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*The information contained herein is based on a summary of legal principles. It is not to be construed as legal advice. Individuals should consult with legal counsel before taking any action based on these principles to ensure their applicability in a given situation.*

## Energy Tax Extenders in the American Taxpayer Relief Act of 2012

As you know, Congress recently passed the American Taxpayer Relief Act of 2012. [Click here](#) for a copy of the Act. This legislation contains a number of extensions of energy tax benefits that had lapsed or are about to lapse. The purpose of this Alert is to briefly highlight these changes and provides statutory references for more information. These extensions include the following:

### Extension of Credit for Energy Efficient Existing Homes

- This credit has been extended through 2013 (retroactively from the previous expiration date of December 31, 2011). This means that anyone that undertook certain residential energy efficiency improvements in 2012 may qualify for this credit. *See 26 USC sec. 25C.*

### Extension of Credit for Alternative Fuel Vehicle Refueling Property

- This credit was extended from December 31, 2011 to December 31, 2013 and effective to property placed in service after December 31, 2011.
- This credit is equal to **30% of the cost** of any qualified alternative fuel vehicle refueling property placed in service during the taxable year (subject to a per-location cap of **\$30,000** in the case of a property of a character subject to an allowance for depreciation and **\$1,000** in any other case). *See 26 USC sec. 30C.*

### Extension and Modification of Cellulosic Biofuel Producer Credit

- Extends the date for credit from January 1, 2013 to January 1, 2014.
- Algae is now considered a qualified feedstock for this credit; including any cultivated algae, cyanobacteria or lemna.
- The word “Cellulosic” is struck from each of the places it appears in the text of this section of the code and replaced with “second generation.”  
*See 26 USC sec. 40.*

### Extension of Incentives for Biodiesel and Renewable Diesel

- This incentive is extended from December 31, 2011 until December 31, 2013.  
*See 26 USC sec. 40A.*

## Extension of Production Credit for Indian Coal Facilities Placed in Service Before 2009

- This amendment applies to Indian coal produced after December 31, 2012. *See 26 USC sec 45.*

## Extension and Modification of Credits with Respect to Facilities Producing Energy from Certain Renewable Resources - Production Tax Credit!

- **Definition of Municipal Solid Waste** - Paper which is commonly recycled is now excluded from this definition.
- **Definition of Qualified Facility** - previously said that facility must be placed in service before January 1, 2013. In order to be considered a qualified investment credit facility to be an energy property, the property must now begin construction prior to January 1, 2014.
- This new timing requirement applies to **wind facilities, closed loop biomass facilities, open loop biomass facilities, geothermal facilities, landfill gas facilities, trash facilities, qualified hydropower facilities, and marine and hydrokinetic renewable energy facilities**. For **closed loop biomass facilities**, modification means if the construction of such modification begins before January 1, 2014.

- For **incremental hydropower production**, an efficiency improvement or addition to capacity shall be treated as “placed in service before January 1, 2014,” if the construction of such improvement or addition begins before such date.

## Extension of Credit for Energy Efficient New Homes

- The amendments apply to homes acquired after December 31, 2011 and before December 31, 2013.
- Non-manufactured homes receive a **\$2,000** credit and manufactured homes receive a **\$1,000** credit.

## Extension of Alternative Fuels Excise Tax Credits

- **This Credit is extended from December 31, 2011 to December 31, 2013.**
- The energy savings requirements must be achieved because they are in compliance with the 2006 International Energy Conservation Code (rather than the 2003 version). *See 26 USC sec. 6426.*

If you have any questions about the application of any of these tax extender provisions to your energy project, please feel free to contact any member of the Environmental and Energy Strategies Team.

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