

## One Big Beautiful Bill: Effect on Energy Credits

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July 11, 2025

The One Big Beautiful Bill Act (“OBBB”), which was signed by President Donald Trump on July 4, 2025, revokes or curtails the majority of energy credits and significantly curtails other credits. Though certain credits, including those related to “Clean Coal” and Nuclear Energy, are retained, credits related to solar, wind, and other common forms of clean energy were eliminated.

### Terminated Credits

The following energy credits are revoked by the OBBB, as of the expiration date listed:

### Terminated Deductions

The following deductions related to clean energy are revoked by the OBBB, as of the effective date listed:

- Section 179D – Energy Efficient Commercial Buildings Deduction - As of June 30, 2026
- Section 168(e)(3)(B)(vi) – Eliminates treatment of solar property as five-year cost recovery property eligible for Bonus Depreciation – For property built after December 31, 2024

### Energy Investment Credits

Prior to the OBBB, taxpayers constructing certain energy property could claim a tax credit based on the cost of construction (“Investment Credits”). Specifically, taxpayers could claim an energy credit under Section 48 or a Clean Energy Investment Credit under Section 48E. The OBBB effectively eliminated each of these credits, though with different effective dates, as explained below.

#### 1. Section 48 Energy Credit

Section 48 previously provided two tiers of eligible energy property: certain specifically identified energy property which was eligible for a six percent credit, and all other energy property, which was eligible for a two percent credit. Additionally, Section 48 provided significant increases in credit percentage rate for projects which met certain energy output thresholds, hired workers at prevailing wages, included use of apprentices, and used a certain percentage of domestically produced construction materials (“Rate Bonuses”).

In recent years, many of the six percent credit projects expired or fell out of favor, and the six percent credit is rarely claimed. However, credits in the two percent category were still commonly claimed, particularly in conjunction with the Rate Bonuses.

Though the OBBB did not modify the six percent credit rules, it effectively eliminates the two percent credit under Section 48. Specifically, the OBBB changes the two percent credit to a zero percent credit and prevents the use of any Rate Bonuses to increase the credit rate above zero percent. This change is effective for all projects which began construction after June 16, 2025.

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The elimination of the two percent credit, as well the fact that most of the six percent credits have expired, renders the Section 48 credit effectively eliminated for any project which was not already under construction as of June 16, 2025.

### 2. Section 48E Clean Energy Investment Credit

The Inflation Reduction Act (“IRA”) added the Section 48E credit for certain energy production or storage projects placed in service after 2024. The Section 48E Credits provides for a six percent credit, increased to thirty percent for projects meeting the requirements for Rate Bonuses.

The OBBB modifies the Section 48E credit in several ways. Effective January 1, 2026, the OBBB adds significant rules to prohibit “foreign influence” on qualified energy facilities (the “Foreign Entity of Concern,” or “FEOC Rules”). Specifically, the FEOC Rules preclude any prohibited foreign entity (i.e. China or Chinese entities) from having an interest or influence over energy property and prevent taxpayers from claiming the credit if such influence is found.

While the FEOC Rules prohibit obvious influence like direct ownership, they also prohibit less obvious connections like management contracts, loans, and foreign produced components. To claim the credit, any project would need certifications from all managers, contractors, subcontractors, and others that no such foreign influence exists. These rules add significant time and cost to claiming the Section 48E credit. Ultimately, it’s unclear how the FEOC Rules will be applied until additional guidance is issued by the Treasury Department.

Additionally, the OBBB terminates the Section 48E credit for any energy facility (other than certain geothermal facilities) not placed in service by December 31, 2027. In theory, the OBBB provides a slight reprieve by providing that December 31, 2027, placed in service date won’t apply to any facility that begins construction within 12 months of the signing of the OBBB (i.e. by July 4, 2026).

On July 7, 2025, however, the Trump administration issued an executive order titled “Ending Market Distorting Subsidies for Unreliable, Foreign Controlled Energy Sources” (the “Executive Order”), which directs federal agencies, including Treasury, to interpret the OBBB strictly and take all necessary steps to eliminate energy credits quickly.

Therefore, though the OBBB technically provides that projects which begin within the next year might still qualify, the administration has made it clear that they will take any steps possible to prevent such projects from ultimately qualifying.

### **Clean Electricity Production Credit**

As an alternative to Investment Credits (credits based on the cost of construction of clean energy property), taxpayers had been able to claim credits based on the amount of electricity produced by a qualified facility (“Production Credits”).

Prior to the IRA, Production Credits were allowed by Section 45, but those credits have generally expired and have been replaced with the Section 45Y Clean Electricity Production Credit.

The OBBB modifies the Section 45Y credit in several ways which mirror the changes to the Section 48E credit. The OBBB adds, effective January 1, 2026, FEOC Rules similar to those under Section 48E. These FEOC Rules add significant time, cost, and uncertainty to claiming the Section 45Y credit, particularly prior to the issuance of any regulatory guidance.

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Additionally, the Section 45Y credit is terminated for projects (other than certain geothermal projects) placed in service after December 31, 2027.

As with the Section 48E credit, OBBB provides a slight reprieve by providing that December 31, 2027, placed in service date won't apply to any facility which begins construction within 12 months of the signing of the OBBB (i.e. by July 4, 2026). However, the Executive Order indicates that the administration likely will attempt to prevent the Section 45Y credit from being claimed.

If you have questions about how the OBBB will impact your organization, please contact your Miller Canfield attorney or one of the authors of this alert.