Tax Incentives Supporting the Financing of Renewable Energy Facilities

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• Broad Public Support

• Currently nearly all States have adopted some form of Renewable Energy Portfolio ("RPS") standards

• While Wind and Solar are most often in the new Incentives Apply to other Renewable Technologies
• Federal Credits Still Available

• Production Tax Credit (IRC Section 45)

• Investment Tax Credit (IRC Section 48)
• Production Tax Credit
  o Subsidizes Production by providing a tax credit based on the number of Kilowatt Hours produced.
  o In BioMass space, there is a distinction between Closed Loop and Open Loop BioMass facilities
• Closed Loop Biomass facilities are fueled with plant matter grown for that purpose
• Open Loop facilities are fuelled with Livestock Waste and other solid cellulosic and lignin material
• A Biomass facility does not include any facility which cofires with fossil fuel
• Production Tax Credits are generally available for ten years after the facility is placed in service.
• Rates for Closed Loop credit id 50% of the rate for Open Loop credits
• Other financing enhancement (such as exempt bonds or grants) can reduce the PTC by up to 50%
• Investment Tax Credits:
  • Based on the eligible cost of the facility (30%)
  • Taxpayer must elect to take this in lieu of PTC
  • Reduction in Depreciable Basis of 50% of Credit
  • Taken in the year the Project is placed in Service
  • Subject to recapture for five years
• Eligible Costs
  o Generally the cost of depreciable personal property or other depreciable property other than a building or its structural components.
  o Can include roadways and support facilities located on site which are an integral part of the facility.
• Election to Use ITC
• Taxpayer must make an affirmative election to use ITC in lieu of PTC
• Critical factor is the ratio of cost to anticipated production
• Additionally in the case of Open Loop facilities of facilities funded with exempt bonds, the lower PTC rates will apply.
• Tax Incentives and Limitations:

• The use of tax incentives is limited by the Developers ability to utilize credits.

• Limitations may be based on the other tax liability of the Developer which can be offset.
Monetizing Tax Incentives:

- Tax incentives are most often “sold” to a credit investor
- Provides low cost investment funding since the tax benefits greatly increase the rate of return
- Typical structures include a Partnership structure or a lease structure
• Combining with other incentive

• Depending on the state, there may be important incentives that pertain, such as REC’s, grants or direct financial support.

• Exempt Bond Financing may be available.

• New Market Tax Credit if the project is located in development district.

• Even historic tax credits could be available if a suitable site could be found.
Life of tax incentives:

- Federally, incentives have continued solely through the device of “extenders”
- Currently most renewable credits would not be available after 2016.
- American Energy Innovation Act (September 2015) would provide long term extension of credits.
• On the other hand, Sen. Lankford introduced legislation in October that would end all energy subsidies.

• Likely result will be a trade off of extended credit for lifting oil export limits.