

Energy Investment/Production Tax Credits - Safe Harbor: U.S. Department of the Treasury Letter Addressing Request for Extension



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05/11/2020

Frederick W. Vaughan, Principal Deputy Assistant Secretary, Office of Legislative Affairs, Department of the Treasury addressed a request for the continuity of the safe harbor provided under current guidance for the production tax credit (“PTC”) and energy investment tax credit (“ITC”).

The Principal Deputy Assistant Secretary was responding to an April 23rd letter from six United States Senators (“Senators”) that asked, due to the COVID-19 crisis, for an extension of the:

. . . continuity safe harbor, provided under existing Treasury Department guidance, for both the production tax credit. . .and energy tax credit. . . , from four years to five years for projects that started construction in 2016 or 2017.

The April 23rd letter was authored by Senators:

- Charles E. Grassley
- John Thune
- Lisa Murkowski
- Ron Wyden
- Maria Cantwell
- Joe Manchin III

The two tax credits are applicable to a variety of renewable energy technologies.

The Senators argue in their April 23rd letter that the COVID-19 crisis has:

. . . disrupted supply chains, construction operations, and permitting timelines, delaying projects otherwise on track to be in operation by the end of 2020.

While acknowledging that Internal Revenue Service guidance provides certain exceptions for construction setbacks, the Senators state a temporary extension of the continuity safe harbor of five years would:

. . . address the unforeseen interruptions developers are experiencing due to COVID-19 and provide the certainty businesses need to move forward with existing projects.

The Principal Deputy Assistant Secretary responded in a three-sentence letter stating:

I write in reply to your April 23, 2020 letter regarding the continuity safe harbor provided under existing Department of the Treasury guidance for the production tax credit (PTC) and energy investment tax credit

(ITC). The Department of the Treasury appreciates your concern and plans to modify the relevant rules in the near future.

If you have further questions, please direct your staff to contact the Office of Legislative Affairs.

A copy of the Senators' request and the Principal Deputy Assistant Secretary's letter can be downloaded [here](#).