

Summary of Energy-Related Tax Provisions

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Legislation enacted at the end of 2008 and early in 2009 included several tax-related breaks for businesses that invest in, implement or build energy efficient and emission reduction technologies, produce energy or provide alternative fuels. These provisions include the extension and modification of certain existing tax credits, as well as the creation of new credits and incentives. Legislation enacted at the end of 2010 further extended some of these provisions.

Set forth below is a summary of the more important of these provisions, including the available incentives to which they relate. A more detailed explanation of these items can be found in one of our previous Client Advisories on this topic.¹

Property Specific Provisions

Type of Property	Available Incentive	2008/2009 Act Change	Effective Date	Applicable Code Section
Wind Facilities for Production of Electricity	Production-Based Credit (per Kilowatt Hour) for Production of Electricity From Renewable Resources ^{2,3}	Extends the Placed in Service Date for Eligibility for Credit	Through 2012	45
Small Wind Property for Production of Electricity	30% Cost-Based Investment Tax Credit for Smaller Capacity Wind Energy Property Used for Production of Electricity ³	Adds Eligibility for Credit	Periods After October 3, 2008 Through 2016	48
Facilities for Production of Refined Coal	Production-Based Credit for Production of Refined Coal	Extends the Placed in Service Date for Eligibility for Credit Increases Emissions Standards Eliminates FMV Test	Through 2011 (2009 for facilities producing steel industry fuel) Fuel Produced From Facilities Placed in Service After 2008 Fuel Produced and Sold After September 30, 2008	45
BioMass Facilities for Production of Electricity	Production-Based Credit (per Kilowatt Hour) for Production of Electricity From Renewable Resources ^{2,3}	Extends the Placed in Service Date for Eligibility for Credit New Expansion of Existing Facilities Eligible for Credit	Through 2013 Periods After October 3, 2008	45
Renewable Marine/Hydrokinetic Source Facilities for Production of Electricity	Production-Based Credit (per Kilowatt Hour) for Production of Electricity From Renewable Resources ^{2,3}	Adds Eligibility for Credit	Periods On or After October 3, 2008 Through 2013	45
Solar Energy Property	30% Cost-Based Investment Tax Credit for Solar Energy Property Used to Generate Electricity, Provide Heating or Cooling, or Illuminate Building Interiors ³	Extends the Placed in Service Date for Eligibility for Credit	Through 2016	48
Qualified Fuel Cell Power Plants Generating Electricity	30% Cost-Based Investment Tax Credit for Fuel Cell Power Plants Producing Electricity Using Electro-Chemical Processes ³	Extends the Placed in Service Date for Eligibility for Credit	Through 2016	48
Combined Heat and Power System Property	10% Cost-Based Investment Tax Credit for Qualified Integrated Systems Producing Power and Thermal Energy from a Single Source	Adds Eligibility for Credit	Periods After October 3, 2008 Through 2016	48

Type of Property	Available Incentive	2008/2009 Act Change	Effective Date	Applicable Code Section
Advanced Coal Electricity and Gasification Projects	30% Cost-Based Investment Tax Credit for Certified Projects Utilizing Advanced Coal-Based Electricity Generation Technology or Employing Gasification Technology to Convert Certain Products Into Synthesis Gas	\$1.5 Billion in New Available Tax Credits (Subject to Application and Approval Process)	Periods After October 3, 2008	48A and 48B
Industrial Facilities Utilizing Carbon Capture Equipment	Volume-Based Credit for Capture and Disposal, or Use as a Tertiary Injectant, of Carbon Dioxide From an Industrial Source	Adds \$20 per Metric Ton (for Disposal) and \$10 per Metric Ton (for Use as a Tertiary Injectant) Credit for Captured CO ₂	CO ₂ Captured After October 3, 2008 (Subject to Overall Volume Limitation)	45Q
Cellulosic Biofuels Facilities	Immediate Write-Off of 50% of Cost for Qualified Facilities Producing Cellulosic Biofuels	Extends Credit to Non-Ethanol Cellulosic Biofuels	Property Placed in Service After October 3, 2008 Through 2012	168(1)
Biodiesel Production Facilities	Production-Based Credit (\$1.00 per Gallon) for Production of Biodiesel and Renewable Diesel as Fuel	Increases and Extends per Gallon Production Tax Credit for Certain Biodiesel	Periods After 2008 Through 2011	40A
Alternative Fueling Property	30-50% Cost-Based Credit for Installation of Alternative Fuel Vehicle Refueling Property	Extends 30% Credit for Non-Hydrogen Related Alternative Fueling Property Adds Electric Vehicle Recharging Property to Credit Eligibility Increases Credit Percentage from 30% to 50% for Non-Hydrogen Related Property; Increases Annual Dollar Limitations for Most Eligible Property	Through 2011 Property Placed in Service After October 3, 2008 Through 2011 Property Placed in Service During 2009 or 2010	30C
Manufacturing Facilities for Production of Property Integral to the Advancement of Other Energy-Related Incentives	30% Cost-Based Investment Tax Credit for Eligible Property Certified by Treasury	Adds Eligibility for Credit	Property Constructed After February 17, 2009	48C

General Provisions

2008/2009 Act Change	Effective Date	Applicable Code Section
Energy Investment Tax Credit Made Available to Offset Alternative Minimum Tax (AMT) Liability	Taxable Years Beginning After October 3, 2008	38(c)
Election Provided to Claim 30% Investment Tax Credit in Lieu of Renewable Source Energy Production Credit for Specified Eligible Facilities	Eligible Facilities Placed in Service During 2009 Through 2013 (2012 for Eligible Wind Facilities)	48(a)(5)
Election Provided to Seek Grant Funds From Treasury Secretary for Specified Eligible Property In Lieu of Renewable Source Energy Production or Energy Investment Tax Credits	Eligible Property Placed in Service During 2009, 2010, or 2011, or After 2011 (and Prior to a Specified Termination Date) Provided Construction Began During 2009, 2010, or 2011	1603 of The 2009 Act
Elimination of Reduction to Eligible Cost Basis for Energy Credit Purposes for Certain Government Financing or Private Activity Bond Proceeds	Periods After 2008	48(a)(4)(D)

¹ See "2009 Stimulus Act Expands Tax Benefits for Alternative Energy Products" (September 22, 2009); "Bailout Legislation Includes Important Energy-Related Tax Provisions" (October 14, 2008); and "The Energy Improvement and Extension Act of 2008" (October 24, 2009).

² See also description below under "General Provisions" of election to take investment tax credit in lieu of production credit.

³ See also description below under "General Provisions" of election to seek grant funds in lieu of credit.