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TaxNewsFlash

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Notice 2024-30: Expanded rules for energy community production and investment tax credits under IRA

The IRS today released Notice 2024-30 which expands certain rules for determining what constitutes an energy community for the production and investment tax credits.

As described in a related IRS release—IR-2024-77 (March 22, 2024)—H.R. 5376 (commonly called the "Inflation Reduction Act of 2022" (IRA)) allows for increased credit amounts if certain requirements pertaining to energy communities are satisfied. Energy communities include: (i) brownfield sites, (ii) certain metropolitan and non-metropolitan statistical areas with high fossil fuel industry employment or high fossil fuel industry tax revenue but higher than average unemployment rates (MSA/non-MSA), and (iii) census tracts on or near areas with a closed coal mine or coal-fired powerplant.

The increased credit amount available for meeting the requirements of the energy community provisions is generally 10% for the production tax credit (PTC) and a 10% increase in the credit percentage for the investment tax credit (ITC) if prevailing wage and apprenticeship requirements or an exception to such requirements are met. (If prevailing wage and apprenticeship requirements are not met, the ITC credit increase is 2%.)

The IRS previously released Notice 2023-29 describing certain rules that 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*

Notice 2024-30 expands the "nameplate capacity attribution rule" under section 4.02(1)(b) of Notice 2023-29 to include additional attribution property. The notice also adds two 2017 North American Industry Classification System (NAICS) industry codes to the table in section 3.03(2) of Notice 2023-29 for purposes of determining the fossil fuel employment rate. The IRS released Appendix 1, identifying additional Metropolitan Statistical Areas (MSAs) and non-MSAs that meet the fossil fuel employment threshold, and Appendix 2, identifying additional MSAs and non-MSAs that qualify as energy communities in 2023 by meeting the fossil fuel employment threshold and the unemployment rate requirement for calendar year 2022.

The IRS also updated the frequently asked questions for energy communities.

The notice states that until the proposed regulations described in Notice 2023-29 are published, taxpayers may rely on the rules described in sections 3 through 6 of Notice 2023-29, as previously clarified by Notice 2023-45 and modified by section 3 this notice, for taxable years ending after April 4, 2023.

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