

FEDERAL TAX CREDIT FOR NON-TAXABLE USERS OF BATTERY STORAGE TECHNOLOGY

Tax exempt entities can qualify for direct payments in lieu of an Investment Tax Credit (“ITC”) under Section 13801 of The Inflation Reduction Act of 2022 (“IRA”). The IRA establishes procedures for other parties to monetize the tax credit for the Bronco Power Boost back-up battery storage unit (“BPB Unit”) placed in service on or after January 1, 2023. The direct pay option allows non-taxable entities to directly monetize the ITC of 30% for standalone energy storage regardless of the source of electricity.

Section 6417(d)(1)(A) of the Internal Revenue Code (“Code”) provides a direct pay option to: “(1) any organization exempt from the tax imposed by subtitle A (a) by reason of section 501(a) of the Code or (b) because it is a government of any U.S. territory or a political subdivision thereof; (2) any state, the District of Columbia or political subdivision thereof; (3) any Indian tribal government (as defined in Section 30D(g)(9) of the Code) or subdivision thereof; (4) any Alaska Native Corporation (as defined in the Alaska Native Claims Settlement Act); (5) the Tennessee Valley Authority; (6) any corporation operating on a cooperative basis which is engaged in furnishing electric energy to persons in rural areas (rural electric cooperatives); and (7) an agency or instrumentality of any applicable entity described in paragraphs 1(b), 2 or 3 above.” Pursuant to paragraph 7 referenced above, public universities can take advantage of this credit or direct payment option.

The entities described in Section 6417(d)(1)(A) of the Code can elect to be treated as having made a tax payment equal to the value of the tax credit they would have otherwise been eligible to claim under Section 48E of the Code applicable to the battery storage technology. The entity can then claim a refund for the excess taxes they are deemed to have paid. The option effectively makes the 30% ITC refundable for all of the above-referenced entities. There are no maximum size, price, brand, manufacture or tax credit qualifications.

The qualified expenditures for residential and commercial use include the cost of the BPB Unit including software, hardware and professional/installation services. To qualify for **residential use**, the purchaser must install the BPB Unit in connection with a dwelling unit located in the United States and used as a residence by the taxpayer, and the battery must have a capacity of not less than 3 kilowatt hours (the residential BPB Unit has a minimum of 3.6 kWh). To qualify for **commercial/business use**, the battery must have a capacity of not less than 5 kilowatt hours. (the commercial BPB Unit has a minimum capacity in excess of 5 kWh).

To claim the direct pay option, as with any tax accounting decision, please consult your CPA or tax advisor to determine if your entity qualifies and the procedures required to receive this payment as they can be complex. To take advantage of direct pay option under Section 6417,

applicable entities need to provide the IRS with certain information to obtain a registration number. An applicable entity must complete the pre-filing registration process through the IRS electronic portal and in accordance with the instructions provided therein to obtain a registration number. The receipt of the registration number does not, by itself, guaranty the applicants ability to receive a payment under Section 6417. This Memorandum has been provided for informational purposes only and does not constitute tax, legal or financial advice.

The BPB Unit provides reliable back-up power, cost savings, stability, demand shaving and avoidance of Time of Use (“TOU”) Tariffs. The BPB Unit serves as a back-up energy source for users that face intermittent and frequent energy outages as well as service disruptions due to natural disasters (storms, hurricanes, etc.) and Planned Safety Power Shutoffs (“PSPS”). The BPB Unit also saves money for certain users who are subject to TOU restrictions and pricing. In certain cities and states, the price of electricity changes throughout the day and can be significantly more expensive during times of peak demand-typically mornings and evenings. The BPB Unit can be charged with less expensive, off-peak electricity and then used during peak pricing periods to reduce the consumption of more costly, peak hour electricity. The BPB Unit can shift grid usage during peak periods in non-emergency situations and reduce stress on the grid. Given the lack of maintenance, lack of CO2 emissions and cost effectiveness, the BPB is a great alternative to more costly gas generators that do not entitle the homeowner to an ITC.

Updated as of January 1, 2024