



# QuickTalk

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# New Solar Developments

- **December 18, 2015 - Protecting Americans from Tax Hikes Act of 2015 (PATH Act) and Consolidated Appropriations Act of 2015**
  - Extends bonus depreciation for property acquired and placed in service during 2015 through 2019 (with an additional year for certain property with a longer production period), but phases down during that time and then expires.
  - Provides extensions for **both** Sections §48 and § 25D over the following schedule:
    - 2017 – 30%
    - 2018 – 30%
    - 2019 – 30%
    - 2020 – 26%
    - 2021 – 22%
    - 2022 and thereafter – 10% permanently
  - The permanent 10% ITC under section 48 remains in place after 2021.
  - Modifies the tax code to allow for commence construction for solar only as long as the project is placed in service by 12/31/23.



# New Commence Construction Guidance

- What?
- Why?
- When?
  - PTC: Soon
  - ITC: June?



# Bonus Depreciation

- Too much of a good thing



# New Solar Developments

- **June 5, 2015 – PLR 201523014**
  - IRS concluded that the reflective roof, when installed in connection with the system, constitutes energy property under section 48 of the Code to the extent that the cost of the reflective roof exceeds the cost of reroofing taxpayer's building with a non-reflective roof that is allowed by local law.
- **June 12, 2015 – CCA 201524024**
  - Provides that the safe harbor under Revenue Procedure 2007-65 (addressing the allocation of Internal Revenue Code Section 45 wind energy production tax credits by partnerships) does **not** apply to partners or partnerships with Section 48 energy credits.



# New Solar Developments

- **September 4, 2015 – PLR 201536017**
  - IRS concluded that an individual can claim a 30% residential energy efficient property credit under Code Sec. 25D for the cost of solar panels (and a partial ownership interest in related equipment) installed in an offsite community-shared solar project.
- **October 2, 2015 – Notice 2015-70**
  - Requests comments from the public on how to define certain types of qualified property for purposes of section 48 of the Internal Revenue Code.
- **October 30, 2015 – PLR 201544018**
  - IRS ruled that a solar electricity generator is not classified as public utility property for purposes of deducting depreciation under the accelerated cost recovery system because rates for the electricity are not established or approved by a governmental entity through a regulatory process but established between the government and a taxpayer.



# ITC Tax Regulation Re-Write

- What is it?
- What's happening?
- Who's doing this?
- What to expect?
  - Storage – power conditioning - Transfer
  - Definitions
  - Dual Use/Dual Purpose
  - Other
- When to expect “new” regs?



# OCC Proposed CRA Regulations

- Initially Proposed – March 18, 2013
  - Second proposal – September 8, 2014
- Comment Period – May 17, 2013
  - Second proposal – November 10, 2014
- Status?
- The hope is.....





# Treasury REIT Regulations

- Initially Proposed – May 9, 2014
- Comment Period – August 12, 2014
- Status?
- The hope is.....



# Net Metering: Tax Effects Due to Changes In Program/Law/Regs

- NV – Extreme example
  - What if CA changes to a more forced sale forced purchase vs. direct offset?
  - VOST
  - CA Paper – Ed Kleinbard



# 50(d)





## 50(d)

- 2-tier transactions only:  
Lease pass through/inverted lease
- IRS Regs Expected for a while now – Active IRS regulations project



# Miscellaneous Non-Solar Developments

- **January 13, 2015 – Notice 2015-04**
  - Provides performance and quality standards that small wind energy property must meet to qualify for the energy credit under section 48.
- **March 6, 2015 – PLR 201510038**
  - Partnership's offshore integrated wind farm that will be built off coast of specified state, with its cables connected to and turbines controlled from that state, won't be considered used predominantly outside U.S. under Code Sec. 168(g)(1)(A).
- **March 11, 2015 – Notice 2015-25**
  - Updates guidance provided in prior IRS notices (2013-29, 2013-60, and 2014-46) which clarify what it means to “begin construction” on a project for the purposes of the renewable electricity production tax credit (PTC) or the energy investment tax credit (ITC), to reflect the one-year extension provided for under the Tax Increase Prevention Act of 2014.





# Miscellaneous Non-Solar

- **July 14, 2015 – Notice 2015-51**
  - Modifies previous guidance (Notice 2015-04) on qualifications for the section 48 energy credit by providing a revised effective date for small wind energy property that meets specified performance and quality standards.
- **December 21, 2015 - *Bishop Hill Energy LLC et al. v. United States***
  - The Court of Federal Claims refused to force the government to provide Treasury Department data on wind project applications to an energy company that is challenging the government's determination that it should receive less grant money than it requested for the development of its own wind power facility.



# New Partnership Audit Rules

- New Planning Obligation
- New Provisions Needed in your Partnership/LLC Agreement.
- TMP vs Partnership Representative
- Old Deals – Old language problems?

***LOOK AT YOUR DOCUMENTS !!***



# Looming Issues – Community Solar

- Structure – sale, bill credits, securities ?
- Subscriber Income ?
- Overall Qualification see PLR





# Contact

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