Vinson&Elkins

Renewable Reboot – The Inflation Reduction Act of 2022 Released as Senator Joe Manchin (D-WV) Changes Stance on Climate Change and Signals Support for Renewable Energy

(Expanded Alert)

On July 27, 2022, only a few hours after the Senate approved a bipartisan semiconductor and technology package, Senator Manchin made a stunning and well-timed reversal of his prior position and confirmed his support for various climate and energy programs. Senate Democrats (led by Senators Manchin and Schumer) quickly made legislative text available and submitted it to the Senate Parliamentarian for review.

While the legislation has a new name - the Inflation Reduction Act of 2022 (the Act) – it largely mirrors prior draft legislation released by the Senate Finance Committee in December of 2021 with respect to the climate and energy provisions. If enacted, the Act would be a historic investment in climate policy as well as a down payment on deficit reduction and inflation control, as the revenue projected to be generated by the Act (largely resulting from the 15% corporate minimum tax and IRS reform) exceeds the estimated spending by over $300 billion. Reports are that the Act will go to the Senate floor as early as next week.

Notable provisions include:

- Imposition of a 15% corporate AMT on C-corps with adjusted financial statement income in excess of $1 Billion (corporations would generally be eligible to claim net operating losses and certain tax credits against the AMT).
- Includes modifications to the taxation of carried interest.
- Revised credit structure from prior draft legislation retained – to be eligible for full credit amount must satisfy prevailing wage and apprenticeship requirements.
- Bonus credits generally available for satisfaction of “domestic content” requirements or location of facilities in “energy communities” or “low-income communities.”
- Extension of the PTC and ITC for projects (e.g., wind, solar, geothermal, biomass, hydropower, etc.) beginning construction before January 1, 2025.
- Expanded definition of ITC eligible energy property to include storage.
    - Does NOT include an ITC for transmission property.
- New PTC for solar property and extension of PTC for geothermal.
- Extension of the 45Q carbon oxide sequestration credit for projects beginning construction before January 1, 2033. The credit amount is also increased and the minimum capture requirements are significantly reduced.
- Technology neutral PTC and ITC available beginning in 2025 through the later of (i) 2032 or (ii) the year certain emissions thresholds are achieved (at which point the credit will start to phase down).
- Introduces and expands certain credits including:
    - Clean Hydrogen Credit;
    - Nuclear Power Production Credit;
    - Advanced Manufacturing Production Credit;
    - Clean Fuel Production Credit;
    - Renewable Fuels Credits; and
    - EV and Charging Infrastructure Credits.

- Includes a direct pay option for most credits; however, such direct pay option is generally limited to certain tax exempt and governmental entities. There is a limited, time-based exception to this restriction for the Clean Hydrogen Credit, 45Q Credit, and Advanced Manufacturing Credit.
- Includes an option to transfer most credits to another taxpayer. Compensation received by the transferor in connection with the transfer would not be taxable and no deduction would be permitted to be taken by the transferee with respect to amounts paid.
- Extends carryback period of credits to 3 years.
- Does NOT include the previously proposed expansion of qualifying income in 7704(d)(1)(E) to include renewables.

The following is a high-level summary of certain climate and energy tax proposals included in the Act. Please stay tuned for updates from V&E regarding additional features of the legislation and developments in Washington.

1. Energy Production

Production Tax Credit (PTC) Extension (45)

- PTC extension – The PTC which is currently unavailable for projects (e.g., wind, solar, geothermal, biomass, hydropower, etc.) beginning construction after December 31, 2021, would be extended to projects beginning construction before January 1, 2025.
    - Phase-out extension – The current PTC phase out (for projects beginning construction after December 31, 2016) would continue to apply for any project that is placed in service (PIS) before January 1, 2022. Projects PIS after December 31, 2021 would not be subject to a PTC phase out.
- Solar – The PTC for solar projects, which expired in 2006, would be reinstated for projects beginning construction before January 1, 2025.
- New credit structure – The PTC would be broken into a base credit (20% of the headline credit) and an increased credit (80% of the headline credit) available if prevailing wage and apprenticeship requirements are met (with an exception to these requirements for small projects and any project beginning construction within 60 days of the date the Secretary publishes guidance on this point).
    - The current PTC rate published for 2022 for wind is 2.6 cents per kWh (not taking into account any phasedown). To be eligible for this full credit, taxpayers would need to be eligible for the base and increased credit described above.

Prevailing Wage and Apprenticeship Requirements: Under the prevailing wage requirements, a taxpayer must ensure that any laborers and mechanics are paid prevailing wages during the construction of a project and, during the relevant credit period, for the alteration and repair of such project. Subject to certain exceptions, the apprenticeship requirements require a taxpayer to ensure that no less than the applicable percentage of total labor hours for the construction of the project are performed by qualified apprentices. There are cure options in the event of failure to satisfy either requirement.

- Bonus PTC – Taxpayers would be eligible for a bonus 10% PTC if certain "domestic content requirements" are met or if the project is located in an "energy community." If eligible for both, taxpayers may stack bonus credits.

> **Domestic Content Requirements:** Taxpayer must certify that any steel, iron, or manufactured product which is part of the PTC facility was produced in the United States. For this purpose, manufactured products will be considered manufactured in the United States if the "adjusted percentage" of the total cost of the components of such product are mined, produced, or manufactured in the United States. The adjusted percentage is 40% and 20% for offshore wind facilities.

> **Energy Community:** Energy communities are defined to include a brownfield site, a census tract or any adjoining tract in which a coal mine closed after December 31, 1999 or a coal-fired electric power plant was retired after December 31, 2009, and an area which has (or, at any time during the period beginning after December 31, 1999, had) significant employment related to the extraction, processing, transport, or storage of coal, oil, or natural gas.

Investment Tax Credit (ITC) Extension (48)

- ITC extension – The ITC, which under current law begins phasing out for projects beginning construction after 2019, would generally be extended to projects beginning construction before January 1, 2025 (with the extension for geothermal to January 1, 2035).
- ITC for projects PIS before 2022 – The ITC would be set at 26% with respect to any project beginning construction after 2019 if the project is PIS before January 1, 2022.
  - Projects PIS after December 31, 2021 would not be subject to ITC phase out.
- Credit expiration – The ITC is not available for certain projects which begin construction before January 1, 2027 but are not PIS before January 1, 2029.
- New structure – Similar to the PTC, the ITC would be broken into a base credit (20% of the headline credit) and an increased credit (80% of the headline credit) available if prevailing wage and apprenticeship requirements are met (with the same exceptions available as that for the PTC).
  - With respect to solar property, the base credit is 6% and the increased credit is 24% - for a total available ITC of 30%.
- Standalone storage ITC – The definition of ITC eligible property is expanded to include standalone storage with capacity of at least 5 kWh.
- Expanded ITC Eligible Property definition – The definition of ITC eligible property is also expanded to include qualified biogass, microgrid controllers, and – for small projects – interconnection property.
- Bonus ITC – Similar to the PTC (and subject to the same requirements), taxpayers would be eligible for an additional 10% ITC if certain "domestic content" requirements are met or if the project is located in an "energy community" (reduced to a 2% increase if the labor requirements are not also met). There is also a potential 10% or 20% bonus credit for solar and wind facilities located in "low-income communities."

Low-Income Communities: Up to 10% bonus credit is available for projects which are less than 5MW and which are located in a low-income community or on Indian land. Up to 20% bonus is available for projects which are less than 5MW and which are part of a qualified low-income residential building project or qualified low-income economic benefit project.

New Technology Neutral PTC and ITC

Beginning in 2025, taxpayers with zero emissions facilities would have the option to choose between a new technology neutral PTC or ITC (each described below).

Clean Electricity Production Credit (45Y)

- New credit – A ten-year technology-neutral PTC under section 45Y of the Code would be available for the production of clean electricity produced at a qualified facility PIS after December 31, 2024, for which the greenhouse gas emissions rate is not greater than zero, and which is sold to an unrelated person or sold, consumed, or stored by the taxpayer (as long as the facility is equipped with a metering device owned and operated by an unrelated person).
- Amount – Base credit of \$0.003/kWh of electricity produced with an increased credit rate of \$0.015/kWh, as adjusted for inflation, available if prevailing wage and apprenticeship requirements are met (similar to those described above). Like the current PTC, the technology neutral PTC is available for 10 years following the date the facility was PIS.
- Bonus PTC – Taxpayers would be eligible for an additional 10% PTC if certain “domestic content requirements” (as described above) are met or if the qualified facility is located in an “energy community” (as described above).
- Phase-out – The technology neutral PTC would begin to phase out for qualified facilities beginning construction in the first calendar year after the later of (i) the calendar year in which the Secretary determines that the annual greenhouse gas emissions from the production of electricity in the United States are equal to or less than 25% of the annual greenhouse gas emissions from the production of electricity in the United States for calendar year 2022 and (ii) 2032.
- Exclusivity – A qualified facility does not include any facility for which a PTC, ITC, 45J credit, 45Q credit, 45U credit, 48A credit, or 48D credit is allowed.
- Depreciation – Clarifies that 45Y eligible property will be 5-year MACRS property.

Clean Electricity Investment Tax Credit (48D)

- New credit – Similar to the technology neutral PTC, a technology-neutral ITC under section 48D of the Code would be available for the qualified investment in an electric generating facility or energy storage property PIS after December 31, 2024 and for which the greenhouse gas emissions rate is not greater than zero.
    - Recapture rules apply in the event the greenhouse gas emission rate for a qualified facility is greater than 10 grams of CO_2e per kWh.

- Amount – Base credit of 6% of the qualified investment. An increased credit rate of 30% is available if prevailing wage and apprenticeship requirements are met (similar to those described above).
- Bonus ITC – Taxpayers would be eligible for an additional 10% ITC if certain “domestic content” requirements are met or if the project is located in an “energy community” (reduced to a 2% increase if the labor requirements are not also met). There is also a potential 10% or 20% bonus credit for solar and wind facilities located in a “low-income community.”
- Phase-out – As with the technology neutral PTC, the technology neutral ITC would begin to phase out for qualified facilities beginning construction in the first calendar year after the later of (i) the calendar year in which the Secretary determines that the annual greenhouse gas emissions from the production of electricity in the United States are equal to or less than 25% of the annual greenhouse gas emissions from the production of electricity in the United States for calendar year 2022 and (ii) 2032.
- Exclusivity – A qualified facility does not include any facility for which a PTC, ITC, 45J credit, 45Q credit, 45U credit, 48A credit, or 45Y credit is allowed.
- Depreciation – Clarifies that 48D eligible property will be 5-year MACRS property.

New Zero Emission Nuclear Power Production Credit (45U)

- New credit – A PTC for the production of electricity from a nuclear facility (other than an advanced nuclear power facility under section 45J) which is PIS before the date of enactment would be available.
    - To be eligible the electricity produced by the facility must be produced and sold to an unrelated person after December 31, 2023.
- Amount – Base credit of 0.3 cents per kWh. An increased credit rate of 1.5 cents per KwH is available if prevailing wage requirements are met (similar to those described above). The credit is also reduced by 80% of the excess of gross receipts from electricity produced and sold over $0.025 times the amount of electricity sold.
- Credit Expiration – Terminates for taxable years beginning after December 31, 2032.

2. Carbon Capture

45Q Carbon Capture Credit Extension and Expansion (45Q)

- 45Q Extension – The 45Q Credit would be extended to projects beginning construction before January 1, 2033. Currently, the 45Q Credit applies to projects beginning construction by December 31, 2025.
- Lower capture requirements – The minimum carbon capture requirements for treatment as a qualified facility would be lowered. Generally, an electric generating facility would be a qualified facility if it captures at least 18,750 metric tons of qualified carbon oxide during the taxable year and at least 75% of the baseline carbon oxide production. Other facilities would be qualified facilities if the applicable facility captures at least 12,500 metric tons of qualified carbon oxide during the taxable year.

- New structure – Similar to the PTC and the ITC, the 45Q Credit would be broken into a base credit and an increased credit (equal to five times the base credit) if prevailing wage and apprenticeship requirements are met (similar to those described above).
  - In the case of qualified carbon oxide disposed of by the taxpayer in a secure geological storage and not used by the taxpayer, the base credit would be $17/metric ton of qualified carbon oxide and the increased credit would be $85/metric ton of qualified carbon oxide.
  - In the case of qualified carbon oxide used by the taxpayer as a tertiary injectant in a qualified enhanced oil or natural gas recovery project and disposed of by the taxpayer, the base credit would be $12/metric ton of qualified carbon and the increased credit would be $60/metric ton of qualified carbon.
- Direct Air Capture 45Q Credit – Direct air capture facilities which capture at least 1,000 metric tons of qualified carbon oxide in a year would qualify for an enhanced 45Q credit.
  - For direct air capture, in the case of qualified carbon oxide disposed of by the taxpayer in a secure geological storage and not used by the taxpayer, the base credit would be $36/metric ton of qualified carbon oxide and the increased credit would be $180/metric ton of qualified carbon oxide.
  - For direct air capture, in the case of qualified carbon oxide used by the taxpayer as a tertiary injectant in a qualified enhanced oil or natural gas recovery project and disposed of by the taxpayer, the base credit would be $26/metric ton of qualified carbon and the increased credit would be $130/metric ton of qualified carbon.

3. Hydrogen Production

New Clean Hydrogen PTC (45V)

- New credit – A new ten-year production tax credit under section 45V of the Code would be available for the production of clean hydrogen produced after December 31, 2022 by a taxpayer at a qualified facility beginning construction by January 1, 2033.
  - To be eligible, the lifecycle greenhouse gas emissions rate cannot exceed 4 kilograms of CO2e (carbon dioxide equivalent) per kilogram of hydrogen produced.
- ITC-in-lieu-of-PTC election – Taxpayers would have the option to make an election for the ITC in lieu of the PTC with respect to a clean hydrogen production facility.
- PTC Amount – Base credit of $0.60/kilogram, adjusted for inflation, multiplied by an applicable percentage, which is 100% if the lifecycle greenhouse gas emissions rate is less than 0.45 kilograms of CO2e (carbon dioxide equivalent) per kilogram of hydrogen (adjusted downward as shown below based on the lifecycle greenhouse gas emissions rate). The increased credit rate is 5 times the base rate (i.e., up to $3.00/kilogram) if prevailing wage and apprenticeship requirements are met.
  - The applicable percentage is 20% if the lifecycle greenhouse gas emissions rate is not greater than 4 kilograms of CO2e and not less than 2.5 kilograms of CO2e
  - The applicable percentage is 25% if the lifecycle greenhouse gas emissions rate is less than 2.5 kilograms of CO2e and not less than 1.5 kilograms of CO2e
  - The applicable percentage is 33.4% if the lifecycle greenhouse gas emissions rate is less than 1.5 kilograms of CO2e and not less than 0.45 kilograms of CO2e

- ITC Amount – Base credit of 6% multiplied by an applicable percentage, which is 100% if the lifecycle greenhouse gas emissions rate is less than 0.45 kilograms of CO2e (carbon dioxide equivalent) per kilogram of hydrogen (adjusted downward as shown below based on the lifecycle greenhouse gas emissions rate). The increased credit rate is 5 times the base rate (i.e., up to 30%) if prevailing wage and apprenticeship requirements are met.
    - The applicable percentage is 1.2% (6% if prevailing wage and apprenticeship requirements are met) if the lifecycle greenhouse gas emissions rate is not greater than 4 kilograms of CO2e and not less than 2.5 kilograms of CO2e
    - The applicable percentage is 1.5% (7.5% if prevailing wage and apprenticeship requirements are met) if the lifecycle greenhouse gas emissions rate is less than 2.5 kilograms of CO2e and not less than 1.5 kilograms of CO2e
    - The applicable percentage is 2% (10% if prevailing wage and apprenticeship requirements are met) if the lifecycle greenhouse gas emissions rate is less than 1.5 kilograms of CO2e and not less than 0.45 kilograms of CO2e
- Exclusivity – A taxpayer cannot benefit from both the clean hydrogen PTC and the 45Q Credit, but can take both the PTC or ITC and the clean hydrogen PTC (even if not sold to an unrelated party).

4. Manufacturing for Renewable Energy

New Advanced Manufacturing Production Credit (45X)

- New credit – A new production tax credit under section 45X of the Code would be available for the production of certain eligible components produced by the taxpayer in the United States and sold to an unrelated person after December 31, 2022.
    - Eligible components include PV cells, PV wafers, solar grade polysilicon, polymeric backsheets, solar modules, wind energy components, torque tubes, structural fasteners, electrode active materials, battery cells, battery modules, and certain critical minerals.
- Amount – Credit amount varies depending on the applicable eligible component.
- Phase-out – The advanced manufacturing PTC would begin to phase out with respect to components sold during the 2030 calendar year and would not be available for components sold after December 31, 2032.

Extension of Advanced Energy Project Credit (48C)

- Overview – Effective January 1, 2023, section 48C, which provided ITCs for projects that equip or expand manufacturing facilities that produce specified renewable energy equipment, including wind, solar and geothermal property, fuel cells, microgrids, and carbon capture and sequestration property, would be revised and expanded to include facilities that manufacture energy storage systems and components, electric grid modernization equipment or components, electric and hybrid vehicles, property used to produce energy conservation technologies, and equipment which re-equips a manufacturing facility with equipment designed to reduce greenhouse emissions by at least 20%.
- Amount – Base credit of 6%. An increased credit rate of 30% is available if prevailing wage and apprenticeship requirements are met (similar to those described above).

- Allocation – The total amount of credits available may not exceed $10,000,000,000 (of which no more than $6,000,000,000 may be allocated to investments which are not located in energy communities).
    - To be eligible, taxpayers must apply for certification from the Treasury and place the project in service within 2 years of certification.
- Exclusivity – The 48C credit is not available for any investment if a credit is allowed under sections 48, 48A, 48B, 48D, 45Q or 45V.

5. Credit Flexibility

Direct Pay Election

- Direct Pay Option – The Act would make a direct pay option available for the ITC, the PTC (for facilities PIS after 2022), the 45Q Credit (for facilities PIS after 2022), the technology neutral ITC (48D) and PTC (48Y), the section 30C credit for alternative fuel vehicles, the section 45U zero-emissions nuclear power production credit, the clean hydrogen credit (for facilities PIS after 2012), the credit for qualified commercial vehicles, the section 45X advanced manufacturing credit, the clean fuel production credit, and the section 48C credit for qualifying advanced energy projects. Under a direct pay scenario, a taxpayer treats tax credits generated by a renewable energy project as equivalent to a payment of tax on the taxpayer's filed tax return.
- Eligible Persons – Direct payment is only available for an "applicable entity" which generally only includes a tax exempt entity, a State or local government, the Tennessee Valley Authority, an Indian Tribal Government, or any Alaska Native Corporation. The limitation to "applicable entities" does not apply to the first 5 years of the clean hydrogen credit, the first 5 years of the 45Q credit, or the section 45X advanced manufacturing credit, in each case, only with respect to any taxable year beginning before December 31, 2032. As such, any taxpayer could conceivably elect direct pay for these credits for a limited period of time.
- Domestic Content – Ability to elect direct pay for certain credits is tied to achievement of the "domestic content" requirements.
- Procedure – Direct pay election is made on a facility-by-facility basis and generally must be made in the year the facility is PIS and applies for the entire credit period relating to the facility (subject to the above time-based limitation for non-applicable entities).
- Potential Penalty – An additional 20% penalty may apply in situations involving excess payments.

Transferability

- Transferability Option – For taxable years beginning after December 31, 2022, taxpayers may elect to transfer certain credits to an unrelated taxpayer. The transfer election is available for the ITC, the PTC, the 45Q Credit, the technology neutral ITC (48D) and PTC (48Y), the section 30C credit for alternative fuel vehicles, the section 45U zero-emissions nuclear power production credit, the clean hydrogen credit, the section 45X advanced manufacturing credit, the clean fuel production credit, and the section 48C credit for qualifying advanced energy projects. "Applicable entities" defined for direct pay purposes (i.e., a tax exempt entity, a State or local government, the Tennessee Valley Authority, an Indian Tribal Government, or any Alaska Native Corporation) may not transfer credits.

- Treatment of Consideration – Any consideration paid in respect of the transferred credit must be paid in cash and is not included in income of the transferor (it is treated as tax exempt income for partnerships or S corporations), but is not deductible by the transferee.
- Procedure – The election to transfer the credits is made on a facility-by-facility basis, and for credits available over an extended period, for each year in which the credit is available.
- Further Transfers – Once transferred, the transferee cannot further transfer the relevant credit. Credits which have been carried back or carried forward may not be transferred.
- Potential Penalty – An additional 20% penalty may apply in situations involving excess payments.

Extended Carryback

- 3-Year Carryback – For taxable years beginning after December 31, 2022, a 3-year carryback (instead of a 1-year carryback) is included for certain credits (the ITC, the PTC, the 45Q Credit, the technology neutral ITC (48D) and PTC (48Y), the section 30C credit for alternative fuel vehicles, the section 45U zero-emissions nuclear power production credit, the clean hydrogen credit, the section 45X advanced manufacturing credit, the clean fuel production credit, and the section 48C credit for qualifying advanced energy projects).

Service Contract Safe Harbor (7701(e))

- Safe Harbor - Extends the service contract safe harbor currently available for alternative energy facilities to contracts for the operation of a storage facility.

6. Electric Vehicles (EVs)

Clean Vehicle Credit (30D)

- Overview – Provides a $7,500 tax credit for new EVs placed in service before 2033. The manufacturer's limitation is eliminated for vehicles sold after December 31, 2022.
- Battery Sourcing – The credit is reduced by 50% if the battery is not primarily sourced from North America.
- Price Cap – Price on EV sedans is capped at $55,000 and the price on EV trucks, SUVs, and vans is capped at $80,000.
- AGI Limitations – The credit is unavailable if the taxpayer's adjusted gross income for the taxable year (or the prior taxable year) exceeds a threshold amount ($300,000 for taxpayers filing a joint return, $225,000 for head of household filers, and $150,000 for other filers).
- Transferability – It appears that taxpayers who acquire EVs may elect to transfer the credit to the dealer who sold the vehicle.

Previously Owned Clean Vehicles Credit (25E)

- Overview – Provides a tax credit for used EVs which are at least 2 years old which are sold before December 31, 2032 equal to the lesser of (x) $4,000 or (y) 30% of the sales price for the used EV.
- AGI Limitations – The credit is unavailable if the taxpayer's adjusted gross income for the taxable year (or the prior taxable year) exceeds a threshold amount ($150,000 for taxpayers filing a joint return, $112,500 for head of household filers, and $75,000 for other filers).

Qualified Commercial Clean Vehicles Credit (45W)

- Overview – Provides a tax credit for qualified commercial clean vehicles sold before December 31, 2032 equal to the lesser of (x) 15% of the basis of such vehicle (30% in the case the vehicle is not powered by a gasoline or diesel engine) or (y) the incremental cost of such vehicle over the price of a comparable vehicle solely powered by a gasoline or diesel engine.
- Limitation – The credit cannot exceed $40,000 ($7,500 for vehicles with a weight rating of less than 14,000 pounds).

Alternative Fuel Refueling Property Credit (30C)

- Overview – Extends the tax credit for alternative fuel refueling property (i.e., electric vehicle chargers) to property placed in service before December 31, 2032 and removes the per location limitation. Revised credit provides a 30% tax credit on alternative fuel refueling property up to $100,000 and a 20% tax credit on amounts over $100,000.
- New Structure – If the alternative fuel vehicle refueling property is depreciable property, the credit is 6% unless the prevailing wage and apprenticeship requirements are met (in which case the credit is 30%).

7. Renewable Fuels

Renewable Fuels Credits

Biodiesel and renewable diesel

- Credit Extension – The existing income and excise tax credits for biodiesel and biodiesel mixtures (including renewable diesel) would be extended at $1.00 per gallon through the end of 2024.

Alternative fuels and alternative fuel mixtures

- Credit Extension – Existing excise tax credits for alternative fuels and alternative fuel mixtures would be extended at $0.50 per gallon through the end of 2024.

Second generation biofuel

- Credit Extension – Existing incentives would be extended through the end of 2024.

40B Sustainable Aviation Fuel

- Overview – The existing credit for aviation fuel produced from biodiesel would be replaced, effective from 2023 through the end of 2024, with a new credit for mixtures of sustainable aviation fuel and conventional aviation fuel. To claim the credit, a taxpayer must certify a reduction of lifecycle greenhouse gas emissions of at least 50%.
- Amount - The base credit is $1.25 per gallon, and increases up to a maximum of $1.75 if greenhouse gas emissions are reduced below 50%.

Clean Fuel Production Credit

- New credit – A production tax credit under section 45Z of the Code would be available for the production of low-emissions transmission fuel (other than hydrogen) produced at a qualified facility after December 31, 2024 and before December 31, 2027.
- Amount – Base credit of $0.20/gallon (or $0.35/gallon for aviation fuel) multiplied by an applicable emissions factor, which is 100% if the fuel emissions factor is less than 75 kilograms of CO_2e per mmBTU. The increased credit rate is 5 times the base rate if prevailing wage and apprenticeship requirements are met.

8. Residential Credits

Extension of Residential Credits

- Home Improvements - The residential energy property credit allows homeowners to claim a federal tax credit for making certain improvements to their homes or installing appliances that are designed to boost energy efficiency. The Act would generally extend this residential credit through December 31, 2032 (at which point the credit will start to phase down).
- Residential Clean Energy – The Residential Clean Energy Credit (for solar, small wind, fuel cell, geothermal, and biomass) is extended through December 31, 2034 and expanded to include standalone storage.

9. Revenue Raisers

Corporate Alternative Minimum Tax (AMT)

- Overview – For taxable years beginning after 2022, the Act would apply an alternative minimum tax to any C-corporation which has an average annual adjusted financial statement income for any consecutive 3-year period in excess of $1 Billion (or $100 Million for certain foreign-parented corporations). For this purpose, income is tested by aggregating the income of commonly controlled corporations, partnership and other entities, so the AMT could apply to small and medium-sized corporations that are related to larger entities or numerous smaller entities.
- Computation – The AMT is generally equal to the excess (if any) of the tentative minimum tax over the regular tax liability. The tentative minimum tax is generally equal to 15% of the corporation's annual adjusted financial statement income over the corporation's AMT foreign tax credit.

- Offsets – The proposed legislation preserves the ability of taxpayers to offset their AMT liability with certain tax credits and disregards any amounts received as direct payments. However, taxpayers will not be able to reduce their annual adjusted financial statement income through depreciation deductions.
- Revenue Estimate – Projected to raise $313 billion based on the Joint Committee on Taxation estimate.

Carried Interest

- Overview – The Act expands the application of the short-term capital gain rules such that certain partners must hold investments for 5 years to qualify for long-term capital gain treatment.
- Revenue Estimate – Projected to raise $14 billion based on the Joint Committee on Taxation estimate.