

Applications for Low-Income Communities Bonus Tax Credits to Open in Early Fall

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Last year's Inflation Reduction Act created the Low-Income Communities Bonus Credit Program. This program provides additional energy tax credits on top of the existing 30% investment tax credit. According to Section 48(e) of the Internal Revenue Code, solar and wind facilities that apply for and receive a special allocation from the Internal Revenue Service (IRS) can receive an increased tax credit of up to an additional 20 percentage points.

Categories of Qualified Facilities

There are four categories of qualified facilities:

- Category 1 – Facilities in a low-income community
- Category 2 – Facilities on tribal land
- Category 3 – Facilities that are part of a qualified-low income residential building project
- Category 4 – Facilities where at least 50% of the financial benefits of the electricity produced are provided to low income households.

Category 1 and 2 facilities qualify for an additional 10% credit, while Category 3 and 4 facilities qualify for the additional 20% credit.

Bonus Credit Regulations & Application Process

This week, the Treasury Department issued Treasury Decision 9979, setting forth the final regulations for the bonus credits, and Revenue Procedure 2023-27, setting forth the application process.

For the 2023 year, the Internal Revenue Service stated that the amount of capacity limitation available for allocation is:

- Category 1 facilities – 700 megawatts
- Category 2 facilities – 200 megawatts

- Category 3 facilities - 200 megawatts
- Category 4 facilities - 700 megawatts

Applications should be submitted through the Department of Energy portal. Once received, the Department of Energy will review the applications and make recommendations to the IRS. The IRS will then make capacity limitation allocations based on these recommendations.

Initially, there will be a 30-day application window. All applications submitted during this period will be treated as if submitted at the same time. If any category is oversubscribed, a lottery will establish the order of the Department of Energy review for that category.

Following the initial 30-day window, any remaining capacity will be awarded under a rolling application process. The IRS will award applicants in the order that it receives recommendations from the Department of Energy.

The Department of Energy website states that the application program is expected to begin in the early fall. An announcement regarding the date and time for the opening of the application portal is expected in early September.

Facilities planning to apply should review Revenue Procedure 2023-27 so that they are ready to apply once the application window opens.