ALLEN & OVERY

Inflation Reduction Act of 2022 – Energy Provisions and Related Tax Credits

Cool tones – colour palette options

Remember to select COOL theme when inserting further slides

Text colour on light background should be Grey-50%.

Grey -50% R = 99 G = 100 B = 103

Always use A&O Red and the Midnights for the main slide content.

A&O Red	Midnight	Midnight – 25%	Midnight – 50%
R = 178 G = 52 B = 39	R = 66 G = 85 B = 99	R = 200 G = 206 B = 213	R = 154 G = 164 B = 177

If using charts or infographic elements, choose **one** colour option within the warm or cool template chosen

If you have more than 5 categories in your chart or infographic, use one of these three colour options, in the order shown below

Option 1	A&O Red R = 178 G = 52 B = 39	Midnight R = 66 G = 85 B = 99	Turquoise – 25% R = 101 G = 160 B = 156	Apple R = 181 G = 189 B = 0	Midnight – 50% R = 154 G = 164 B = 177	Turquoise – 50% R = 75 G = 121 B = 117	Turquoise R =107 G = 187 B = 174	Text colour R = 99 G = 100 B = 103	Apple – 25% R = 162 G = 169 B = 0	Apple – 50% R = 120 G = 127 B = 0
Option 2	A&O Red R = 178 G = 52 B = 39	Midnight R = 66 G = 85 B = 99	Lavender R =146 G = 144 B = 198	Turquoise – 50% R = 75 G = 121 B = 117	Turquoise – 25% R = 101 G = 160 B = 156	Midnight – 25% R = 200 G = 206 B = 213	Lavender – 50% R = 92 G = 90 B = 123	Midnight – 50% R = 154 G = 164 B = 177	Lavender – 25% R = 121 G = 119 B = 162	Turquoise R =107 G = 187 B = 174
Option 3	A&O Red R = 178 G = 52 B = 39	Midnight R = 66 G = 85 B = 99	Apple R = 181 G = 189 B = 0	Lavender R =146 G = 144 B = 198	Midnight – 50% R = 154 G = 164 B = 177	Lavender – 50% R = 92 G = 90 B = 123	Apple – 25% R = 162 G = 169 B = 0	Apple – 50% R = 120 G = 127 B = 0	Midnight – 25% R = 200 G = 206 B = 213	Lavender – 25% R = 121 G = 119 B = 162

If only using 5 categories or less, use one of these three colour options, in the order shown below

A&O Red R = 178 G = 52 B = 39	Midnight R = 66 G = 85 B = 99	Turquoise – 25% R = 101 G = 160 B = 156	Apple R = 181 G = 189 B = 0	Turquoise – 50% R = 75 G = 121 B = 117
A&O Red R = 178 G = 52 B = 39	Midnight R = 66 G = 85 B = 99	Lavender R =146 G = 144 B = 198	Turquoise – 50% R = 75 G = 121 B = 117	Turquoise R =107 G = 187 B = 174
A&O Red R = 178 G = 52 B = 39	Midnight R = 66 G = 85 B = 99	Apple R = 181 G = 189 B = 0	Lavender R =146 G = 144 B = 198	Lavender – 50% R = 92 G = 90 B = 123

	Current Law	Proposal	Effective Date & Phasedown (if applicable)	Practical Impact
PTC **(Sec. 45)**	60% PTC for wind facilities that start construction before January 1, 2022.	$0.3 cents base PTC; $1.5 cents/kWh (adjusted for inflation, full credit is $2.5 cents/kWh or $25/mWh (***equivalent to 100% 2016 PTC amount***)) if labor and wage requirements are satisfied; additional 10% for domestic content usage; additional 10% for energy communities. **PTCs are transferrable**. Adjusted for inflation on an annual basis; **Solar added; Offshore Wind receives full credit and a lower "manufactured in U.S." percentage requirement for domestic bonus; refined coal and Indian coal not extended.**	Effective after December 31, 2022 for projects starting construction before January 1, 2025. Direct Pay limited to 90% for failure to satisfy domestic content; applies to projects that begin construction in 2024.	Higher credit, subject to labor/wage requirements; bonus for domestic content and energy community. Labor/wage req. deemed met if construction start by 60 days after IRS guidance.
PTC – Clean Electricity Production Credit **(Sec. 45Y)**	No tech-neutral zero emissions PTC.	Credit for qualified facilities with greenhouse gas emissions rate (GGER) not greater than zero; applies to new facilities and expansions to current facilities placed in service after December 31, 2024, in either case. Credit amount is similar to PTCs; base credit is $0.3 cents per KWh of electricity produced and sold to third party, or stored if metered facility monitored by third party; credit increases to $1.5 cents if labor/wage requirements are satisfied; adjusted annually for inflation; bonus credits for domestic content and energy community. GGER determined annually by Secretary for different types of facilities; taxpayer petition for determination of emissions rate for a facility if Secretary has not set a rate. Direct Pay and Domestic Content bonus available; Wage and Labor requirements apply.	Effective for facilities placed in service after December 31, 2024. 4-year phase-out period for facilities that begin construction in the later of 2032 or the first year the Secretary determines GGEs in the U.S. are less than 25% of the GGE level in 2022; credit phase-out is 0% in year 1, 25% in year 2, 50% in year 3, and 100% in year 4. Direct Pay limited to 85% for projects BOC in 2025 and 0% beginning in 2026 for projects that do not satisfy "domestic content".	Tech-neutral zero emissions credit. Cannot claim if facility is allowed credits under 45, 45J, 45Q, 45U, 48, 48A, or 48D.

	Current Law	Proposal	Effective Date & Phasedown (if applicable)	Practical Impact
ITC – Stand-alone energy storage **(Sec. 48)**	None	ITC will include stand-alone batteries and hydrogen storage. Available for modifications to existing property, but credit will only apply to cost basis of such modifications.	Effective for property PIS after December 31, 2022; does not include energy storage property BOC after December 31, 2024.	Certainty for stand-alone storage credit.
ITC – Solar **(Sec. 48)**	30%, 26% or 22% ITC for energy property depending on when construction began; drops to 10% for project placed in service starting in 2026.	6% base ITC; 30% if labor and wage requirements are satisfied; additional 10% of credit base (if meet domestic content usage and prevailing wage/apprenticeship reqs.). Additional 10% if in an "Energy Community" which is a census tract with less than 5% oil/gas employment or a tract where a coal mine has closed. Additional 10% if in a low-income community (low income housing credit census tract or Indian land) or additional 20% if in certain qualified low income buildings or benefit projects.	BOC in 2020 or 2021 and PIS in 2020 or 2021, then 26%. PIS in 2022, 30%, regardless of BOC. New rules in full, for PIS starting January 1, 2023 (i.e., up to 30% base plus bonuses available). Phasedown to 2% base credit (10% if labor and wage requirements are met) for projects beginning construction after January 1, 2025.	Higher credit (up to 70%), subject to labor/wage requirements, bonus for domestic content, bonus for energy community, and bonus for low-income community. Labor/wage req. deemed met if construction start by 60 days after IRS guidance.
ITC – Offshore Wind **(Sec. 48)**	30% for projects that start construction before January 1, 2026	6% base ITC; 30% if labor and wage requirements are satisfied; additional 10% for domestic content usage but with a reduced "manufactured in U.S." percentage requirement; additional 10% for energy community; additional 10%-20% for low-income community.	Bonuses and multiple effective for projects PIS after December 31, 2022. Phasedown to 2% base credit (10% if labor and wage requirements are met) for projects beginning construction after January 1, 2025.	Higher credit (up to 70%), subject to labor/wage requirements; bonus for domestic content, bonus for energy community, and bonus for low-income community.
ITC – Clean Electricity Investment Credit **(Sec. 48D)**	No tech-neutral zero emissions ITC.	ITC for qualified facility and grid improvement property (includes energy storage property); 6% base ITC, up to 30%. Qualified facility means new facility or an expansion of a facility in either case placed in service after December 31, 2024 (BOC must begin prior to 60 days after Secretary publishes guidance) and GGER not greater than zero. Recapture of credit if Secretary determines GGER is greater than 10 grams of CO2e per KWh. Direct Pay and Domestic Content bonus available; Wage and Labor requirements apply.	Effective for new facilities and expansions BOC prior to 60 days after Secretary Publishes prevailing wage guidance and place in service after December 31, 2024. 4-year phase-out period increasing 25% per year beginning not before 2032.	Tech-neutral zero emissions credit. Cannot claim if facility is allowed credits under 45, 45J, 45Q, 45Y, 48, or 48A. Cannot combine with rehabilitation expenditures.

	Current Law	Proposal	Effective Date & Phasedown (if applicable)	Practical Impact
Tax Credit – Carbon Oxide Capture **(Sec. 45Q)**	Up to $50/ton credit for carbon oxides captured and permanently sequestered; indexed for inflation starting in 2026; up to $35, indexed for inflation, for utilization activities.	For CCS: $17 base, $85/ton credit (with multiplier), direct pay option; indexed for inflation beginning in 2026. For utilization: $12 base, $60/ton credit (with multiplier); direct air capture ($180/ton credit (with multiplier); indexed for inflation beginning in 2026. Emissions thresholds reduced: electricity moved to 18,750 (designed for not less than 75% of that), direct air capture 1,000, any other facility, not less than 12,500. ***No Domestic Content Bonus.***	Effective after PIS December 31, 2022	Higher credits, subject to labor and wage requirements.
Clean Hydrogen Credit **(Sec. 45V)**	No stand-alone credit for clean hydrogen	Up to $3/kg ($0.60 x 5) for ten years for qualified clean hydrogen if labor/wage requirements are satisfied, else up to $0.60/kg. Amount of credit based on carbon intensity reduction based on lifecycle greenhouse gas emission metrics: (1) 20% if between 2.5-4kg; (2) 25% if between 1.5-2.5kg; (3) 33.4% if between .45-1.5kg; and (4) 100% if less than .45kg. Cannot claim credit on same facility that is allowed credits under 45Q for carbon capture. Adjusted for inflation on an annual basis.	Effective for projects placed in service after December 31, 2022 and ten year credit tenor.	New credit, choice between 45V, 45Q, or ITC; subject to labor/wage requirements or credit reduced to $0.60.

	Current Law	Proposal	Effective Date & Phasedown (if applicable)	Practical Impact
ITC – Hydrogen **(Sec. 48)**	Clean hydrogen not available for ITC	ITC will include clean hydrogen projects, 6% base ITC, up to 30% (see prior slides) phased down based on lifecycle GHG emissions rates.	Same as 45V.	Cannot claim 45V or 45Q on facilities that claim ITC. For modified facilities, costs incurred prior to 2022 are excluded.
Advanced Manufacturing **(Sec. 45X)**	No current credit for renewable components produced in the U.S.	Credit for eligible components (solar, wind, inverter, battery and mineral) produced by taxpayer in the United States and sold to unrelated third-parties as part of taxpayer's trade or business; credit amount varies based physical size and per watt capacity of components (e.g., for a thin film photovoltaic cell, the credit amount is 4 cents multiplied by the DC watt capacity of the cell; wind blades can be 2 cents per watt rated capacity of the turbine; solar grade polysilicon would be $3 per kilogram). For batteries, capacity-to-power ratio is limited to 100:1. Minerals that can be **mined** for credit: Aluminum, Antimony, Barite, Beryllium, Cerium, Cesium, Chromium, Cobalt, Dysprosium, Europium, Fluorspar, Gadolinium, Germanium, Graphite, Indium, Lithium, Manganese, Neodymium, Nickel, Niobium, Tellurium, Tin, Tungsten, Vanadium, Yttrium, and a ***catchall category***. ***Note: items listed above are subject to specific refining requirements.***	Effective for components produced and sold after December 31, 2022. Credit phases down to 75% for components sold in 2030, 50% in 2031, 25% in 2032, and 0% after 2032.	New credit for renewable components produced in the U.S. Not applicable if claiming facility credit under 48C.

	Proposal	Overview	Effective date/Phase in
Direct Pay	Allows taxpayers to treat credits as taxes already paid; can claim credits as refund instead of having to carry forward. *Available only to entities exempt from tax and government entities, except for Carbon Capture, Hydrogen, and Advanced Manufacturing, which can be claimed by taxpayers.*	Annual election; irrevocable for year (i.e., if you elect but do not qualify, then you cannot change to claim the traditional credit). Can be claimed by partnership, rather than partners. Direct Pay "penalty" for PTC, ITC, 48D, and 45Y if "domestic content" is not satisfied. Only available for section 45Q and hydrogen for first five years of operation of a project.	After December 31, 2022; domestic content "penalty" phases in at 10% for projects BOC in 2024 for PTC, ITC and 48D, and the penalty under 45Y is 15% if BOC in 2025, and 100% if BOC in 2026 or after.
Transferrable Credits	*Allows eligible taxpayers to transfer eligible credits to unrelated taxpayer; amends section 39 to extend credit period for transferred credits.* *Not available for tax-exempts, credits cannot be transferred a second time, and no transfer of carryforwards or carrybacks.* *Available for PTC, 45Q, 45U, 45V, 45X, 45Y, 45Z, ITC, 48C, and 48D.*	Eligible credit must be transferred for cash; payment is not taxable income to transferor and not deductible to transferee (***penalties apply for "excessive payments***"). Credits for progress expenditures, carryforwards or carrybacks are not "eligible" for transfer. Credit period extended to 23 years (including 3 years for carrybacks); credit must be used in earliest possible year of transferee.	180 days after enactment.
Domestic Content	Credit increase for facilities composed of steel, iron, or products manufactured in the U.S. *Applies generally to, PTC, ITC, 36C, 48D, 45Y; Direct Pay element for PTC, ITC, 48D, 45Y and 48D.*	Products are deemed manufactured in the U.S. if "adjusted percentage" of the costs are for components mined, produced or manufactured in the U.S. Requirement is generally 20% for offshore wind and 40% for all other facilities, but the requirement phases up under 45Y for offshore wind (27.5% in 2025, 35% in 2026, 45% in 2027, and 55% in 2028 and after) and for other facilities (45% in 2025, 50% in 2026, and 55% in 2027 and after). Increase is generally 2% or 10% of underlying credit (10% if taxpayer also meets Wage and Apprenticeship requirements); for ITCs the increase is 2 or 10 ***percentage points***.	After December 31, 2022.
Prevailing Wage Requirement	New wage requirement. *Applies to PTC, ITC, 45Q, 45W, 45Z, 179D, 30C, 45L, 48C, 45Z, 48E, 45Y, 48D, and for full Domestic Content increase.*	Taxpayers must provide written certification that laborers and mechanics are paid "prevailing wages" for locality during construction and for repairs or alterations after projects are PIS (10yrs for PTC, 5yrs for ITC, 12yrs for 45Q). Failure results in 80% credit haircut; taxpayers can cure by remitting wage shortfalls to underpaid employee(s) and paying a $5k (per failure) penalty to IRS (3x wages and $10k penalty for intentional disregard).	After December 31, 2022; but not until 60 days after Secretary publishes relevant guidance, and only for projects that BOC after that time.
Apprenticeship Requirement	New labor requirement for contractors or subcontractors with 4 or more employees. *Applies to PTC, ITC, 45Q, 45X, 179D, 30C, 48C, 45Z, 48E, 45Y, 48D, and for full Domestic Content increase.*	In general, taxpayers must ensure that the "applicable percentage" of total labor hours for construction, alteration or repair work for facility is done by qualified apprentices, i.e., an employee who participates in an apprenticeship program under the National Apprenticeship Act. Failure results in 80% credit haircut; "good faith" exception if employers attempt but cannot find apprentices in their locality.	After December 31, 2022; labor percentage to phase in at 10% if BOC before 2023, 12.5% if BOC in 2023, and 15% after; but not until 60 days after Secretary publishes relevant guidance.
Corporate AMT (Sec. 38 Cap for Corporations)	*15% minimum tax on "adjusted financial statement income" (**AFSI**) minus corporate AMT foreign tax credit. (Business credits cannot offset more than 25% of corporate income tax.)*	Applies to Corps. with 3-yr average AFSI greater than $1 billion or $100 million if member of foreign group with common parent; income of foreign group is aggregated for $100 million AFSI test; Direct Pay amounts not included in AFSI; AFSI reduced by BEAT and up to 80% by book depreciation.	After December 31, 2022; primarily applies to larger corporations, but smaller corporations may be subject if part of a foreign group.

	Proposal	Effective Date
Clean Vehicle Credit **(Sec. 30D)**	Expanded credits; removed limit on number of vehicles eligible for credit; credit may be transferred to an eligible entity. Adds critical mineral and battery component (as defined in section 45X) requirements for certain percentage of value of minerals to be extracted or processed in countries having a free trade agreement with the U.S. (e.g., applicable percentage is 40% for vehicles placed in service before January 1, 2024, 50% during 2024, 60% during 2025, and 80% for a vehicle placed in service after December 31, 2026). New rules require final assembly of the vehicle to occur within North America.	Generally effective for vehicles placed in service after December 31, 2022. New assembly provisions effective as of the date of the Act. Critical mineral and battery component requirements are effective when the Secretary issues regulations. New credit transfer rules are effective for vehicles placed in service after December 31, 2023.
Alternative Fuel Refueling Property Credit **(Sec. 30C)**	Extends credit for charging property to December 31, 2032; removed per location limitation and increased credit cap from $30,000 to $100,000.	Effective for property placed in service after December 31, 2022.
Credit for Previously-Owned Clean Vehicles **(Sec. 25E)**	Credit available for previously-owned clean vehicles placed in service; credit is lessor of $4,000 or 30% of the sale price; credit limit based on modified adjusted gross income.	Generally effective for vehicles acquired after December 31, 2022. Transfer provisions effective to vehicles acquired after December 31, 2023.
Credit for Qualified Commercial Clean Vehicles **(Sec. 45W)**	Credit in the amount of the lesser of 15% of the basis (30% in the case of a vehicle not powered by gasoline or diesel internal combustion engine) or the incremental cost (the excess of the purchase price over the price of a comparable vehicle) for qualified commercial clean vehicles placed in service before January 1, 2033. Credit limited to $7,500 for vehicles with a gross vehicle weight rating of less than 14,000 pounds and $40,000 for all other vehicles.	Effective for all vehicles acquired after December 31, 2022.
PTC – Clean Fuel Production credit **(Sec. 45Z)**	Base credit of $0.20 per gallon of transportation fuel produced at a qualified facility and sold; credit increases to $1.00 if labor and wage requirements are met. $0.35 base credit for sustainable aviation fuel; $1.75 if labor and wage requirements met. Emissions factor of the fuel may reduce the credit amount. Credits are adjusted for inflation. Cannot claim credit if other credits are claimed under 45Q or 45V, or if an election is made under 46(a)(16) for clean hydrogen production.	Effective for transportation fuels produced after December 31, 2024; expires for transportation fuels sold after December 31, 2027.

Questions?