Lawyers for a Sustainable Economy

“We will continue to harness the power of the public and private sector together, moving forward to build a brighter, cleaner, and more sustainable future.”

Xavier Becerra, Former California Attorney General

Firms offer pro bono legal assistance to eligible Tribal entities, non-profits, and early-stage entrepreneurs taking on key sustainability challenges.
Speakers

Molly Loughney Melius
Director, Stanford Lawyers for a Sustainable Economy Initiative

PaaWee Rivera
Senior Advisor and Tribal Affairs Director, White House Office of Intergovernmental Affairs
Holland & Knight Team

Nicole M. Elliott
Beth A. Viola
Amish Shah
Ken Parsons
IRA: Climate & Energy

- The most significant climate legislation in U.S. history
- Provides incentives in the form of direct spending and tax benefits
- Provides a significant runway for investments
- Helps ensure disadvantaged communities are not left behind
- Has strong labor components, ensuring job creation
- Focused on domestic supply chain and onshoring
Webinar Series

- Today’s webinar is Overview of the IRA

Future Webinars

- August 28 – Deep Dive, Direct Pay for Tribes
- September 25 – Deep Dive, ITC and PTC
Agenda

- IRA Tax Benefits
  - Overview of Tax Provisions
  - Introduction to Direct Pay
- Questions and Answers
Tax Incentives
Tax Credits

Energy Manufacturing
- Advanced Energy Project Credit - Section 48C
- NEW Advanced Manufacturing Production Credit – Section 45X

Clean Vehicles
- NEW Qualified Commercial Vehicles - Section 45W
- Alternative Fuel Vehicle Refueling Property (charging stations) - Section 30C

Carbon Sequestration
- Credit for Carbon Oxide Sequestration - Section 45Q
Tax Credits

Energy Generation
- Investment Tax Credit - Section 48
  - NEW Clean Electricity Investment Credit – Section 48E
- Production Tax Credit – Section 45
  - NEW Clean Electricity Production Credit – Section 45Y

Clean Fuels
- Extension of existing credits
- NEW Clean Hydrogen – Section 45V
- NEW Clean Fuel Production Credit – Section 45Z
Direct Pay of Tax Credits

Credits can be directly paid to Native American tribes

- Only available for applicable entities, which includes Native American tribes.
- Can elect for direct payment of most of IRA energy credits.
- Direct payment = asking IRS for $
Investment Tax Credit Example

- Tax credit for placing in service projects that produce renewable energy (e.g., solar, wind, electrochromic glass), certain interconnection property, qualified biogas property, or energy storage projects.

- If certain labor conditions are met, the credit value is multiplied five (6% → 30%).

- Additional bonus credit amounts are available based on domestic content, placement in an energy community, or with an allocation for placement in connection with a low-income community.

- Tax credit claimed in the year the project is placed in service.
Investment Tax Credit Example (con’td)

A Tribe purchases and places into service solar panels to put on the roof of its administrative building thereby generating electricity for the facility. The solar panels cost $500,000. Under the IRA, the tax credit eligible for direct payment is generally 6% of this cost, or $30,000. The value of the credit is increased if additional conditions are met - if certain labor conditions are met or if the output is less than 1 MW, the credit is increased by five-fold to $150,000.

Additional bonus amounts of 10% each are also available increasing the value if either certain domestic content requirements are met (e.g. the products were produced in the United States) and/or the solar panels are placed in specially designated communities (e.g. energy communities or receive an allocation under the low-income community bonus program). Accordingly, under the right circumstances, the credit can be as much as 70% of the cost of the energy property.
<table>
<thead>
<tr>
<th><strong>Base Rate</strong></th>
<th>5%</th>
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<tbody>
<tr>
<td><strong>Labor Conditions</strong></td>
<td>For a number of the IRA tax credits, the credit amount is increased by five times for projects that meet requirements for paying prevailing wages and using registered apprentices.</td>
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<td>30%</td>
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<td><strong>Domestic Content Bonus</strong></td>
<td>For a few of the IRA credits, meeting domestic content requirements entitles a Tribe to an additional 10%. For projects or facilities beginning construction starting in 2024, failure to meet domestic content requirements can also result in a reduction of the credit.</td>
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<td>Extra 10%</td>
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<td><strong>Energy Community Bonus</strong></td>
<td>For a few of the IRA credits, projects located in historical energy communities, including areas with closed coal mines or coal-fired power plants, are eligible for a 10 percent increase. The bonus is also available to brownfield sites and to areas that have significant employment or local tax revenues from fossil fuels and higher than average unemployment.</td>
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<tr>
<td>Extra 10%</td>
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<td><strong>Low Income Communities Credit Program Bonus</strong></td>
<td>For one of the IRA credits, projects located in low-income communities, Indian lands, or federal housing projects, or serving low-income households can receive an increase in 10% or 20%. Tribes must apply and receive a capacity allocation.</td>
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<td>Extra 10 or 20%</td>
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Other Tax Benefits - Section 179D - Energy Efficient Commercial Building Deduction

**Tax Deduction = Cost of qualified energy efficient property x square feet of building**

- Tax deduction for installing qualifying energy efficient property that reduce a building's annual energy costs.
- Such property includes improvements to a building's interior lighting systems, heating, cooling, ventilation and hot water systems, or improvements to the building envelope.
- The value of the deduction is variable based on the improvements to efficiency, with a maximum allowable benefit - assuming certain labor conditions are met - of $5.00 per square foot of the building area.
- The value of the deduction is also capped at the cost of the property and overall the property must improve the energy efficiency of a building by 25%.

**Tribes can now benefit!**
Section 179D – Tax Deduction Example

A Tribe expends $100,000 for energy efficient building property, e.g. a new cooling system for an existing building meeting certain labor conditions. The building is 200,000 square feet. Based on the cost expended, a $100,000 tax deduction is available.

- (Note: The deduction is based and limited on the costs expended - under these facts the maximum deduction amount, $1,000,000 (200,000 square feet x $5.00), is unavailable because it is limited by cost.)

- Although the Tribe would historically not benefit from the available deduction, as a result of the IRA the Tribe can allocate the deduction to the architect. At a 35 percent federal income tax rate, the architect’s tax bill is reduced by $35,000.

- By leveraging the ability to allocate the Section 179D deduction to the architect, the Tribe has lowered its costs for making such improvements.
IRA Leverage Opportunities

- If structured properly, funding from the Inflation Reduction Act, American Rescue Plan Act and other non-tribal sources could be used for qualifying projects that generate tax credits for tribal governments.

- With many tribal governments already committed to transitioning to clean energy sources or making other climate investments, the Inflation Reduction Act presents a once-in-a-generation opportunity to make these energy-related investments in a manner that actually *nets the Tribe money*.

- Example: A Tribal government is using Fiscal Recovery Funds to construct a new administration building. If that building is qualified energy efficient property, the tribe’s costs for the building would be reduced due to the Section 179D deduction – freeing up funding for other projects.
Electrification of fleets

- **EV Vehicles**
  - Tax credit for the purchase of qualified commercial clean vehicle – vehicle must be propelled by a significant extent with electrify from a battery.
  - Max credit of $7,500 for vehicles with a weight rating less than 14,000 lbs; $40,000 for all other vehicles.
  - In addition to vehicles, the credit is available for clean mobile machinery.

- **EV Charging**
  - Credit for cost of alternative fuel vehicle refueling property placed in service.
  - Must be located in eligible census tract, i.e. non-urban or lower income.*
  - Credit is 6% up to 30% if labor conditions are met.
  - Maximum credit per single unit is $100,000.

* This could be a significant limitation.
Questions and Answers
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How to Apply for Pro Bono Help

**Step 1:**
Fill out the form;

**Step 2:**
Discuss legal request with Stanford Law School;

**Step 3:**
Stanford Law School provides your project description and request to the firms in the Initiative;

**Step 4:**
Stanford Law School will help to connect you with a firm.

For the application form and more on eligibility criteria, visit: [lawyersforsustainability.com](http://lawyersforsustainability.com)
Learn More

Webinar content provided by: Holland & Knight

Contact the Initiative

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