

CLEAN ENERGY TAX CREDITS UPDATE

WHAT WAS ELIMINATED BY THE REPUBLICAN BUDGET BILL - AND WHAT OPPORTUNITIES REMAIN

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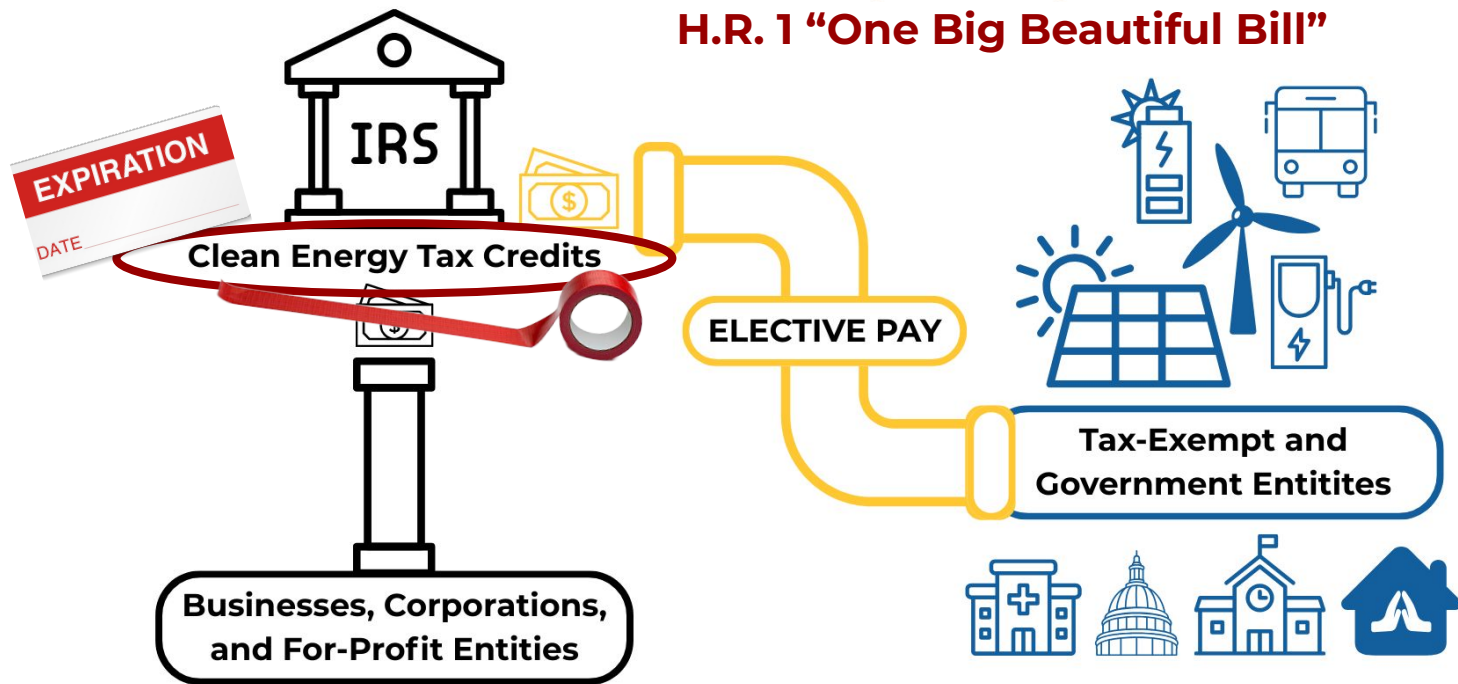
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WHAT IS ELECTIVE PAY/DIRECT PAY?

H.R. 1 “One Big Beautiful Bill”

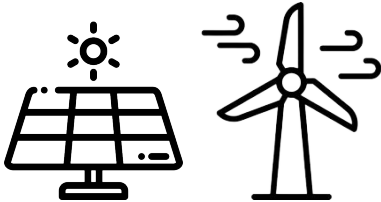


SOLAR FOR LAUSD

- LAUSD has exciting plans to implement solar at **21** school sites in 2025-2027 that will give the district net savings of **\$45.7M** over 25 years (Source: [LAUSD Presentation, March 26, 2025](#)).
- These projects will be eligible to receive a direct payment of at least 40% (or between 30-70%) of project costs through the Investment Tax Credit.
- This could mean direct payments of **\$49M** or up to **\$85M** from the IRS to LAUSD in the next few years.
- Community, Labor, and Government partners have worked tirelessly to get to this point of project implementation. The stakes are high to ensure that \$49M check comes through.
- These savings can be reinvested in the classroom and future green projects.
- Solar projects have broad support and will help the District reach its commitment to 100% Clean Renewable Energy in its Electricity Sector by 2030 (Board Res #018-19/20).

48E INVESTMENT TAX CREDIT (ITC) PHASE-OUT

**EXPIRES
SOON**

Eligible Technology (non-exhaustive)	H.R. 1 Phase-Out Dates for Credits	H.R. 1 Prohibited Foreign Entity (PFE) Rules Phase-In Dates
Solar and wind 	Wind & solar projects must begin construction by July 4, 2026, OR be placed in service by end of 2027 to get credit.	- Material Assistance (supply chain): Applies to projects that begin construction after Dec 31, 2025 - Entity Level (ownership and influence): Applies to tax years beginning after July 4, 2025 “Effective Control” Payments: Applies to tax years beginning after July 4, 2025. Examines payments from previous tax year.
Energy storage, electricity generating geothermal 	Must begin construction by end of 2033 to get full credit.	
Ground-source heat pump (GSHP) 	GSHP that begin construction by end of 2032 can get full “legacy” ITC under section 48.	N/A

Bottom line: To meet phase-out deadlines and avoid one of the more burdensome PFE Rules, **begin construction by Dec 31, 2025.**

SO WHAT DOES ALL THIS MEAN?

CLOSING WINDOW FOR DIRECT PAY IN 2025



PIS: "Placed in Service" or complete until project can perform intended purpose



BOC: "Beginning of Construction." According to [IRS guidance](#), you can PIS within 4 years after BOC date to fulfill continuity requirements.

8.15.25 Treasury released guidance on BOC for wind and solar for 48E and 45Y

2025						2026					
JUL	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
 Electric vehicles acquired by 9.30.25 to claim 45W											
 Electric charging infrastructure PIS by 6.30.26 to claim 30C											
 Wind and Solar BOC by 12.31.25* to claim ITC 48E/PTC 45Y and avoid Material Assistance Requirements						 All ITC 48E/PTC 45Y projects that BOC in 2026 and on are subject to Material Assistance Requirements					

***Prohibited Foreign Entity (PFE) "entity-level" restrictions and effective control "payment" restrictions apply to ITC and PTC eligible projects claimed for tax years that begin after 7.4.25**

BEGINNING OF CONSTRUCTION (BOC)

[IRS guidance](#) for wind and solar projects to establish BOC for the Investment Tax Credit (48E) and Production Tax Credit (45Y) effective Sept 2, 2025:

Physical Work Test

What is it?

- Construction “[begins when physical work of a significant nature begins](#),” including off-site and on-site work
- Includes work done by taxpayer or by a contractor under a binding contract

Applies to:

- Wind and solar projects of any capacity

5% Safe Harbor

What is it?

- Construction begins when 5% or more of total *final* project costs are incurred
- Entities should plan to incur 12-15% of projected costs, given how common cost overruns are.

Applies to:

- Solar projects with nameplate capacity ≤ 1.5 megawatts (MW)

Does NOT apply to wind projects of ANY capacity

Projects must maintain continuous construction. This can be done by placing the project in service “[no more than 4 calendar years after the calendar year during which construction began](#).”

PROHIBITED FOREIGN ENTITY RULES

For the 48E Tech-Neutral Investment Tax Credit

PFE Rule	What is it?	When does it kick in?
Entity Level Rule 	Prohibits credit for entities that are Specified Foreign Entities (SFE) or Foreign Influenced Entities (FIE)	Applies to tax years beginning after July 4, 2025
Payments Rule 	Forbids credit for projects that involve payments bestowing “effective control” of the energy property to an SFE	Virtually immediately since rule examines payments from the tax year preceding the tax year for which the credit is being claimed
Material Assistance Rule 	Forbids credit for projects constructed with a significant portion of components manufactured by PFEs	Applies to projects that begin construction after Dec 31, 2025

Learn more about PFEs from Lawyers for Good Government [here](#) and from NYU Tax Law Center [here](#).

TOPLINE TAKEAWAYS

- Commence construction by December 31, 2025 to avoid complex "material assistance" restrictions
- Commence construction can be established through the physical work test or incurring a percentage of total capitalizable costs - at least 5% but we recommend 10% or more.
- Projects that commence after December 31, 2025 are still eligible for the tax credit and should still continue, but will have more PFE restrictions to comply with.
- Projects that commence after July 4, 2026 must be placed in service by December 31, 2027 to access investment tax credits.

Expedite the movement of available funds to commence construction by the end of 2025 and optimize your projects for credit eligibility.



QUESTIONS? CONTACT US

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RESOURCES

- **For real-time analysis:** Sign up for We Build Progress [Unrig the Rules](#) updates
- **For technical assistance:** Register for We Build Progress & L4GG Direct Pay [Office Hours](#)
- For information on **federal clean energy tax credits**:
 - L4GG and We Build Progress: [Elective Pay 101](#) overview
 - L4GG: [Clean Energy Tax Navigator](#)
 - L4GG: “[Beginning of Construction for the 48E & 45Y](#)”
 - L4GG: “[Updates to Certain Elective Pay Eligible Credits Under H.R. 1](#)”
 - L4GG: “[Prohibited Foreign Entity Restrictions on Clean Energy Credits](#)”
 - NYU Tax Law Center: [Navigating OBBA Guide](#)
 - Undaunted K12: [Updates to Energy Tax Credits Overview](#)
- [Public Option Solar for K-12 Schools A Case Study of Connecticut Green Bank's Solar Marketplace Assistance Program](#)

APPENDIX

EXAMPLE TIMELINES FOR 48E ITC-ELIGIBLE SOLAR PROJECT:

If a project begins construction during...	And is placed in service (PIS) during the following tax year, the following PFE rules apply:
January 1, 2025 - Dec 31, 2025	Calendar Tax Year: 2025: no PFE rules apply for this tax year but beware of payments rule if pursuing more credit(s) in future 2026 and beyond: entity level and payment rules apply
	Fiscal July 1 - June 30 Tax Year: - July 2025-June 2026: no PFE rules apply for this tax year but beware of payments rule if pursuing more credit(s) in future - July 2026-June 2027 and beyond: entity level and payment rules apply
January 1, 2026 - July 4, 2026	Calendar Tax Year: 2026 tax year and beyond: all PFE rules apply
	Fiscal July 1 - June 30 Tax Year: - July 2025-June 2026 tax year: material assistance rule applies - July 2026-June 2027 and beyond: all PFE rules apply

- Solar projects that BOC after July 4, 2026 must be PIS by Dec 31, 2027 to be eligible for 48E credit.
- If you adopted a calendar tax year for your first tax return for the sole purposes of making an elective payment election, procedures in [Rev Proc 2025-6](#) explain how to change your tax year to align it with your fiscal year by filing for a short year.

Foreign entity rules: Entity-level rules

1. **Entity-level rules**: “**Prohibited foreign entities**” (PFEs) are barred from claiming tax credits for tax years beginning after enactment. There are two categories of PFEs: **Specified Foreign Entities** and **Foreign-Influenced Entities**

Category 1: Specified Foreign Entities

- Have close connections to China or other nations
 - companies based in one of four covered nations (China, Russia, Iran, North Korea);
 - citizens/nationals of those countries;
 - entities that are more than 50% owned by such companies/individuals; or
 - entities on various national security-related lists

Category 2: Foreign-Influenced Entities

- Have at least one of the following indications of potential SFE influence:
 - An SFE has direct authority to appoint a covered officer of the entity
 - A single SFE owns at least 25% of the entity
 - One or more SFEs own at least 40%
 - At least 15% of entity’s debt has been **issued**, in the aggregate, to SFEs



Foreign entity rules: Payments rules (45Y, 48E)

2. Payments rules: Essentially apply immediately.

- Any payment made to an SFE under an agreement that is deemed to confer “effective control” over a qualified facility or energy storage (or over production for 45X) renders a taxpayer a “foreign-influenced entity,” ineligible for tax credits.
 - For ITCs, there is a 10-year recapture period.
- The law includes a list of contract terms that are deemed to confer effective control. The list is broad in scope.
- For example, it includes any licensing agreement for the provision of IP with respect to a qualified facility or energy storage entered into or modified after enactment (7/4/25).



Foreign entity rules: material assistance (45Y, 48E, 45X)

3. Material assistance rules: Apply to projects beginning construction after 12/31/25.

- Very complex, require scrutinizing supply chains for inputs produced by PFEs.
- A threshold percentage of manufactured products incorporated into the facility must be produced by non-prohibited foreign entities.
 - Percentage differs by type of project and generally escalates year by year.
- OBBBA provides that taxpayers can rely on certain safe harbors in the interim before Treasury/IRS issues superseding guidance:
 - Using tables in prior IRS guidance on the domestic content bonus for solar, land-based wind, and storage projects
 - Relying on supplier certifications

Many aspects of the material assistance rules are highly unclear including how far up the supply chain to go.

