

## ALERTS

## IRS Announcement of Qualifying Advanced Energy Project Program

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### IRS Announcement of Qualifying Advanced Energy Project Program

On August 13, 2009, in Notice 2009-72, the Treasury Secretary and the Internal Revenue Service (the "IRS") announced the establishment of the qualifying advanced energy project program (the "Program") to implement the new investment credit under Section 48C of the Internal Revenue Code (the "Section 48C Credit"). The Section 48C Credit was created under the American Recovery and Reinvestment Tax Act of 2009 (the "2009 ARRA").

**Important Dates:** Notice 2009-72 provides details regarding the information to be furnished (a) to the Department of Energy (the "DOE") in order to receive a DOE recommendation and ranking and (b) to the IRS in order to receive the appropriate project certificate. For the 2009-2010 allocation round, the certification submission period begins on Aug. 14, 2009 and ends on Dec. 16, 2009, although a preliminary DOE recommendation application must be submitted by Sept. 16, 2009 and the final DOE application must be submitted by Oct. 16, 2009.

**Description of Section 48C Credit.** The Section 48C Credit is computed as 30 percent of the qualified investment in property used in a "qualifying advanced energy project" that is certified by the Treasury Secretary, in consultation with the Energy Secretary, and that is placed in service within three years from the date of issuance of such certification. "Qualified investment" means any property that is (a) necessary for the production of property described below, (b) used in a qualifying advanced energy manufacturing project, (c) subject to an allowance for depreciation (or amortization in lieu of depreciation), and (d)(i) tangible personal property or (ii) other tangible property (but not including a building or its structural components), but only if such property is used as an integral part of the qualifying advanced energy project. A "qualifying advanced energy project" is a project that is certified and re-equips, expands or establishes a manufacturing facility for the production of:

- Property designed to be used to produce energy from the sun, wind, geothermal deposits [within the meaning of section 613(e)(2)], or other renewable resources;
- Fuel cells, microturbines, or an energy storage system for use with electric or hybrid-electric motor vehicles;
- Electric grids to support the transmission of intermittent sources of renewable energy, including storage of such energy;

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- Property designed to capture and sequester carbon dioxide emissions;
- Property designed to refine or blend renewable fuels or to produce energy conservation technologies (including energy-conserving lighting technologies and smart grid technologies);
- New qualified plug-in electric drive motor vehicles (as defined by section 30D), qualified plug-in electric vehicles [as defined by section 30(d)], or components which are designed specifically for use with such vehicles, including electric motors, generators, and power control units; or
- Other advanced energy property designed to reduce greenhouse gas emissions as may be determined by the IRS.

However, a qualifying advanced energy project does not include any portion of a project for the production of property that is used in the refining or blending of any transportation fuel (other than renewable fuels). The aggregate amount of Section 48C Credits that may be allocated by the IRS for qualifying advanced energy projects may not exceed \$2.3 billion.