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Financing Energy Storage with Tax Credits

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Financing Storage with Energy Credits

Outline of Presentation

- What does Storage Have to Do with Energy Credits?
- Emerging Use Cases
- Historical Tax Code Treatment
- Recent Evolution in Storage Device Analysis
- Tax Issues Associated with Use Cases
- Looking Ahead

What Does Storage Have to Do with Energy Credits?

Convergence of technological and market developments driving market and regulatory interest in the ability to store energy

- Falling cost of storage technologies, such as lithium-ion technology
- Extreme weather events demonstrating weakness centralized, aging infrastructure
- Rise of intermittent and/or distributed energy resources challenging grid operators
- Growing consumer interest in taking greater ownership over energy decisions and economics
- Developers pursuing energy storage products/services to differentiate value proposition in a competitive environment

What Does Storage Have to Do with Energy Credits?

- Despite falling costs, energy storage remains prohibitively expensive in many markets
- Some states have incentivized adoption
 - California Self-Generation Incentive Program (SGIP)
 - Connecticut Microgrid Grant and Loan Program
 - New Jersey Renewable Electric Storage Incentive
- No Federal tax incentive currently in place, despite lobbying by energy storage trade group
- Interest in pairing with credit-eligible projects

Emerging Use Cases

| Category | Application | Description |
|------------------------|-----------------------------|--|
| Electric supply | Energy time-shift | Store off-peak energy for resale at on-peak times; store energy that would otherwise be curtailed |
| | Supply capacity | Provide peak generation capacity for electric power system; defer investment in new capacity resources |
| Ancillary services | Load following | Provide fast-responding resource to match generation to fluctuating load |
| | Reserve capacity | Provide reserve capacity should normal supply resources unexpectedly become unavailable |
| | Voltage support | Maintain voltage levels by injecting or absorbing reactive power; service works best when located closest to loads |
| Grid system | Congestion relief | Avoid congestion-related costs and charges associated with inadequate transmission facilities |
| | Upgrade deferral | Defer or avoid need for transmission or distribution system upgrades |
| | Substation on-site power | Supply backup power to protection, communications and control equipment |
| End user | Time-of-use cost management | Store off-peak energy to supply customer loads when on-peak time-of-use rates apply |
| | Demand charge management | Discharge stored energy to reduce instantaneous power draw and peak demand charges |
| | Service reliability | Used stored energy to ride through power outage |
| | Service power quality | Protect on-site load from effects of short-term power quality degradation, such as voltage spikes, dips or sags |
| Renewables integration | Time-shift | Store low-value energy generated by renewables at off-peak times until it has a higher financial value |
| | Capacity firming | Mitigate variability by discharging stored energy when renewables are not producing full power |

Source: Interstate Renewable Energy Council (IREC), Sandia National Laboratories

Emerging Use Cases

- Utility-Scale
 - Peak Generation
 - Ancillary Services
- Distributed/Behind-the-Meter
 - Emergency Back-up Power
 - Demand Charge Reduction

Primary Federal Energy Tax Benefits

| Incentive | Economic Benefit | Investment Horizon | Timing of Benefits |
|--|---|--------------------|--------------------|
| Production Tax Credit (PTC) (IRC § 45) | Currently \$2.3 cents per kilowatt-hour (kWh) | 10 Years | 10 years |
| Investment Tax Credit (ITC) (IRC § 48, §25D) | 10% or 30% of eligible basis | 5 Years | 1st year |
| Modified Accelerated Cost Recovery Period(MACRS) (IRC § 168) | Accelerated depreciation deduction | 5-Year Property | 6 years |

Summary of Qualifying Resources and Facilities

| Energy property | ITC rate * | Placed-in-service date | Treasury grant ** |
|-------------------------------|------------|------------------------|-------------------|
| Solar | 30% | Before 1/1/2017 | 30% |
| | 10% | | |
| Fuel cell | 30% | Before 1/1/2017 | 30% |
| Stationary microturbine | 10% | Before 1/1/2017 | 10% |
| Geothermal heat pump | 10% | Before 1/1/2017 | 10% |
| Small wind | 30% | Before 1/1/2017 | 30% |
| Combined Heat and Power (CHP) | 10% | Before 1/1/2017 | 10% |
| Geothermal | 10% | | 10% |

* Available for public utility property in tax years ending after 2/13/2008.

** For Treasury grant eligibility, construction must have begun by the end of 2011 and an initial application must have been filed by 10/1/2012. Does not reflect reduction due to sequestration.

Summary of Qualifying Resources and Facilities

| Qualified Resources/ Facilities | Credit Amount for 2015 | Begun Construction Date | 30% ITC in lieu of PTC |
|--|------------------------------|----------------------------|---------------------------|
| Wind | 2.3 cents/kwh* (10 years) | Before 1/1/2015 | If elected |
| Geothermal (new facilities) | 2.3 cents/kwh* (10 years) | Before 1/1/2015 | If elected |
| Closed-loop biomass | 2.3 cents/kwh* (10 years) | Before 1/1/2015 | If elected |
| Open-loop biomass | 1.2 cents/kwh* (10 years) | Before 1/1/2015 | If elected |
| Municipal solid waste (landfill gas, trash) | 1.2 cents/kwh* (10 years) | Before 1/1/2015 | If elected |
| Hydropower, Marine and hydrokinetic renewables (including small irrigation power) | 1.2 cents/kwh* (10 years) | Before 1/1/2015 | If elected |

Credits and Storage at First Glance

- At the outset, an ITC on high capital cost of the storage asset is valuable
- A production-based incentive like the PTC does not directly benefit the taxpayer
 - Storage device can only discharge what is input to the device. Contrary to some views, it can not generate its own energy! (more on this later)
 - But note tax benefit can accrue indirectly from ability to store electricity from a curtailed facility (e.g., wind facilities) and later sell to 3rd party

Qualified Facility vs. Energy Property

- More complex standard for Section 45 vs. 48 with respect to eligible property
- Section 48
 - Directly contemplates a variety of components within the definition of qualifying energy property, including storage

Qualified Facility vs. Energy Property

- Section 45
 - Eligibility determined by a “qualified facility” under IRC section 45(a)(2)(A)(ii)
 - Facility components must be “functionally interdependent” - the placing in service of each of the components is dependent upon the placing in service of each of the other components in order to generate electricity
- Election to Claim ITC in Lieu of PTC under IRC section 48(a)(5)
 - Only permitted for “qualified property” that is part of a “qualified investment credit facility” (“QICF”)
 - QICF is defined as those qualifying facilities under Section 45
 - IRS in Notice 2009-52: other tangible property part of a qualified facility only if “integral” to the facility
 - Storage device is generally not functionally interdependent
 - Taxpayer must demonstrate that the component property is integral to the facility in order to be “qualified property” that is part of a QICF for which the ITC election may be made

Historical Tax Code Treatment

- The legislative beginnings of the ITC can be traced back to 1962 with passage of an investment credit to broadly spur investment
- Federal tax incentives are being applied to commercial realities today that differ markedly from when tax regulations were promulgated

Historical Tax Treatment

- Legislative history concerning the 10% business ITC created in the Energy Tax Act of 1978 appears to confirm:

“Generally, a solar energy equipment system involves the transformation of sunlight into heat or electricity through the use of such devices as solar cells or other collectors, storage systems for electricity and for hot air or hot water (including rock beds), heat exchangers to utilize captured and stored energy, and related equipment, such as fans and thermostats. The credit for wind equipment similarly applies to the windmill or other devices to harness outdoor moving air to provide electricity and other forms of energy and includes storage and transfer systems to distribute this energy.”

Source: S.Rep. No. 95-529, 95th Cong., 2d Sess. 1, 1978 (Vol. 2) C.B., p. 268

Historical Tax Treatment

- In the case of solar energy property, language under Treas. Reg. section 1.48-9 today includes storage devices under the definition of qualifying energy property:

“Solar energy property includes equipment that uses solar energy to generate electricity, and includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. In general, this process involves the transformation of sunlight into electricity through the use of such devices as solar cells or other collectors.”

Historical Tax Treatment

- But regulations early on included one important limitation:
 - Solar, wind, and geothermal energy property were defined as equipment that used only qualified energy (i.e., only solar, wind, or geothermal energy).
 - If property used both qualified and non-qualified energy (“dual use property”), it was not considered qualifying solar, wind, or geothermal energy property for purposes of the ITC.

Historical Tax Treatment

- Prior Treas. Reg. section 1.48-9(d):

“(6) Auxiliary equipment. Solar energy property does not include equipment (auxiliary equipment), such as furnaces and hot water heaters, that use a source of power other than solar or wind energy to provide usable energy. Solar energy property also does not include equipment, such as ducts and hot water tanks, whether utilized solely by auxiliary equipment or by both auxiliary equipment and solar energy equipment.”

- Prior example at 1.48-9(d)(8):

“(h)The distribution pipe, the control component, and the pumps and valves do not qualify because they serve the oil-fired water heater as well as the solar energy equipment. All of these items would qualify if used solely in connection with solar energy equipment. The fan-coil units do not qualify because they are not specially adapted to use energy derived from solar energy.”

Historical Tax Treatment

- Limitation presumably based on legislative history, which is not uniform:
 - House W&M Committee Report (H.R. 95-496 (Part III), 95th Cong., 1st Sess. (1977)):

“In the case of solar and wind energy equipment, the credit applies to such equipment (and parts solely related to the functioning of such equipment) which use solar and wind energy (either separately or to supplement each other) to provide heat, cooling, hot water or electricity.”
 - Senate Finance Committee Report (S.Rep. No. 95-529, 95th Cong., 2d Sess. 1, 1978 (Vol. 2)):

“...[e]quipment which uses solar or wind energy to provide heat, cooling, electricity, or hot water in connection with a building or structure.”
 - Neither report places restriction on geothermal energy property.
 - Final Conference Report (Rep. No. 95-1324, 95th Cong., 2d Sess., p. 64) generally follows the House, but with exception that solar, wind, and geothermal property defined as in the Senate amendment

Historical Tax Treatment

In 1987, Treasury reconsidered its approach:

“Upon reconsideration of the legislative history, it has been determined that, while Congress did not intend that property that does not use qualified energy be eligible for the business energy credit as solar, wind, or geothermal property, Congress also did not intend to adopt an all or nothing rule for dual use solar, wind, or geothermal energy property. Neither the statute nor the legislative history of section 48(l) include this restriction. Where such a restriction was intended (as in the case of the residential energy credit for solar, wind, and geothermal property) the committee reports explicitly said so.”

Source: Proposed Regulations, December 9, 1986, 51 FR 44315-01

Historical Tax Treatment

Four Primary Elements to Proposed Dual Use Property Rule

- Dual use property could qualify to the extent of the property's basis or cost allocable to its annual use of qualified energy so long as the use of non-qualified energy does not exceed 25 percent of the total energy input of the property in any calendar year.
- Allocation may be made by comparing, on a Btu basis, energy input to dual use property from qualified sources with energy input from other sources.
- However, the Commissioner may accept any other method that, in his opinion, more accurately establishes the relative annual use of energy from qualified sources and energy from other sources.
- Recapture required for any reduction in basis or cost allocable to the use of qualified energy would result in recapture.

Historical Tax Treatment

Four Primary Elements in Final Adopted Regulations

- “75% Cliff” remained the same, but calendar year measurement changed to an “annual measuring period” defined as the “365-day period beginning with the day it is placed in service or a 365-day period beginning the day after the last day of the immediately preceding annual measuring period.”
- Permissive allocation method based on Btu basis comparing energy inputs
- IRS may accept any other method that it agrees more accurately establishes the relative annual use
- Recapture required for any reduction in basis or cost allocable to use

Source: Final Regulations, July 21, 1987, 52 FR 27336-01

Historical Tax Treatment

Final Regulations also addressed the following:

- Proposed Method: Assuming 75% threshold requirement is met, then, for purposes of allocation, that property's basis or cost should be multiplied by the ratio of the cost of the qualified source property to the cost of all property providing energy input to that dual use property.

“Because, however, the final regulations provide that the Commissioner may accept any allocation method...it is possible that the method suggested by the commentator would be accepted in appropriate circumstances, even though that method does not reflect actual, relative energy inputs.”

Source: Final Regulations, July 21, 1987, 52 FR 27336-01

Historical Tax Treatment

- Example in the Regulations at Treas. Reg. section 1.48-9(d)(8):
 - Taxpayer, constructs an apartment building and purchases equipment to convert solar energy into heat for the building
- Equipment
 - Oil-fired water heater and other equipment to provide a backup source of heat when the solar energy equipment cannot meet the energy needs of the building
 - Roof solar collector
 - Heat exchanger
 - Hot water tank
 - Control component
 - Pumps
 - Pipes
 - Fan-coil units that could be used with energy derived from an oil or gas substance
 - Valves

Historical Tax Treatment

Summary of Equipment Uses

- Water pumped from the basement through pipes to the roof solar collector
- Heated water returns through pipes to a heat exchanger which transfers heat to the water in the hot water tank
- Hot water tank and the oil-fired water heater utilize the same distribution pipe
- Pumps and valves at the points of connection between the hot water tank, the oil-fired water heater, and the distribution pipe regulate the auxiliary energy supply use. They also prevent the oil-fired water heater from heating water in the hot water tank.
- An integrated control component determines whether hot water from the hot water tank or from the oil-fired water heater is distributed to fan-coil units located throughout the building
- At the outset: On a Btu basis, 80% of the total energy input to the dual use equipment during the 365 day period is from solar energy

Historical Tax Treatment

| Solar Energy Property | Ineligible | Dual Use Equipment |
|---|---|---|
| <ol style="list-style-type: none"> 1. Roof solar collector 2. Pumps between water tank and collector 3. Pipes between rooftop collector and hot water tank 4. Hot water tank 5. Heat exchanger | <ol style="list-style-type: none"> 1. Oil-fired water heater 2. Equipment providing a backup source of heat when the solar energy equipment is insufficient | <ol style="list-style-type: none"> 1. Distribution pipe 2. Control component 3. The pumps and valves serving oil-fired water heater as well as the solar energy equipment <p>* Qualify only to the extent of eighty percent of their cost or basis, the portion allocable to use of solar energy.</p> <p>* Subject to annual measurement/recapture</p> |

Recent Evolution in Tax Treatment

- Little case law applying dual use rules to energy property
 - Majority of analysis focuses on thermal
- More recently, rules applied to 1603 Grants
- Beginning in 2011, IRS would issue 4 Private Letter Rulings that would show an evolution in the application of ITC rules to energy storage devices

Notable Private Letter Rulings

| | PLR 201142005 July 11, 2011 | PLR 201208035 October 27, 2011 | PLR 201308005 November 20, 2012 |
|------------------------------|--|--|--|
| Energy Property | Utility-Scale Wind | Utility-Scale Wind (subject to curtailment) | Rooftop Solar PV (prospective for typical setup) |
| Storage Device | Li-ion Battery | Undisclosed Battery | Undisclosed Battery |
| Use Case(s) | Frequency Regulation | - Time Shifting - Frequency Regulation | - Time Shifting - Frequency Regulation - Ramp Rate - Demand Charge Management - Time of Use |
| Non-Qualified Input % | Redacted - Reportedly ~3% No Methodology | Redacted - Reportedly ~15% No Methodology | No mention of inputs from grid or other non-qualifying sources |
| IRS Analysis | Mentions dual use rules, but only concludes that it is not auxiliary equipment | Mentions dual use rules, but only concludes that it is not auxiliary equipment | Notes inputs from solar and grid for off-peak/peak use, as well as supplying to grid during peak hours via NEM |
| IRS Conclusion | Full Cost Eligible for ITC in lieu of PTC election under IRC section 48(a)(5) | Full Cost Eligible for ITC in lieu of PTC election under IRC section 48(a)(5) | - Applies dual use rules - No additional credit for subsequent increase in % |

Notable Private Letter Rulings

| | PLR 201444025 May 5, 2014 |
|------------------------------|--|
| Energy Property | DG Solar PV (reportedly solar infrastructure/light poles) |
| Storage Device | Undisclosed Batteries |
| Use Case(s) | <ul style="list-style-type: none"> - Designed for self-consumption - Capable of exporting energy to the grid in some cases |
| Non-Qualified Input % | No mention of inputs from grid or other non-qualifying sources |
| IRS Analysis | <ul style="list-style-type: none"> - No mention of dual use rules - “Single solar energy system” - Emphasizes certain components will support lights, surveillance equipment, motion detectors, two-way transmission, and other unrelated attachments |
| IRS Conclusion | <ul style="list-style-type: none"> - Storage Device fully eligible - Requires allocation of basis to the extent the support components perform another function as non-energy property. - No methodology provided for allocation |

Notable Private Letter Rulings

Takeaways for industry

- IRS analysis has evolved in last five years
- Remember that technology is very new, along with new business models
- Tech x Market Segments x Use Cases = ?
- Even wind projects with batteries will likely be subject to dual use haircut for non-qualified inputs going forward
- Consider scenarios where energy storage use provides additional economic benefit (peak/off-peak, frequency regulation)

Regulations Silent on Some Property

| Section 48 | Section 45 |
|--|--|
| <ul style="list-style-type: none">• Fuel cell• Microturbine• Combined Heat and Power (CHP)• Small Wind? | <ul style="list-style-type: none">• Closed-loop biomass• Open-loop biomass• Municipal solid waste• Hydropower, Marine and hydrokinetic renewables |

Relevant Language for Other Property

- “Fuel cell power plant” means an integrated system comprised of a fuel cell stack assembly and **associated balance of plant components** which converts a fuel into electricity using electrochemical means. IRC section 48(c)(1)(C)
- “Stationary microturbine power plant” means **an integrated system** comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and **associated balance of plant components** which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors. IRC section.” 48(c)(2)(C)
- CHP defined as “property comprising **a system** (i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications).” IRC section 48(c)(3)(A)
- Remaining technologies under IRC Section 45 do not include language on storage devices, but could the property be considered part of the facility?

Tax Issues Associated with Use Cases

- Qualifying Energy Generation (QEG) Only
- QEG + other on-site generation
- QEG + Ancillary Services

Tax Issues Associated with Use Cases

QEG “Only”

- Use Cases: Demand Charge Reduction, Emergency Back-up Power, Peaking Resource
- Appears straightforward at first glance for ITC or ITC in lieu of PTC
- Only the QEG input will be stored in theory, either to provide electricity for end-user’s specific timing needs and/or for emergency back-up power when the grid is down

Tax Issues Associated with Use Cases

QEG Only and Behind-the-Meter Configurations

- Many systems are capable of providing overlapping functionality, such as bi-directional inverters
- Storage device charging could pull energy from different sources simultaneously – how can you tag electrons?
- Consider documenting how the system controls storage device inputs from possible sources
- Metering considerations – DC meter for solar panels enables you to compare panel output to inverter activity

Tax Issues Associated with Use Cases

QEG + On-Site Generation

- Easiest example is a microgrid where end-user wants to be able to integrate an existing back-up generator with QEG and storage device
- Creates issue where storage device may be charged with QEG, but also energy inputs from a non-qualifying resource
- Novel question: What is storage device's eligibility if 50% of a storage device's input is from solar, and the other 50% is from another renewable energy resource (wind, geothermal, biomass, etc.)? Does it meet the 75% Cliff?

Tax Issues Associated with Use Cases

QEG with Ancillary Services

- Frequency regulation requires the storage device to charge and discharge energy when called upon by an electronic signal from grid operator
- IRS noted in the first PLR that the energy is “drawn temporarily from the grid”
- Charging/discharging occurs in second increments yet IRS appears to take the view that this is “use” for purpose of the dual use rules

Tax Technical Issues

- Drawing the Box
- Separate Ownership of QEG and Storage Device
- Dual Use Methodology
- Placed in Service for New Build vs. “Retrofits”

Drawing the Box

- Consider many of the containerized storage products/services in the market
- Often includes the storage device, but also key components like the inverter and other balance of system components
- Drawing a box around dual use property may implicate such components even if they would otherwise be 100% eligible for the ITC without the storage

Separate Ownership

- Some seek to separate ownership of QEG and storage
 - Issue has not been analyzed in detail in rulings published to date
- Statutory eligibility concerns the “use” of solar energy
 - “...equipment that uses solar energy to generate electricity...includ[ing] storage devices...and parts related to the functioning of those items”
- Consider open-loop biomass example from 1603 Guidance:
 - Conversion equipment and generation equipment owned by different persons, yet they are both qualifying under IRC section 48(a)(5) for each owner due to the equipment functioning as an integrated whole
- Consider recent community solar PLR 201536017
 - Taxpayer permitted to claim 25D residential credit on expenditures associated with a portion of PV panels and a partial ownership interest in racking equipment, inverter equipment, wiring, and other installation services comprising a community solar project (equipment partially owned by other taxpayers)

Separate Ownership

- Some case law and IRS ruling support, considering the economic relationship of the components in question
- Consider extent to which the components are co-dependent technically (one inverter?) and legally (one service contract for services?)
- Consider more complex hypotheticals
 - Utilities own storage with inverter but solar panels are owned by the homeowner
 - Combination of commercial ITC and homeowner's credit under IRC section 25D?
 - Flip roles, whereby utility/developer only owns solar panels and separately provides storage and inverter O&M services to homeowner who claims 25D credit?

Dual Use Methodology

$$\text{Eligible Share of Basis} = \frac{\text{QEG Inputs}}{(\text{QEG Inputs} + \text{NonQualifying Inputs})}$$

Dual Use Credit % = Eligible Share of Basis x Statutory Credit

Credit Amount = Dual Use Credit % x Cost Basis

Treasury Example of 80% in Year 1 (assume \$500 cost basis)

$$\text{Eligible Share of Basis} = \frac{80 \text{ kWh}}{(80 \text{ kWh} + 20 \text{ kWh})} = 80\%$$

Dual Use Credit % = 80% x 30% = 24% (6% haircut)

Credit Amount Claimed = 24% x \$500 = \$120

Calc. at end of Year 1: 75% x 30% = 22.5% (7.5% haircut)

Credit Amount = 22.5% x \$500 = \$112.5 (\$7.50 recaptured)

Dual Use Methodology – Alternatives?

- Reminder: IRS still retains authority to reject a methodology
- IRS imposes similar allocation requirements for other components (see support structures in fourth IRS PLR) but no details on method
- See also PLRs using incremental cost approach for roofs
- IRS did not foreclose a cost approach in 1987 Regulations
- Other areas of the Tax Code require similar allocation requirements for purposes of credits and deductions as a function of various factors: cost, time, revenues, etc.
- Non-tax methods?
 - “Net” approach akin to net metering?
- PLR offers opportunity to confirm a particular method

Application of Methodology

- IRS regulations suggest an asset-by-asset test, however the Tax Court has suggested a more comprehensive test may be appropriate:
 - *Oregon Trail Mushroom Co. v. C.I.R.*, 63 T.C.M. (CCH) 3045 (T.C. 1992)
 - 75% cliff test in the context of taxpayer’s agricultural facility that used geothermal energy (heating), grid electricity, and propane for its energy. The IRS challenged dual use equipment eligibility, but the Court concluded in the alternative that:

“Nowhere do we find the regulations requiring that a separate energy use study be made as to each asset... Thus, while [the facility] uses propane and [grid] electricity in its facility, it has met the requirements of the regulations set out above, and it satisfies the purposes of the statute.”
- Analogous to microgrid project previously discussed?
- Containerized storage product/service with multiple components?

New Build vs. Retrofits

- Adding storage device to newly-constructed facility
 - Developers will often coordinate QEG and storage device installations in an effort to have a coordinated placed-in-service date for both
 - Placed-in-service date IS determined by 5-factor test developed from a deep body of case law/rulings
 - Generally placed in service when “first placed in a condition or state of readiness and availability for a specifically assigned function.” See Treas. Reg. section 1.167(a)(11)(e)(1)(i).
 - But when is storage with multiple functions placed in service?
 - Some have taken view (unrelated to storage) that property must be ready and available for all functions.

New Build vs. Retrofits

- Adding storage device to an operational facility that has already been placed in service
 - IRS guidance and 1603 Grant rulings contemplate scenarios in examples
 - Even in the case of Section 45 qualified facilities, where property is placed in service at a later date than the original facility and, therefore, not functionally interdependent with the original facility.
 - Property may still be eligible if it becomes an integral part of the original facility when placed in service
 - Related questions: split ownership, split 1603 Grant/ITC

Looking Ahead

- Many developers increasingly pursuing products and services with energy storage yet have limited familiarity with associated tax rules and history
- Dual Use rules require ongoing management and careful attention (e.g., tax equity scrutiny)
 - Document configuration and inputs
 - Develop analysis early on for stakeholders and identify protocol for recapture period
 - Consider technical options to limit risk
 - Consider PLR for additional clarity

Looking Ahead

- Options to further clarify how Treasury may apply dual use rules:
 - Provide additional examples for current tech
 - Exempt certain storage scenarios (e.g., back-up)
 - Exempt activities addressing drawbacks of the QEG (ancillary services)
 - Streamline accounting for 75% Cliff
 - Limit recapture to the year's vested portion?
 - Apply 75% Cliff as an average over the full recapture period?



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