



TaxNewsFlash

United States



No. 2023-212
June 15, 2023

Notices 2023-45 and 2023-47: Updated guidance on requirements for energy community production and investment tax credits under IRA

The IRS today released advance versions of [Notice 2023-45](#) [PDF 92 KB] and [Notice 2023-47](#) [PDF 99 KB], which update [Notice 2023-29](#) [PDF 170 KB] that describes certain rules the IRS intends to include in forthcoming proposed regulations for determining what constitutes an energy community for the production and investment tax credits. Read [TaxNewsFlash](#)

As described in a related IRS release—[IR-2023-118](#) (June 15, 2023)—Notice 2023-45 addresses the online update to Notice 2023-29 that occurred on April 7, 2023, clarifying that Section 4.01(2), Special Rule for Beginning of Construction, applies to taxpayers that begin construction on or after January 1, 2023. Notice 2023-45 also adds an additional clarification pertaining to the brownfield site safe harbor under Section 5.02(3). Specifically, for projects with a nameplate capacity of not greater than 5MW (AC), it is required that a Phase I Assessment identify the presence or potential presence on the site of a hazardous substance or a pollutant or contaminant.

Notice 2023-47 publishes lists of information that taxpayers may use to determine whether they meet certain requirements under the Statistical Area Category or the Coal Closure Category in Notice 2023-29 for purposes of qualifying for energy community bonus credit. These lists are provided in [Appendix 1](#) [PDF 69 KB], [Appendix 2](#) [PDF 450 KB], and [Appendix 3](#) [PDF 91 KB] of Notice 2023-47. Appendices 1 and 2 of this notice pertain to the Statistical Area Category, and Appendix 3 of this notice pertains to the Coal Closure Category.

KPMG observation: The [mapping tool](#) also appears to have been updated to include the information from the three Appendices.

Also, the IRS posted "[frequently asked questions](#)" (FAQs) related to the increased amount of credit for energy communities, which provide detail on how areas may qualify as an energy community, how to determine whether a project is in an energy community, and brownfield sites for purposes of the energy community bonus credit.

For more information or assistance with energy community determinations, including brownfield determinations both in and out of the safe harbor, contact a KPMG Washington National Tax professional:

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