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## New Opportunities for Renewable Energy Projects

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For hospitals and health systems that are planning a renewable energy project at a new or existing facility, provisions of the recently enacted Inflation Reduction Act now allow the federal government to provide a direct payment for qualifying projects owned by tax-exempt entities, including 501(c)(3) organizations. These direct payments are meant to mirror tax credit programs which are utilized frequently by taxable for-profit entities.

The intention of this change is to create incentives for green projects in the governmental and not-for-profit sectors. Kaufman Hall believes health systems and hospitals nationwide executing green energy projects should review these direct payment options as part of the normal course of project planning and development.

The details of these direct payment programs [are outlined in a publication](#) by members of the tax, public finance, and energy teams at the Orrick law firm.

For hospitals and health systems, relevant details include the following:

- Qualifying projects, depending on the underlying tax credit equivalent program, include projects related to solar, geothermal, wind, waste energy, energy storage, heat pump, and combined heat and power. Consult your team of legal and financial professionals to determine if your project, or a portion of your project, qualifies.
- Direct payments are based on existing tax credit programs, either a production tax credit (PTC), which is based on the amount of renewable energy produced each year over the first ten years of the project, or an investment tax credit (ITC), which is a one-time tax credit based on a percentage of the qualifying costs of a project. Both the PTC and the ITC have specific project requirements. If a project qualifies for both, the tax-exempt entity must choose one. For projects placed in service in 2023 or 2024, the PTC generally requires the sale of energy to an unrelated party, which may limit most hospital and health system projects to the ITC.

- Each tax credit program prescribes a base rate, 6% in the case of ITC and 0.52 cents/kWh (inflation adjusted for 2022) in the case of the PTC, which can be increased substantially if the projects meet certain thresholds in the Act, including the utilization of U.S. domestic materials, and meeting certain apprenticeship and prevailing wage standards. In total, an ITC could provide a direct payment for 30% or more of a green project's cost, and a PTC could provide 2.6 cents/kWh or more.
- Projects already under construction may qualify for the direct payment option if they are placed in service after 2022.
- Most tax-exempt entities eligible to receive the direct payment may also finance the project using tax-exempt debt. This will lead to a reduction in the tax credit, but that reduction is capped at 15% and can be lower depending on the portion of the project that is financed with tax-exempt debt.

The availability of a direct payment option may affect financing decisions for construction projects; equity might be used for a renewable energy portion of the project, for example, and tax-exempt financing for other portions. As noted by Orrick's lawyers in the publication cited above, this direct pay option "changes the market for these types of projects, and opens up the door for projects to be owned by tax-exempt entities, financed by tax-exempt bonds, and receive direct payments of tax credits."

Hospitals and health systems that have renewable energy projects underway or are in the planning process of projects with an energy-related component should be aware of this new direct payment opportunity as it could provide a meaningful benefit

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