



TaxNewsFlash

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Final regulations: Guidance on prevailing wage and apprenticeship requirements under clean energy tax incentives

The U.S. Treasury Department and IRS today released [final regulations](#) (T.D. 9998) regarding the increased credit amounts or the increased deduction amount available for taxpayers satisfying prevailing wage and registered apprenticeship (PWA) requirements established by H.R. 5376 (commonly called the “Inflation Reduction Act of 2022” (IRA)).

The final regulations are effective August 26, 2024.

The final regulations provide guidance on various aspects of the PWA requirements including:

- Taxpayer recordkeeping requirements
- Wage determinations, including for projects spanning multiple geographic areas or located offshore
- Correction and penalty provisions
- Apprenticeship requirements and the “Good Faith Effort” exception
- Application of the PWA rules to specific Code provisions

The IRS also today released [Publication 5983](#), *IRA Prevailing Wage and Apprenticeship Requirements Fact Sheet*, and updated previously issued [Publication 5855](#), *IRA Prevailing Wage & Registered Apprenticeship Overview*, and the prevailing wage and apprenticeship [“frequently asked questions” \(FAQs\)](#).

In addition, to support the IRS's efforts in monitoring taxpayer compliance with the PWA requirements, the IRS and the U.S. Department of Labor (DOL), which determines the applicable prevailing wage rates for each classification of laborers and mechanics in a prescribed geographic area for a particular type of construction, are working on a memorandum of understanding (MOU) to be signed by the end of the year. The MOU will facilitate joint and cooperative education and public outreach and development of training content for IRS examination personnel, as well as DOL's review and comment as part of the development of PWA tax forms. The MOU will also formalize a process for DOL to share with the IRS any credible tips or information that DOL receives as to potential noncompliance with the PWA requirements.

Read a related IRS release—[IR-2024-168](#) (June 18, 2024)

Read a related [Treasury release](#) (June 18, 2024)

Background

The IRA generally provides increased credit or deduction amounts for taxpayers who satisfy certain PWA requirements regarding the construction, installation, alteration or repair of a qualified facility, qualified property, qualified project, qualified equipment or for certain energy facilities with a maximum net output of over 1 Mw. The increased credit or deduction amount is generally equal to the base amount multiplied by five if the taxpayer satisfies the PWA requirements. Small credit property—generally that with under 1 Mw of capacity—may get the increased credit or deduction rate or amount without meeting the PWA requirements.

The Treasury Department and IRS released proposed regulations regarding the PWA requirements on August 29, 2023. Read [TaxNewsFlash](#)

On the same day, the IRS also released FAQs about the PWA requirements and Publication 5855, which is an overview of the PWA requirements and the applicable credits. Read [TaxNewsFlash](#)

Treasury and the IRS previously provided guidance on the PWA requirements in Notice 2022-61 (read [TaxNewsFlash](#)), which provided high-level rules on the PWA requirements and also started the 60-day “clock” for a PWA requirements transition rule such that projects on which construction began before January 29, 2023, are eligible for the higher credit or deduction amounts without satisfying the PWA requirements.

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