturing, including solar wafer production.”

Read a related IRS release—[IR-2024-140](#) (May 16, 2024)

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