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4 KEY TAKEAWAYS

Harnessing the Inflation Reduction Act: Driving Investments in Renewable Energy and Carbon Reduction

Kilpatrick's John Pierce recently discussed "Harnessing the Inflation Reduction Act: Driving Investments in Renewable Energy and Carbon Reduction" at the firm's Houston 2024 In-House Counsel Summit. The summit featured multi-practice sessions designed to address today's most pressing issues facing in-house counsel. Mr. Pierce gave an insightful overview of the Inflation Reduction Act's (IRA) impact on fostering investments in key areas like hydrogen and hydrogen hubs, vehicle batteries, energy storage, and carbon mitigation strategies. He also delved into the latest guidance from the Treasury and IRS, providing valuable insights for navigating these evolving sectors.

Mr. Pierce provides these key takeaways from his presentation:

1

IRA is a major investment in domestic energy production and related manufacturing, that is intended to accelerate the energy transition from fossil fuels and to domesticate the renewables supply chain; enhance energy security; extend and expand types of clean energy credits; where not only renewables benefit, but oil and gas companies too through clean fuels and carbon capture credits.

2

IRA is really tax policy that plays out through the incentives it applies to the existing Production Tax Credit (PTC) and Investment Tax Credit (ITC) structures to promote manufacturing, innovative energy technologies, the application of prevailing and apprenticeship requirements, and domestic content requirements, among other things.

3

Tax credit transfers are also authorized under the IRA for most of existing tax credits and those created pursuant to the IRA, such as Section 45U – Nuclear Power Production Credit, Section 45V – Clean Hydrogen Production Credit, Section 45X – Advanced Manufacturing Production Credit, Section 45Z – Advanced Fuel Production Credit, Section 48/48E – Investment Tax Credit, and Section 48C – Advanced Manufacturing Credit.

4

However, not all tax credits are equal: ITCs have a five-year recapture and basis risk, while PTCs are not subject to recapture (except 45Q Carbon Capture) but require third-party sales.

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