

U.S. DEPARTMENT OF THE TREASURY

Press Center



Fact Sheet: Clarifying "Begin Construction" for the Purposes of the Production Tax Credit or the Investment Tax Credit

8/8/2014

WASHINGTON - Today, the U.S. Treasury Department and the Internal Revenue Service (IRS) issued a notice (2014-46) clarifying what it means to "begin construction" on a project for the purposes of the renewable electricity production tax credit (PTC) or the energy investment tax credit (ITC). Under the American Taxpayer Relief Act of 2012, taxpayers can claim the PTC or the ITC for certain renewable energy facilities if construction began before January 1, 2014.

"With today's guidance, businesses that are investing in renewable energy projects have the clarity they need to qualify for important tax credits designed to help spur innovation in this sector. With the support of these credits, growth in the production of renewable energy will help support a clean energy economy, reduce our reliance on oil and cut greenhouse gas pollution," said Emily S. McMahon, Deputy Assistant Secretary for Tax Policy.

Previous guidance provided two methods to determine when construction of a facility begins: the Physical Work Test or the Safe Harbor. Today's guidance provides further clarification in response to stakeholder feedback.

Specifically, today's guidance:

Clarifies that the Physical Work Test relates to the nature of the work, not the amount or cost. (Work of a significant nature includes, for example, any of the following activities: beginning of the excavation for the foundation, the setting of anchor bolts into the ground, or the pouring of the concrete pads of the foundation).

Clarifies that a fully or partially developed facility may be transferred without losing its qualification under the Physical Work Test or the Safe Harbor for purposes of the PTC or the ITC. The only exception to this provision is transfers consisting solely of tangible personal property between unrelated parties.

Provides that the Safe Harbor may be used by taxpayers that have paid or incurred less than five percent, but at least three percent, of the total cost of a facility before January 1, 2014. These taxpayers may claim a reduced credit proportional to the amount paid or incurred before January 1, 2014.

View Notice 2014-46 [here](#).

Treasury and the IRS have issued two previous pieces of guidance on this subject. The first of which (Notice 2013-29) provided two methods to determine when construction had begun on a qualified facility: a "physical work" test and a five percent safe harbor. The second piece of guidance (Notice 2013-60) clarified how a taxpayer satisfies either the Physical Work Test or the Safe Harbor, the applicability of a master contract, and the ability to transfer a facility after construction has begun.

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