



# Federal Renewable Investment and Production Tax Credits

- USDA Rural Energy for America Program Virtual Workshop

# Presenter

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# Agenda

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**01 IRA OVERVIEW**

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**02 TAX CREDIT ENHANCEMENTS**

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**03 FEDERAL ITC & PTC INCENTIVES EXPLAINED**

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**04 DIRECT PAY & TRANSFERABILITY PROVISIONS**



# IRA Overview

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# New for the IRA

- \$370B in clean energy investments.
- 10-year lifespan of incentives.
- Base credit amount plus bonus rate and credit adders.
- Option to allow “direct pay” for both taxable and non-taxable entities for § 45Q, 45V, and 45X.
- Option for taxable entities to transfer the tax credits to third parties for cash.



# Tax Credit Enhancements

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# Tax Credit Enhancements

- Base rate – 6%
- Bonus rate – 5x multiplier of base rate if prevailing wage and apprenticeship requirements are met
- Prevailing wage – location and job title specific
- Apprenticeship – minimum percentage of total labor hours to construct the facility 10% for 2022, 12.5% for 2023, and 15% after 2023
- Curing process



# Tax Credit Enhancements

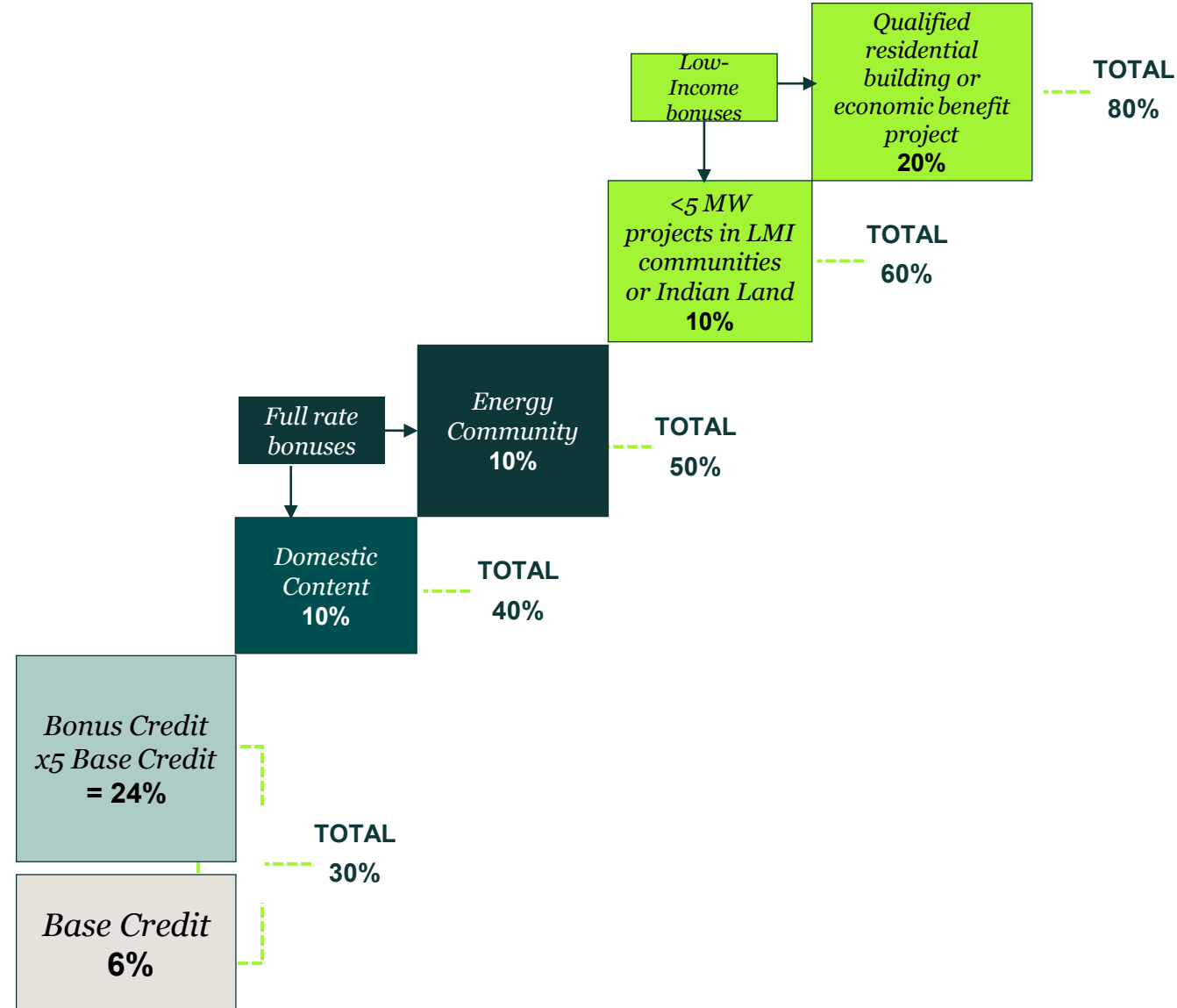
- Bonus credits are available for projects placed in service after 2022:
  - Domestic content: PTC or ITC = 10%
  - Located in energy communities: PTC or ITC = 10%
  - Located in low-income communities = ITC for solar and wind up to 20%
- Exempt Projects:
  - Less than one MW(ac) projects
  - Began construction before Treasury guidance on apprenticeship/prevaling wage + 60 days (1/29/23)
  - Prevailing wage and apprenticeship requirements are met





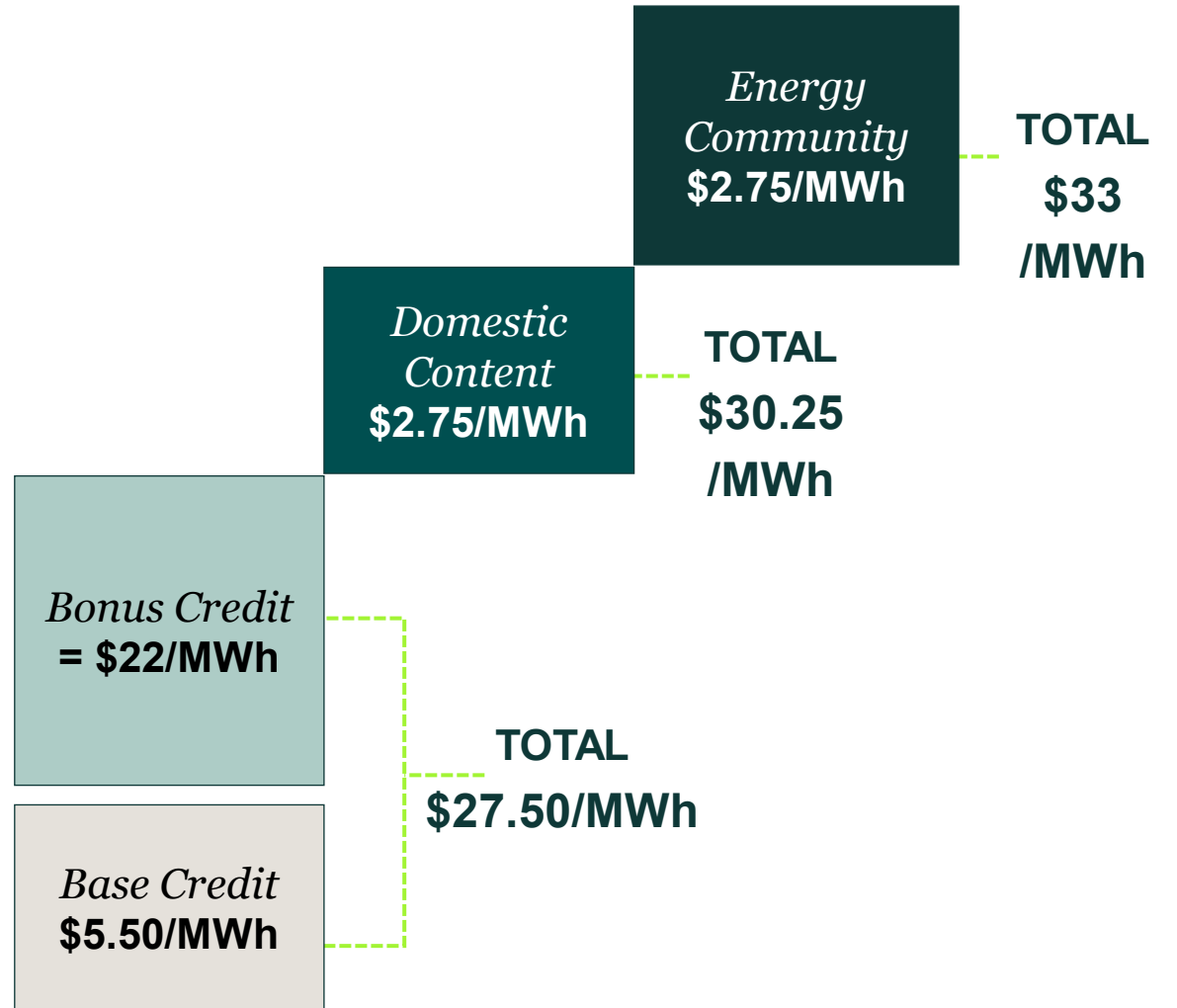
# Tax Credit Enhancements

- *Example: ITC*



# Tax Credit Enhancements

- *Example: PTC*



# Federal ITC & PTC Incentives Explained

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# Federal Tax Credit Basics

Pick One Incentive Or The Other Not Both

- Investment Tax Credits (ITC) – Based on the cost of the eligible property (e.g., solar panels, hydropower facilities, biomass facilities)
  - Credit earned on the placed-in-service date
  - Start of construction date relevant
  - 5-year recapture period
  - Subject to reduction for certain tax-exempt ownership
  - Can be owned and operated by different parties
- Production Tax Credits (PTC) – Tax credits based on the production and sale of a manufactured product (e.g., electricity, renewable energy equipment)
  - Credit earned annually as production and sales are made to unrelated parties
  - Start of construction date relevant
  - No recapture
  - Not subject to reduction for certain tax-exempt ownership
  - Must be sold to an unrelated party
  - Must be owned and operated by the same party



# § 48 Investment Tax Credit (ITC)

- Extends the existing energy investment tax credit for applicable energy projects
- Ends in 2024 for most technologies and is replaced by the new tech-neutral clean electricity ITC (§ 48E), which begins in 2025
- Extends the date of construction in most cases to 2024 and maintains a 10% or 30% credit



# § 48E Clean Energy Electricity ITC

- Extends the existing energy investment tax credit for applicable energy projects
- This tech-specific ITC ends in 2024 for most technologies and is replaced by the new tech-neutral Clean Electricity ITC (§ 48E), which begins in 2025
- Extends date of construction in most cases to 2024 and maintains a 10% or 30% credit



# § 45 Production Tax Credit (PTC)

- Extends existing PTC for applicable renewable energy
- This tech-specific PTC ends in 2024 and is replaced by the new tech-neutral clean electricity PTC (§ 45Y)
- Extends the date of construction for geothermal, wind, biomass, landfill gas, municipal solid waste, hydropower, marine, and hydrokinetic facilities to 2024
- Base rate of 0.3 cents/ kWh; Bonus rate of 1.5 cents per kWh



# § 45Y Clean Energy Electricity PTC

- Tech-neutral PTC replaces § 45 once it phases out at the end of 2024
- § 45Y is an emissions-based incentive that's neutral and flexible between clean electricity technologies
- Creates a PTC credit of 1.5 cents per kWh of electricity produced and sold or stored at facilities placed into service after 2024 with zero or negative GHG emissions





# Direct Pay and Transferability

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# Direct Pay and Transferability

CREDIT SECTION	NAME	DIRECT PAY	TRANSFERABLE
45	Production Tax Credit	Applicable Entities	Yes
45Y	Clean Electricity Production Credit – Technology Neutral	Applicable Entities	Yes
48	Energy Investment Tax Credit	Applicable Entities	Yes
48E	Clean Electricity Investment Credit – Technology Neutral	Applicable Entities	Yes



# § 6417 Direct Pay

## Available to applicable entities:

- Tax-exempt entities, states, or local governments
- Tennessee Valley Authority
- Indian Tribal Authority
- Any Alaska Native Corporation
- Any cooperative engaged in furnishing electric energy to persons in rural areas
- Exceptions for § 45V, 45Q, and 45X



# § 6418 Transferability

- Placed in service on or after January 1, 2023
- Elect to transfer (one time only) all or a portion of an eligible tax credit to an unrelated third party for cash
- Proceeds aren't a part of the taxable income of the transferring party nor deductible by the transferee
- Carried back three years or forward 20 years
- The transferee will be subject to recapture and basis reduction



# Topics for Additional Consideration

## Transfer Process and Additional Procedures

- Similar to state programs for certificated credits?
- Will cost certifications and certifications for prevailing wages and apprenticeship programs be required?
- Purchase and sale agreements, indemnity/guarantees against recapture, credit insurance considerations



# Topics for Additional Consideration (Cont.)

## Transfer Process and Additional Procedures

- Passive activity income and/or portfolio income for individuals? W-2 income?
- Corporate tax: minimum tax applicability and 75% offset limitation
- State tax implications?





Questions?

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