



# TaxNewsFlash

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## Final regulations: Clean electricity production and investment credits under sections 45Y and 48E

The U.S. Treasury Department and IRS today released [final regulations](#) (T.D. 10024) regarding the clean electricity production credit under section 45Y and the clean electricity investment credit under section 48E, as established by H.R. 5376 (commonly called the “Inflation Reduction Act of 2022” (IRA)).

The final regulations adopt proposed regulations published in the Federal Register in June 2024, with certain modifications after consideration of the comments received. The final regulations provide rules for:

- Determining greenhouse gas emissions rates resulting from the production of electricity
- Petitioning for provisional emissions rates
- Determining eligibility for these credits in various circumstances

The final regulations generally apply to qualified facilities placed in service after December 31, 2024, and during tax years ending on or after the date the final regulations are published in the Federal Register, which is scheduled to be January 15, 2025. However, rules relating to the “One Megawatt Exception” under Treas. Reg. § 1.45Y-3, and for qualified facilities with integrated operations, have a delayed applicability date that is 60 days after January 15, 2025 (the date that the final regulations were published in the Federal Register).

### Background

The renewable electricity production credit determined under section 45 is generally available for qualified facilities described in section 45(d), which provides that the construction of the qualified facilities must begin before January 1, 2025. Similarly, other than for geothermal heat pump equipment, the energy investment credit determined under section 48 is generally available for energy property the construction of which begins before January 1, 2025. Therefore, as long as construction begins on the relevant qualified facility or energy property before January 1, 2025, a taxpayer may be able to claim a section 45 credit or section 48 credit, respectively, even if the taxpayer places the qualified facility or energy property in service after December 31, 2024.

The IRA provides that the clean electricity production credit determined under section 45Y applies to facilities placed in service after December 31, 2024, and the clean electricity investment credit determined under section 48E applies to property placed in service after December 31, 2024. Thus, in some cases, if a taxpayer places in service a qualified facility or energy property after 2024, the construction of which begins before

2025, the qualified facility or energy property may be eligible for more than one of the credits determined under section 45, 45Y, 48, or 48E, although a taxpayer can only claim one of these credits with respect to such qualified facility or energy property. Accordingly, a taxpayer must choose which one of these credits to claim with respect to such qualified facility or energy property. Once the taxpayer has claimed one of these credits with respect to a qualified facility or an energy property, the taxpayer cannot claim any other of these credits with respect to the same qualified facility or energy property.

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