

Solar Projects? It's Time for Governmental and Tax-Exempt Entities to File for Applicable Tax Credits



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As provided for in the 2022 Inflation Reduction Act (or IRA), entities not subject to taxation such as cities, counties, municipal utilities, school districts and 501(c)(3) organizations (or tax-exempt entities) can now take direct advantage of tax credits (including the investment tax credit (or ITC) for solar facility projects. Under the IRA, these tax-exempt entities can receive the benefits of the tax credits through direct payments in lieu of tax credits. Solar facilities that were placed in service after December 31, 2022 may qualify for these direct payments. More information on the IRA and direct payment election can be found in our previous blog posts [here](#) and [here](#).

The IRS has created a process to allow eligible entities to claim the tax credits through the direct payment election. The process is multi-step and will take several months to complete, so it is best to start on the process as early as possible. The first step of the process includes registering with the IRS through a new on-line registration portal the IRS has set up to facilitate filing for the tax credits. The portal was opened by the IRS on December 22, 2023. Registering through the portal allows eligible entities to obtain an IRS-issued registration number which is required to be included on all applicable tax return filings needed to claim the credits.

An eligible entity can submit only one pre-filing registration for the applicable tax period, so every credit the eligible entity will claim for such tax period must be included in the pre-registration process. Registration should be done after the investment property or facility is placed in service; however, registration cannot be done earlier than the beginning of the tax period when the tax credit is earned.

The IRS advises that registration should be submitted through the portal at least 120 days before the due date of the applicable tax return where the credits will be reported.

The second step of the process created by the IRS includes the filing all applicable tax returns needed to claim the credits which may include IRS Forms 990-T, 3800 and other specific tax credit forms such as Form 3468 related to the investment credit. The deadline for filing the applicable returns to receive the direct payment for the tax credit is the due date for filing an annual tax return if the entity were required to file an annual federal income tax return (generally the 15th day of the fifth month after the end of the organization's taxable year). It is important to note that there is no late filing relief for a late direct payment election.

The process for filing to receive the IRA tax credits by governmental and tax-exempt entities is a new one for all parties this year, so it is important to get started early and to engage knowledgeable professionals to help manage the entire process.

Do you have a facility that might be eligible for the incentives under the IRA? Contact any of the authors of this article with questions about your facility.