

The Solar Investment Tax Credit Frequently Asked Questions

Frequently Asked Questions:

1. When is the extension of the ITC effective for commercial property?

Answer: The extension of the ITC for commercial solar property is effective on the date of enactment, October 3, 2008. Since the existing credit was not scheduled to expire until December 31, 2008, this means that the credit has been seamlessly extended through 12/31/2016.

2. What is the effective date for the allowance of the sec. 48 commercial ITC against AMT liability?

Answer: The allowance of the sec. 48 ITC against AMT liability is effective for taxable years beginning after the date of enactment. For most taxpayers, this will mean that the credit against AMT is effective beginning on January 1, 2009. However, business taxpayers have flexibility in choosing their fiscal year for tax purposes. If a taxpayer uses a fiscal year that runs from November 1 - October 31st, it would mean that they can begin using the credit against AMT beginning November 1, 2008, rather than having to wait until January 1, 2009.

3. What is the effective date for waiver of the public utility exception?

Answer: This provision is effective for periods after February 12, 2008, in taxable years ending after such date.

4. When is the ITC effective for residential solar energy efficiency property?

Answer: The extension of the ITC for residential solar energy efficiency property is effective on the date of enactment, October 3, 2008. Since the existing section 25D credit was not scheduled to expire until December 31, 2008, this means that the credit has been seamlessly extended through 12/31/2016.

5. What property qualifies for the section 25D residential ITC?

Answer: The credit applies to "qualified solar water heating property," (defined as "property to heat water for use in a dwelling unit located in the U.S. and used as a residence by the taxpayer if at least half of the energy used by such property is derived from the sun), and to "qualified solar electric property" (defined as

property which uses solar energy to generate electricity for use in a dwelling unit located in the U.S. and used as a residence by the taxpayer).

6. Does the elimination of the \$2,000 cap on the section 25D residential credit apply to solar thermal property?

Answer: Yes, the elimination of the \$2,000 cap applies to both qualified solar electric property expenditures and solar water heating projects.

7. What is the effective date of the elimination of the \$2,000 cap for solar electric property expenditures and solar water heating projects?

Answer: The elimination of the \$2,000 cap for solar electric property expenditures is effective for property placed in service after December 31, 2008. State laws dictate when in-state property is placed-in-service. The elimination of the \$2,000 cap for solar water heating projects is effective on February 17, 2009.

8. What is the effective date for allowance of the solar ITC against the AMT?

Answer: The provision allowing individual taxpayers to use the solar ITC against AMT liability is effective for taxable years beginning after December 31, 2007. Thus, individual taxpayers who are required to pay alternative minimum tax liability (rather than regular tax liability) for the 2008 tax year may take a credit of up to \$2,000 (the maximum credit amount for solar residential property placed in service during 2008) against the AMT liability. For the 2009 tax year, filers will be eligible to apply the full 30% ITC against the AMT liability.

9. Is there a carryforward and carryback for the commercial and residential ITC?

Answer: Under Code section 39, unused business tax credits may generally be carried back one year and carried forward 20 years. The commercial credit under section 48 is part of the general business credit (section 38).

For the residential credit, there is no carryback under Code section 25D. The 25D credit may only be carried forward to the succeeding taxable year -- i.e., there's only a one-year carryforward for the residential credit.