

CLIENT ALERT | July 8, 2025

One Big Beautiful Bill: New Law Disrupts Clean Energy Investment

The OBBB's enactment dramatically shifts the landscape for renewables and energy transition investments.

Key Points:

- Wind and solar projects now face a shorter window to qualify for tax credits.
- Tax credit timelines for other technologies like storage and carbon capture are largely left intact.
- All new clean energy projects must now meet strict new foreign ownership and sourcing requirements to be eligible for tax credits.
- For most clean energy projects, the date they begin construction is critical to determining their eligibility for tax credits and the extent to which they must comply with the foreign ownership and sourcing rules.

On July 4, 2025, President Trump signed into law the One Big Beautiful Bill Act (the OBBB), which significantly rolls back many of the core tax incentives that clean energy projects have relied on since the passage of the Inflation Reduction Act in 2022.

Under the new law, tax credits for wind and solar projects phase out much sooner. To qualify, these projects must either be completed by the end of 2027 or begin construction within the next 12 months. This compressed timeline will likely force developers to accelerate their project schedules or risk losing critical tax credits. In contrast, the OBBB largely preserves tax credits into the next decade for newer clean energy technologies, like battery storage and carbon capture.

However, all new clean energy projects must now meet strict new foreign ownership and sourcing requirements to be eligible for any tax credits. Originally introduced under the Biden administration, and limited to electric vehicles and advanced manufacturing tax credits, these “foreign entity of concern” (FEOC) rules have now been expanded under the OBBB to cover virtually all tax credits. The expanded FEOC rules deny credits to projects that are owned or controlled by certain foreign entities — or that purchase components from or make payment to these foreign entities. Notably, the list of FEOCs includes all companies owned or controlled by the Chinese government or its citizens.

Under the OBBB, wind and solar projects face a shorter window to qualify for tax credits. Projects that were under construction by the end of 2024 are largely unaffected by the new law. Projects first starting construction in 2025 must generally comply with the FEOC ownership requirements, and projects beginning construction in 2026 or later must navigate a complex set of FEOC sourcing and payment rules, including proving that an increasing share of components are sourced outside of China.

Going forward, a key factor for most clean energy projects will be the date they begin construction, as this will determine both their eligibility for tax credits and the extent to which they must comply with the FEOC rules. Over the past 12 years, the IRS has issued a series of notices that define what it means for a project to be “under construction” along with related rules on transfers and completion deadlines. The OBBB clarifies that this existing guidance continues to apply for purposes of the effective date of the “material assistance” FEOC rules described below.

However, the Trump administration issued an executive order on July 7, 2025, directing the US Treasury department to revisit the begun construction rules with respect to solar and wind facilities within 45 days, including by “restricting the use of broad safe harbors unless a substantial portion of a subject facility has been built.” These guidelines (and the extent to which they are changed for solar and wind) are now likely to become central to how developers assess the value of their pipelines and plan future investments. Many in the industry will now rely on these IRS rules to guide investment decisions and accelerate project timelines, as construction start dates become a critical factor in securing favorable tax treatment under the new law.

This Client Alert provides a detailed description of the OBBB’s changes to the tax credits across different technologies and the FEOC rules.

Solar and Wind ITC and PTC

Projects that began construction before 2025 are generally unaffected by the OBBB. Projects that start construction in 2025 or later are eligible under existing law for tax credits that are similar to the investment tax credit (ITC) or production tax credit (PTC) and referred to as “technology neutral credits.” Most of the restrictions in the new law related to renewables are aimed at curtailing these technology neutral credits.

Despite the technology neutral focus of existing law, solar and wind are subject to different — and harsher — treatment under the OBBB than other technologies. Projects have to either begin construction before July 5, 2026, or be placed in service by December 31, 2027, to qualify for credits. Under pre-OBBB law, projects beginning construction in 2025 or 2026 would have until the end of 2029 or the end of 2030, respectively, to be placed in service, or else their developers must demonstrate that work is continuous based on the facts.

Solar and wind projects, as well as other projects eligible for technology neutral tax credits, will also become subject to the FEOC requirements, which are described in further detail below.

Helpfully, the OBBB does not affect eligibility for tax credit adders (e.g., for projects located in an energy community or that meet domestic content requirements), eligibility for accelerated depreciation, the ability to transfer tax credits to third parties for cash, or place restrictions on residential solar leasing.

Restrictions on the latter three had been proposed in prior iterations of the bill. The final bill focuses the leasing restriction on solar water heating property or small wind energy property.

Although the domestic content tax credit bonus is retained, the OBBB fixes an apparent glitch from the Inflation Reduction Act that would have increased the qualification threshold to up to 55% over time for PTC projects but left the ITC threshold static at 40%. ITC projects that began construction before June 16, 2025, can still rely on a 40% threshold, but projects seeking to claim a domestic content adder that began construction after that date must meet a domestic content threshold of 45%, with increasing annual thresholds that match the PTC version thereafter.

Storage and Other Technologies Eligible for the ITC and PTC

Non-solar and wind technologies (e.g., storage, hydropower, and geothermal) fare much better under the OBBB. Tax credits for these projects are subject to a phase-down schedule that begins for projects that commence construction after 2033. Projects beginning construction in 2034 and 2035 will still qualify for tax credits but with a 75% and 50% haircut, respectively. These projects must meet the traditional continuity test, which requires placement in service by the end of the fourth year after the end of the year in which construction starts, or else demonstrate that construction was continuous based on the facts.

Fuel cells (including linear generators) were added as a special category of ITC-eligible technology. Fuel cell projects generally involve some level of greenhouse gas emissions, which would make them ineligible for the technology neutral ITC pre-OBBB. They are newly eligible for a 30% ITC without regard to emissions and are also exempt from prevailing wage and apprenticeship requirements. They cannot qualify for tax credit adders. Eligibility begins for projects that start construction after 2025.

Clean Fuels

The OBBB significantly modifies the section 45Z PTC for clean transportation fuel, including sustainable aviation fuel. The credit is extended by two years to cover fuel sold through December 31, 2029, but reduces the value of the credit for sustainable aviation fuel from \$1.75/gallon to \$1.00/gallon beginning for fuel produced after 2025. The OBBB also eliminates the excise tax credit for sustainable aviation fuel with respect to any sale or use after September 30, 2025, and prohibits double counting by barring 45Z credits on any fuel produced from fuel that would have qualified for 45Z credits on its own. Fuel feedstock will have to come from the United States, Mexico, or Canada to qualify for a credit.

The new law forecloses the possibility of claiming additional 45Z credits based on “negative emissions.” The credit amount is calculated according to the “emissions factor” of the fuel, with a floor of 50 kilograms of CO₂e per mmBTU to qualify. The greater the emissions rate, the smaller the emissions factor and the smaller the tax credit. Conversely, if the emissions rate is negative, prior law appears to allow taxpayers

to claim a credit above \$1.00 for clean fuel and above \$1.75 for sustainable aviation fuel. The OBBB prevents this result.

The OBBB also restores the expired tax credit under section 40A for small agri-biodiesel producers through 2026 and increases the credit amount from 10 cents a gallon to 20 cents a gallon. The tax credit will be newly eligible to be sold to third parties for cash.

As described in further detail below, projects intending to claim 45Z credits will become subject to FEOC ownership restrictions, but not material assistance restrictions.

Carbon Capture and Sequestration

The 45Q tax credit for carbon capture receives relatively favorable treatment under the OBBB compared to other credits. The credit is available for carbon dioxide that is captured and then permanently sequestered, used in enhanced oil recovery, or put to another commercial use. The credit amount had been higher for a sequestration use case compared to the others on the theory that sequestration is uneconomic without the tax incentive. The OBBB puts all use cases on equal footing so that both enhanced oil recovery and commercial utilization can qualify for a credit of up to \$85 per metric ton (or more in the case of direct air capture).

Similar to the 45Z tax credit for clean fuels, projects will become subject to the ownership-related FEOC restrictions, but not material assistance restrictions.

Advanced Manufacturing Tax Credit

The OBBB makes numerous changes to the section 45X advanced manufacturing tax credit, which provides a tax credit for the production and sale of certain solar, wind, and battery components, as well as the production and purification of certain critical minerals. Among other changes, the OBBB:

- terminates the tax credit for wind components sold after 2027;
- creates a new category of eligible critical minerals for “metallurgical coal”;
- begins phasing out tax credits for critical mineral production (other than metallurgical coal, which terminates after 2029) after 2030, with termination after 2033;
- subjects manufacturers to similar FEOC rules as those that apply to the technology neutral ITC and PTC; and
- requires battery modules to be “comprised of all other essential equipment needed for battery functionality, such as current collector assemblies and voltage sense harnesses, or any other essential energy collection equipment,” as a condition for tax credit eligibility.

Metallurgical coal is unique compared to the other critical minerals in that it is allowed to be produced outside of the United States. Federal tax credit eligibility in general, even outside of the critical minerals context, usually requires the activity being subsidized to occur in the United States. However, the credit is only worth 2.5% of the cost compared to 10% with respect to other critical minerals. The coal must be suitable for use in the production of steel.

Notably, the OBBB does not fully restrict the sale of integrated components, which had been proposed in the initial Senate bill. The initial Senate bill would have essentially prevented manufacturers of multiple components that are integrated into an end product from claiming credits on each individual component. Instead, the OBBB permits the stacking of credits provided that the components that are integrated together are produced in the same facility, the end product is sold to an unrelated person, and at least 65% of the direct material costs of the underlying components are attributable to US mining, production, or manufacturing.

Foreign Entities of Concern

The OBBB imposes important new restrictions limiting the ability of projects to generate tax credits if certain FEOCs are involved. These restrictions fall into two categories: (1) those relating to ownership or control, and (2) those relating to assistance during construction. To the extent an FEOC restriction contains a beginning of construction concept, the OBBB memorializes long-standing IRS guidance that allows a project owner to begin construction by either incurring 5% of project costs or else beginning physical work of a significant nature.

1. FEOC – Ownership Restrictions

The first FEOC restriction generally prohibits a project owner from claiming technology neutral tax credits, advanced manufacturing tax credits, clean fuel production tax credits, and tax credits for carbon sequestration for any tax year in which the person otherwise generating the tax credit is either a “specified foreign entity” or a “foreign influenced entity.” These restrictions generally apply to tax years beginning after July 4, 2025, though the restrictions relating to foreign-influenced entities do not restrict clean fuel production tax credits until tax years beginning after July 4, 2027.

Specified foreign entities should be relatively easy to identify. These include entities owned by the governments of China, Iran, North Korea, or Russia; entities owned by citizens of those countries or otherwise organized or having a principal place of business in one of those countries; certain battery manufacturers; and certain other similar entities.

An entity is a foreign-influenced entity if: a specified foreign entity has direct or indirect authority to appoint board members or officers; a single specified entity owns more than 25% of the entity; one or more specified foreign entities owns an aggregate of 40% of the entity; or at least 15% of the entity’s debt is held by specified foreign entities (in the aggregate).

An entity is also a foreign-influenced entity if during the prior taxable year the entity made payments to a specified foreign entity pursuant to an arrangement that allowed the specified foreign entity to exercise effective control over a project (in the case of technology neutral tax credits) or production of any components (in the case of advanced manufacturing tax credits). The concept of effective control does not restrict project owners from claiming clean fuel production tax credits or carbon sequestration tax credits. Because effective control requires examination of payments made in the prior taxable year, project owners should closely scrutinize any contract that requires a payment, or any payments recently made, which could provide a contractual counterparty with any specific authority over production of components, energy generation, or energy storage.

Contractual rights that allow a counterparty to determine the amount or timing of production, restrict access to data relating to production, determine the purchase of power output, or maintain or otherwise operate a project on an exclusive basis can create effective control. Effective control can also be granted by licensing arrangements that specify or direct material or other components in a project, allow the licensor to direct the operation of the project, limit the taxpayer's use of the licensed property, provide a right to royalties for more than 10 years, or otherwise require the project owner to hire a project operator for more than two years at the licensor's direction.

Finally, for projects claiming the technology neutral ITC, the OBBB imposes a recapture of 100% of the tax credit value if payments conveying effective control are made within 10 years of the project being placed in service. The recapture rule is effective for technology neutral ITCs claimed in taxable years beginning after July 4, 2027.

2. FEOC – Material Assistance Rules

The second set of FEOC restrictions prohibits project owners from claiming technology neutral tax credits if construction on the project started after December 31, 2025, and the project receives material assistance from a specified foreign entity. A similar prohibition limits project owners from claiming advanced manufacturing tax credits for any tax year beginning after July 4, 2025, if the owner received material assistance from a specified foreign entity.

An entity receives material assistance from a prohibited foreign entity if the material assistance cost ratio applicable either to the power generation project or the manufacturing project is less than the applicable threshold percentage. The applicable threshold percentages are shown in Exhibit A (below), which can be adjusted by the Secretary of the Treasury in the case of the applicable threshold relating to critical minerals.

The material assistance cost ratio for a power plant or battery is generally the difference between the total direct costs for manufactured products less the direct costs attributable to a specified foreign entity, divided by the total direct costs. This effectively examines the “good” costs over the total costs. The material assistance cost ratio for a manufactured component is the “good” material costs over the total material costs.

The OBBB directs the Secretary of the Treasury to issue safe harbor tables applying a methodology similar to that adopted with respect to the calculation of domestic content under Notice 2025-08 for material assistance. Before these tables are issued, taxpayers can rely on Notice 2025-08 along with a supplier certification, though this has an obvious shortcoming in that Notice 2025-08 has tables for a limited subset of power production technologies. Developers of other technologies will have to rely on actual labor and materials costs to run the calculations.

Other Changes

- The clean hydrogen PTC terminates for projects that begin construction after 2027. Prior iterations of the bill in both the House and Senate would have terminated the credit if construction did not begin by the end of 2025.
- Bonus depreciation — the ability to write off 100% of the cost of certain business property, including renewables projects, as a depreciation deduction — is made permanent for property acquired after January 19, 2025. Bonus depreciation was enacted as part of the Tax Cuts and Jobs Act and was set to phase out after 2026 for most property. Taxpayers can elect out of bonus depreciation entirely or alternatively elect into a 40% bonus (or 60% bonus for property with a longer production period).
- The PTC for nuclear facilities under 45U will become subject to the FEOC ownership restrictions.
- Multiple other tax credits will terminate between September 30, 2025, and June 30, 2026. The exact dates and mechanics vary by credit. Affected credits include the 30D clean vehicle credit, the 45W qualified commercial vehicles credit, the 30C credit for charging stations, and the residential clean energy credit under 25D.

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Exhibit A: FEOC – Material Assistance Thresholds

Technology Neutral Credits					
Begins Construction	In 2026	In 2027	In 2028	In 2029	After 2029
Qualified Facilities	40%	45%	50%	55%	60%
Energy Storage Technology	55%	60%	65%	70%	75%

Advanced Manufacturing Credits — Eligible Components					
Components Sold	In 2026	In 2027	In 2028	In 2029	After 2029
Solar	50%	60%	70%	80%	85%
Wind	85%	90%	N/A	N/A	N/A
Inverter	50%	55%	60%	65%	70%
Battery	60%	65%	70%	80%	85%

Advanced Manufacturing Credits — Critical Minerals					
Components Sold	2026-2029	In 2030	In 2031	In 2032	After 2032
Critical Minerals	0%	25%	30%	40%	50%

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