



# TaxNewsFlash

United States

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## Notice 2024-84: Extension of transitional process for applicable entities to claim statutory exceptions to phaseouts for clean energy credits if domestic content requirements not met

The IRS today released [Notice 2024-84](#) which extends the transitional process originally provided in Notice 2024-9 for applicable entities (generally tax-exempt organizations, state and local governments, Indian tribal governments, Alaska Native Corporations, the Tennessee Valley Authority or rural electric cooperatives) to claim the statutory exceptions to the application of the phaseouts for credits determined under sections 45 (renewable electricity production), 45Y (clean electricity production), 48 (energy), and 48E (clean electricity investment) for elective payment projects that begin construction during calendar year 2024 that fail to satisfy the domestic content requirement.

### Background

Pub. L. No. 117-169 (commonly called the “Inflation Reduction Act of 2022” (IRA)) amended sections 45 and 48 to provide rules that taxpayers must satisfy to receive bonus credit amounts for satisfying domestic content requirements with respect to qualified facilities and energy projects placed in service after December 31, 2022. The IRA also added new sections 45Y and 48E, which provide similar rules for domestic content bonus credit amounts with respect to qualified facilities, and qualified investments in qualified facilities or energy storage technologies, placed in service after December 31, 2024.

Section 45(b)(10), as amended by the IRA, provides the phaseouts for credits determined under section 45 for elective payment projects (i.e., those projects subject to an elective payment election under section 6417) that fail to satisfy the domestic content requirement. Section 45(b)(10)(D)(i) provides for exceptions to the requirements under section 45(b)(10) if: (1) the inclusion of steel, iron, or manufactured products that are produced in the United States increases the overall costs of construction of qualified facilities by more than 25% (“increased cost exception”), or (2) relevant steel, iron, or manufactured products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (“non-availability exception”). Section 48(a)(13), as amended by the IRA, and sections 45Y(g)(12) and 48E(d)(5), as added by the IRA, provide for similar rules for credits determined under those Code sections.

Notice 2024-9 provided that an applicable entity may attest, under penalties of perjury, that it has reviewed the requirements for the increased cost exception and the non-availability exception provided under sections 45(b)(10)(D), 48(a)(13), 45Y(g)(12)(D), or 48E(d)(5), as applicable, and has made a good faith determination that the applicable credit property qualifies for one or both of the exceptions. The notice states that the

Treasury Department and the IRS will accept such attestations as establishing that one or both statutory exceptions to the application of the statutory elective payment phaseouts are met with respect to applicable credit property the construction of which begins before January 1, 2025.

#### **Notice 2024-84**

Under Notice 2024-84, if an applicable entity provides an attestation with respect to an applicable credit property the construction of which begins before the later of January 1, 2027, or the issuance of further guidance, the Treasury Department and the IRS will treat the attestation as establishing that one or both statutory exceptions to the application of the statutory elective payment phaseouts are met with respect to the applicable credit property.

The notice also states that the Treasury Department and IRS intend to propose regulations addressing the process by which the Secretary of the Treasury will implement the statutorily required exceptions to the phaseouts under sections 45Y(g)(12) and 48E(d)(5). The provisions of Notice 2024-84 will apply, however, with respect to an applicable credit property the construction of which begins before the later of January 1, 2027, or the issuance of further guidance.

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