



# TaxNewsFlash

United States



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## Final regulations and Rev. Proc. 2023-27: Guidance on environmental justice solar and wind capacity limitation

The U.S. Treasury Department and IRS released for publication in the Federal Register final regulations (T.D. 9979) providing guidance on the program under section 48(e) to allocate environmental justice solar and wind capacity limitation with respect to certain solar and wind facilities placed in service in connection with low-income communities, established under H.R. 5376 (commonly called the “Inflation Reduction Act of 2022” (IRA)).

As described in a related IRS release—[IR-2023-145](#) (August 10, 2023)—the [final regulations](#) [PDF 429 KB] (43 pages) provide definitions and requirements for the program under section 48(e). The regulations state the four project categories under which facilities apply for an allocation, and the increase of either 10% or 20% associated with a project category. Additionally, the regulations:

- Define financial benefits for the two applicable project categories
- Define energy storage technology installed in connection with the solar or wind facility
- Define and describe the additional selection criteria for eligible potential applicants
- Remind potential applicants that facilities placed in service prior to an allocation are not eligible
- Provide the disqualification and credit recapture rules specific to the program

The final regulations apply to tax years ending on or after the date that is 60 days after the regulations are published in the Federal Register, which is scheduled to be August 15, 2023.

The Treasury and Department and IRS also released an advance version of [Rev. Proc. 2023-27](#) [PDF 159 KB], providing procedural and clarifying guidance applicable to the program. These procedural rules provide guidance necessary to implement the program, including information an applicant must submit, the application review process, and the manner of obtaining an allocation.

Rev. Proc. 2023-27 directs applicants to register and apply through a portal hosted by the Department of Energy (DOE). The DOE today launched a [Low-Income Communities Bonus Credit Program](#) page, which will be updated in the coming weeks to provide additional information about the application opening date and application materials. The application process for all four categories in the Low-

Income Communities Bonus Credit program will open in the fall, and awards will start to be made by the end of the year.

## Background

The Treasury Department and IRS on February 13, 2023, launched the program under Notice 2023-17, which provided initial program guidance for potential applicants for allocations of calendar year 2023 capacity limitation. Read [TaxNewsFlash](#)

The Treasury and Department on June 1, 2023, then published proposed regulations supplementing the guidance provided in Notice 2023-17, to outline the specific application procedures, additional allocation criteria, and applicable definitions, among other information, necessary to submit an application to request an allocation of the capacity limitation for calendar year 2023 under the program. Read [TaxNewsFlash](#)

Read a related [Treasury release](#) (August 10, 2023)

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