



# TaxNewsFlash

United States



No. 2023-082  
March 9, 2023

## Notice 2023-24: Credit for production of electricity from advanced nuclear power facilities under section 45J

The IRS today released an advance version of [Notice 2023-24](#) [PDF 145 KB] providing guidance under section 45J, as amended by the Bipartisan Budget Act of 2018 (2018 BBA).

As originally enacted section 45J allowed for a credit of up to 1.8 cents for each kilowatt hour of electricity that an advanced nuclear power facility produces and sells to an unrelated party for an 8-year period. Advanced nuclear power facilities are facilities which are allocated an amount of national megawatt capacity limitation (NMCL) under the requirements of section 45J, and processes prescribed by previous IRS guidance. Advanced nuclear power facilities had to be placed in service before January 1, 2021.

The 2018 BBA made modifications to section 45J including eliminating the requirement that a facility receiving an allocation of NMCL has to be placed in service by January 1, 2021 and allowing the Secretary to allocate any unutilized NMCL. The 2018 BBA also allows certain public entities to transfer section 45J credits to eligible project partners (for example, construction entities, nuclear fuel suppliers, and co-owners).

This notice states that the amount of the unutilized NMCL available for allocation at 6,000 megawatts. Today's notice also provides the procedures for taxpayers to apply for allocations of, and that the IRS will use to allocate, the unutilized NMCL.

Finally, the notice provides the procedures for a "qualified public entity" to elect to transfer all or a portion of the section 45J credit to an "eligible project partner." Note that this guidance is specific to the credit transfer provision in section 45J and does not apply to the transfer of certain energy credits allowed for in section 6418, which was recently enacted by the Inflation Reduction Act.

### Request for comments

© 2023 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

The notice also requests comments on the guidance provided as well as other items relevant to the 2018 amendments to section 45J. The notice requests that comments are submitted by May 8, 2023.

[kpmg.com/socialmedia](https://kpmg.com/socialmedia)



The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 1037(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG International Limited is a private English company limited by guarantee and does not provide services to clients. No member firm has any authority to obligate or bind KPMG International or any other member firm vis-à-vis third parties, nor does KPMG International have any such authority to obligate or bind any member firm.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at +1 202.533.3712, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)