



TaxNewsFlash

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Notice 2022-61: Guidance on prevailing wage and apprenticeship requirements under clean energy tax incentives

The IRS today released [Notice 2022-61](#) [PDF 237 KB] providing guidance on the prevailing wage and apprenticeship requirements that must be satisfied in order to qualify for the “bonus rates” available for the clean energy and climate tax incentives under H.R. 5376 (commonly called the “Inflation Reduction Act of 2022” (IRA)).

Notice 2022-61 describes the process for identifying the applicable wage determination for a specific geographic area and job classification on the Department of Labor’s sam.gov website and provides greater specificity regarding the apprenticeship labor hour, ratio, and participation requirements, including describing the exception when a taxpayer makes a good faith effort in requesting qualified apprentices from registered apprenticeship programs.

The notice also specifies the recordkeeping requirements taxpayers must comply with to substantiate that they paid workers a prevailing wage and satisfied the apprenticeship requirements.

Under the IRA, these prevailing wage and apprenticeship requirements apply to qualifying facilities, projects, property, or equipment for which construction begins 60 days or more after Treasury publishes guidance. This guidance was published in the Federal Register on November 30, 2022, which starts the 60-day “clock.” As such, the requirements will start to apply for projects on which construction begins on or after January 29, 2023.

The guidance generally confirms that existing IRS rules for the beginning of construction continue apply for purposes of the application of the prevailing wage and apprenticeship rules. In particular, that construction begins by either starting physical work of a significant nature or by paying or incurring five percent or more of the total cost of the project.

Both the prevailing wage and apprenticeship requirements apply to the following tax incentives:

- Advanced energy project credit
- Alternative fuel refueling property credit
- Credit for carbon oxide sequestration

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- Clean fuel production credit
- Credit for production of clean hydrogen
- Energy efficient commercial buildings deduction
- Renewable energy production tax credit
- Renewable energy property investment tax credit

The prevailing wage requirements also apply to the following tax incentives:

- New energy efficient home credit
- Zero-emission nuclear power production credit

To further assist taxpayers and other stakeholders in understanding these provisions, the Department of Labor today also issued two “frequently asked question” (FAQ) documents—one on [prevailing wage](#) and the other one on [apprenticeships](#).

Treasury plans to issue additional proposed regulations with respect to these requirements in the coming months. Additional background is provided in a related [Treasury release](#),

Read a related IRS release—[IR-2022-208](#) (November 29, 2022)

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