

Client Alert

February 2018

Bipartisan Budget Act Lifts Deadlines for and Allows Transferability of Tax Credits for Advanced Nuclear Facilities Under Section 45 of the Internal Revenue Code

On February 9, 2018, the President signed into law the Bipartisan Budget Act of 2018 (Pub. L. No. 115-123) (the Budget Act). Section 40501(a) of the Budget Act extended the advanced nuclear power production tax credit in Section 45J of the Internal Revenue Code. As amended, Section 45J allows an advanced nuclear facility placed into service after December 31, 2020 to be allocated a right to production tax credits based on its nameplate capacity. The total allocation of credits to such facilities is subject to a 6,000 megawatt capacity limitation, with the available capacity being allocated first to facilities placed in service on or before December 31, 2020 (up to their full nameplate capacity to the extent the facility did not previously receive a full allocation) and then to facilities placed in service after that date in the order in which they are placed in service. If an advanced nuclear power facility is allocated production tax credits, those credits are then available at the rate of 1.8 cents per kilowatt hour of electricity produced at such facility for the 8-year period starting on the date the facility is originally placed in service.

In addition, Section 40501(b) allows for the transfer of production tax credits from certain public entity facility owners (such as governmental entities and cooperative electric companies that own an interest in an advanced nuclear power facility) to certain project partners, including the financial institutions financing the facility and others involved in the design or construction of the facility, suppliers of the nuclear steam supply system, and nuclear fuel suppliers.

If you have any questions regarding the Budget Act, please contact us.

Contacts

David S. Lowman, Jr.
dlowman@hunton.com

John R.R. Tormey
jtormey@hunton.com

Laurence E. Skinner
lskinner@hunton.com

Hilary B. Lefko
hlefk@hunton.com