

BLOG POST

Fiscal Cliff Legislation Extends Production and Investment Tax Credits

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The fiscal cliff legislation temporarily ends the uncertainty surrounding the extension of tax credits related to wind facilities that generate electricity. Under current law, the production tax credit (the “PTC”) applied to wind facilities that were operational by the end of 2012. The legislation amends the Code and provides that such PTC is available for wind facilities “the construction of which begins before January 1, 2014.” A wind facility typically cannot be planned and constructed within a calendar year, thus, the amended language could significantly increase the amount of facilities that are eligible to qualify for the PTC and cause an even greater demand in 2013 for wind turbines and other equipment necessary to generate electricity.

In addition, the fiscal cliff legislation extends the provision that allows developers and investors involved with wind facilities to elect to receive the investment tax credit (the “ITC”) in lieu of the PTC. The existing ITC provides for an immediate 30% tax credit in the year the facility is placed into service instead of the 2.2 cents per kilowatt hour PTC that is available for the 10 year period commencing when the wind facility is operational. The ability to elect to receive the ITC instead of the PTC will apply to most wind facilities that commence construction prior to January 1, 2014. The extension of such election should cause an increased amount of wind facility transactions to be partially financed by tax equity investors that prefer to take into account the ITC when the facility is completed.

The extension of the PTC and the amendment expanding the scope of wind facilities that are eligible to qualify for the PTC will be welcome by wind developers and investors and may result in increased investment in wind electricity in 2013. However, because the extension applies only for one year, there remains little certainty that the PTC will continue to be available for wind facilities the construction of which begins after 2013.

For more information, contact [Alex Jones](#).