Published on *The National Law Review* https://natlawreview.com

Energy Tax Credits for a New World Part VI: Energy Community Bonus Credits

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What is the purpose of the Energy Community Bonus Credit?

The Inflation Reduction Act (IRA)[1] introduced the Energy Community Bonus Credit to encourage renewable energy project developers to locate their facilities and energy projects (collectively, "projects") in or near communities that have historically depended on the fossil fuel industry for jobs; disadvantaged communities that have been hard hit by closures of coal mines or coal-fired power plants; and communities that are affected by environmental contamination.[2] According to the U.S. Department of the Treasury (Treasury), the Energy Community Bonus Credit is designed to equip energy communities "to harness the economic benefits of the clean energy boom by creating good clean energy jobs and lowering energy costs."[3]

What is the Energy Community Bonus Credit?

Under the IRA, qualifying project developers that locate renewable energy projects in energy communities can receive up to a 10 percent increase for an eligible Production Tax Credit (PTC) and a bonus of up to 10 percentage points on top of an eligible Investment Tax Credit (ITC).

Which tax credits are eligible for the Energy Community Bonus Credit?

Bonus credits are available to taxpayers that meet certain statutory requirements under the original PTC at Internal Revenue Code (Code) Section (Section) 45; Section 45Y, Clean Electricity Production Tax Credit (CEPTC); the original ITC at Section 48, and the Section 48E, Clean Energy Investment Credit (CEITC):

- **Section 45 PTC**

  Provides a 10 percent increase in the credit amount.[4]

- **Section 45Y (CEPTC)**

Provides a 10 percent increase in the credit amount.[5]

- **Section 48 ITC**

  Provides either a two-, or 10-percentage point increase to the credit amount.[6]

- **Section 48E (CEITC)**

  Provides either a two-, or 10-percentage point increase to the credit amount.[7]

As I discuss below, Section 48C (Advanced Energy Project Credit) provides a "special allocation for projects located in census tracts as described in [Section] 45(b)(11)(B) and that do not have any projects that previously received a Section 48C credit allocation."[8]

Why is the Energy Community Bonus Credit set at a 10-percentage point increase in some situations and at a two-percentage point increase in other situations?

For the Sections 48 and 48E (CEITC) ITC-based credits, if the prevailing wage and apprenticeship (PWAP) requirements are met, the bonus credit is set at 10 percentage points.[9] If a project does not meet the PWAP requirements, the Energy Community Bonus Credit is set at 2 percentage points.[10]

Where are energy communities situated?

This can be a difficult question to answer. The Interagency Working Group on Coal & Power, Plant Communities and Economic Revitalization site at https://energycommunities.gov provides a mapping tool,[11] that can be useful for applicants wishing to identify relevant information about their project for purposes of qualifying for Advanced Energy Project Credit (§ 48C) program for energy community status and to determine whether a project is located in a disadvantaged community. But, also, it quickly cautions taxpayers that they should not rely on that same mapping tool to substantiate their tax position with the Internal Revenue Service (IRS). Another version of the mapping tool is available on the Department of Energy (DOE) website at IRA Energy Community Tax Credit Bonus.[12] This mapping tool addresses two of the three types of energy communities discussed below, and carries the same disclaimer that a taxpayer cannot rely on it to substantiate its tax return position or to determine whether penalties will be applied.

Various online mapping tools can help provide users with a visual representation of those geographic areas that might be eligible under the Energy Community Bonus Credit. However, such mapping tools *cannot* be relied on to apply for these IRA tax credits, to substantiate a tax return position, for determining whether certain penalties apply, and will not be used by the IRS for examination purposes. The mapping tools do not reflect the application of the law to a specific taxpayer's situation, and the applicable Code provisions ultimately control.

In short, there are no shortcuts. So, let's get into the weeds.

How are energy communities defined?

Energy communities are defined as meeting one of three category definitions: (1) the area is a “brownfield”; (2) it is a “statistical area,” meaning it is an area (a) with a certain percentage of fossil fuel-related direct employment or local tax revenues *and* (b) its unemployment rate is at or above the national average; or (3) it is a “coal closure census tract,” meaning that it contains or directly adjoins properties on which a coal mine closed after 1999 or a coal-fired electric generating unit was retired after 2009.

What is a brownfield site?

A “brownfield site” is a site (real property) that is either contaminated by hazardous materials or other pollutants,[13] or the site contains mine-scarred land. IRS Notice 2023-29[14] provides an initial safe harbor for real property that is considered to be a brownfield site. The Notice addresses “the expansion, redevelopment, or reuse of [energy communities] which may be complicated by the presence or potential presence of a hazardous substances, pollutant, or contamination[15] or that meet certain environmental assessment guidelines of the American Society for Testing and Materials.”

What is a statistical area?

A “statistical area” is a geographic area that can include both metropolitan areas (MSAs) and non-metropolitan areas (Non-MSAs), provided that it meets two requirements.

1. At any time after December 31, 2009, the area has 0.17 percent or greater direct employment related to the extraction, processing, transport, or storage of coal, oil, or natural gas (Fossil Fuel Employment), or it has 25 percent or greater local tax revenues related to related to the extraction, processing, transport, or storage of coal, oil, or natural gas (Fossil Fuel Tax Revenues). This employment threshold is referred to as the fossil fuel employment (FFE) threshold.
2. The area has an unemployment rate that is at or above the national average for the previous year.[16]

Notice 2024-30 expanded on the list of fossil fuel industry codes provided in Notice 2023-29 setting out what types of employment can be considered in determining if an area is an energy community. It added two North American Classification System (NAICS) industry codes (2212 and 23712) to the original list of NAICS codes (211, 2121, 213111, 213112, 213113, 32411, 4861 and 4862) to be used for FFE rate determinations (see, *How is “Fossil Fuel Employment” estimated for MSAs and non-MSAs? Question and Answer la*ter in this piece).

What is a coal closure census tract?

A coal closure census tract is a geographic area (or directly adjoining properties)[17] on which a coal mine was closed[18] after 1999, or a coal-fired electric generating unit was retired after 2009.

Has the IRS released guidance on determining whether a project is in an energy community?

Yes. At the date of this writing, the IRS has issued five Notices:

- **Notice 2023-29**

Treasury Update Notice Related to Energy Community Bonus Credit Amounts Under the IRA. This Notice describes a safe harbor for brownfield sites and addresses certain rules that the Treasury and the IRS intend to include in forthcoming proposed regulations for what constitutes an energy community. It contains three appendices that address certain MSAs, non-MSAs, and certain census tracts in the coal closure category.

- **Notice 2023-45**

  Energy Community Bonus Credit Amounts Under the IRA. This Notice clarifies descriptions of the brownfield site safe harbor set out in Notice 2023-29.

- **Notice 2023-47**

  Energy Community Bonus Credit Amounts or Rates: Annual Statistical Area Category Update and Coal Closure Category Update. This Notice publishes lists of information that taxpayers may use to determine whether they meet certain requirements under the statistical category, or the coal closure category to qualify for the Energy Community Bonus Credit.

- **Notice 2024-30**

  Energy Community Bonus Credit Amounts Under the IRA.
  The notice expands the industries in which employment can be considered to determine if an area is an energy community for purposes of the Energy Community Bonus Credit. It also includes two Appendices that are relevant to energy communities: Appendix 1 adds 446 MSAs/non-MSAs that potentially qualify as energy communities, and Appendix 2 adds 122 MSAs/non-MSAs that qualified as energy communities in 2023.

- **Notice 2024-48**

  Energy Community Bonus Credit Amounts or Rates: Annual Statistical Area Category Update and Coal Closure Category Update.

Absent Treasury Regulations, taxpayers can refer to these IRS Notices for guidance.

Timing and Project Location

When must a project be located in an energy community to qualify for the Energy Community Bonus Credit?

For PTCs under Sections 45 or 45Y (CEPTC), whether a project is considered to be located in an energy community is *determined separately for each year of the project's 10-year credit period*.[19]

For ITCs under Sections 48 or 48E (CEITC), the determination of whether a project is located in an energy community is *made on the date that it was "placed in service."*[20]

If a taxpayer begins construction of a project in an energy community after December 31, 2022 in a location that qualifies as an energy community as of the beginning of the construction period with respect to that project, such a location will continue to be considered in an energy community for the 10-year PTC credit-period durations for Sections 45 and 45Y (CEPTC), and on the placed-in-service date for ITC credits under Sections 48 and 48E (CEITC).[21]

What does “placed in service” mean?

A project is placed in service when the property is ready and available for a specific use.[22]

How much of a project must be located in an energy community?

Essentially, 50 percent of a project needs to be located in an energy community to qualify for the credit as measured by either its nameplate capacity or its footprint. In IRS vernacular, this means the taxpayer’s project must have 50 percent or more of its nameplate capacity located in an energy community (meets the Nameplate Capacity Test) or 50 percent of the square footage (meets the Footprint Test.)[23] If a project begins construction in an energy community, it keeps its status as being placed in service in the energy community even if its location subsequently falls outside of an energy community for the duration of a PTC-eligible project, or for the placed-in-service date for an ITC-eligible project.

What is Nameplate Capacity, how is it determined, and how do projects meet the test?

A project qualifies for the energy community bonus if at least 50 percent of its nameplate capacity is located in an energy community. Nameplate capacity is the direct current capacity that a project can produce during continuous operations and on a steady-state basis under standard conditions. Capacity is determined using the direct current nameplate for projects that generate direct current that is converted into alternating current. Nameplate capacity for other energy-generating projects is calculated in alternating current. Storage facilities use storage usable energy capacity in MWs. Battery storage projects need at least 50 percent of their storage capacity to be located in an energy community.

How does Nameplate Capacity Test apply to offshore energy generation facilities?

Offshore energy generation units such as wind farms have nameplate capacity but are not situated in any census tract, MSA, or non-MSA. The Treasury initially proposed that offshore projects would be deemed to be located or placed in service at the place closest to their point of interconnection—attributing all their nameplate capacity to the related land-based power conditioning equipment, conditioning energy generated by them for transmission, distribution, or use. Commentators objected to this approach, and the rule was changed. Now, projects with multiple points of interconnection can qualify for the Energy Community Bonus Credit if any *one* of their interconnection points is within an energy community.[24]

Can offshore energy facilities attribute their nameplate capacity to supervisory control and data acquisition system (SCADA) equipment?

Yes. Notice 2024-30 allows offshore energy generation facility owners to attribute their nameplate capacity to SCADA equipment that they own but which is located in eligible nearby ports.[25] This change acknowledges that onshore SCADA equipment at ports is critical to offshore energy generation projects; and that offshore project owners make significant investments and create jobs at ports over the long term. Notice 2024-30 clarifies that if a project has multiple points of interconnection, those projects can look to any land-based power conditioning equipment up to those points of interconnection for purposes of determining energy community status.[26]

What government guidance do we have about nameplate capacity and industry codes?

Various IRS Notices provide information about the types of nameplate capacity attribution and industry codes, including Notice 2023-47, which was expanded in Notice 2024-30.[27]

What is the Footprint Test?

The Footprint Test is a fallback test if a project does not have nameplate capacity. If a project does not generate power—for example, a qualified biogas facility—it applies the Footprint Test. The project is treated as being located where 50 percent or more of its square footage is located.[28]

A project located in an energy community when construction began is treated as being in an energy community. Does this rule apply to projects that began construction before 2023?

No. Notice 2023-29 only applies to projects that begin construction on or after January 1, 2023. A project must only qualify as being located in one of the three categories for an energy community. It does not need to meet more than one category.

How is the beginning of construction on a project defined?

- The beginning of construction is when physical work of a significant nature starts, or when paying or incurring five percent or more of the total cost of the facility.[29]
- For the beginning of construction, the “Five Percent Test” is that at least five percent of the final qualifying project costs must have been incurred, and those expenses must be “integral” to the generation of electricity. In addition, equipment and services will be delivered within 3.5 months after payment.
- Under the “Physical Work Test,” actual physical work is started on the site, or on the equipment that is “integral” to the project.

Determining Brownfield Status

Why is there a focus on developing renewable energy projects on brownfield sites?

Encouraging clean energy project development on brownfield sites increases the available pool of viable project sites. It does not require taking agricultural land out of rotation and avoids the risk that “some states are weighing agricultural priorities against renewable energy benefits.”[30]

Is the definition of a “brownfield site” for Energy Communities the same as the Environmental Protection Agency (EPA) definition?

No, it is not. Interestingly, the tax definition of a brownfield site for purposes of the Energy Community Bonus Credit is not the same as the EPA’s working definition[31] of a brownfield site. The energy community definition is a subset of the EPA definition, and limited to sites described under Code Sections 9601(39)(A), (B), and (D)(ii)(III). For example, the EPA definition—but not the energy community definition—includes controlled substance contamination and petroleum contamination.[32] If a site has only petroleum contamination and/or controlled substance contamination, it is not a brownfield site eligible to receive for the Energy Community Bonus Credit, but it is a brownfield site for EPA purposes. Highly contaminated National Priority List Superfund sites do not qualify for either energy communities or EPA definitions of brownfields.

What are the boundaries of a brownfield site?

The boundaries of a brownfield site are the entire parcel that make up the real property, its expansion, redevelopment, or reuse.[33]

Does the government publish a map listing all brownfield sites to determine the availability of the Energy Community Bonus Credit?

No. There is no single map, website, or registry for the identification of energy community brownfield sites. Potential site lists may be found under the category of Brownfields Properties on EPA's *Cleanups in My Community,*[34] which lists the locations of sites assessed with federal Brownfield funding. Similar webpages might be maintained by other local governments, or by federally recognized Indian tribes. With that said, taxpayers must proceed with caution—because not all properties that qualify as brownfield sites that are eligible for federal brownfield funding will meet the definition of a brownfield site for purposes of the Energy Community Bonus Credit.[35]

How does the Brownfield Safe Harbor work?

Notice 2023-29 provides a Brownfield Safe Harbor that offers taxpayers certainty in determining whether a site meets the definition of a brownfield site for purposes of the Energy Community Bonus Credit. Under the Brownfield Safe Harbor, the IRS will accept that a site meets the definition of a brownfield site.[36] Under 42 U.S.C. Section 9601(39)(A) if it meets at least one of the conditions described in IRS Notice 2023-29, Section 5.02 *and* the site is not described in 42 U.S.C. Section 9601(39)(B)."[37]

What are the requirements for the Brownfield Safe Harbor?

Under Notice 2023-29, as "clarified" by Notice 2023-45, a site qualifies for the Brownfield Safe Harbor if it meets one of three conditions, *and* it is not described in one of the exclusions from brownfield sites set out in 42 U.S.C. Section 9601(39)(B):

1. The site is an existing brownfield site that was previously assessed through federal, state, territory, or federally recognized Indian Tribal Brownfield resources as meeting the definition of a brownfield site under 42 U.S.C. Section 9601(39)(A);
2. A Phase II Environmental Site Assessment has been completed with respect to the property and it confirms the on-site presence of a hazardous substance,[38] or a pollutant or contaminant;[39]
3. For projects with a nameplate capacity of not greater than 5 megawatts (MW) (alternating current), a Phase I Environmental Site Assessment has been completed with respect to the site, and it identifies the presence or potential presence on the site of a hazardous substance, a pollutant, or a contaminant.[40]

What is the significance of requiring a Phase 1 environmental site assessment for a site to be developed for a 5 MW-or-less project?

This safe harbor standard sets a very low bar for designating an area as a brownfield site. A Phase I assessment could identify an area with a small amount of contamination such as "a small oil sheen, a single railroad tie that could have leached creosote, or a historical oil and gas well on-site that could have leaked."[41] In this situation, the Brownfield Site Safe Harbor "for a 5 MW or smaller project has been met."[42]

Determining Statistical Areas

Does the government's list of MSAs and non-MSAs change on a yearly basis?

Yes. The Treasury and the IRS anticipate that updates will be released in May of each year. Because new annual unemployment rates are released each year in May, the listing of MSAs and non-MSAs will be updated on a yearly basis.[43]

Can an MSA or non-MSA lose its qualified status as an energy community in a year after it had originally qualified as an energy community?

Yes. Because an MSA's or non-MSA's status depends on whether the area's unemployment rate for the *previous* year is at or above the national average, an MSA or non-MSA can qualify as an energy community in one year, but it will not qualify in a subsequent year if the unemployment rate for the previous year fell below the national average.[44]

When are census tracts treated as being "directly adjoining"?

Census tracts are considered to be directly adjoining if their boundaries meet at any single point. This is a common situation because many census tracts do meet multiple tracts at a single point. The other census tracts sharing the single point would be considered to be directly adjoining if there were a closure in one of the census tracts.[45]

How is "Fossil Fuel Employment" estimated for MSAs and non-MSAs?

Fossil Fuel Employment (FFE) is estimated using employment in the NAICS industry codes. The FFE rate is determined by taking the number of people employed in the energy NAICS codes, and dividing that by the total number of people employed in that area.

- **211**

  Oil and Gas Extraction

- **2121**

  Coal Mining

- **213111**

  Drilling Oil and Gas Wells

- **213112**

  Support Activities for Oil and Gas Operations

- **213113**

  Support Activities for Coal Mining

- **2212**

Natural Gas Distribution

- **23712**

  Oil and Gas Pipeline and Related Structures Construction

- **32411**

  Petroleum Refineries

- **4861**

  Pipeline Transportation of Crude Oil

- **4862**

  Pipeline Transportation of Natural Gas

Where does the 0.17 percent direct employment threshold provided in the statistical area calculation come from?

One of the requirements for a statistical area is that at any time after December 31, 2009, the area has 0.17 percent or greater direct employment related to the extraction, processing, transport, or storage of coal, oil, or natural gas, or 25 percent or greater local tax revenues relate to fossil fuel. It is set out at Section 45(b)(11)(B)(ii).

Determining Coal Closure Census Tracts

What are energy community census tracts?

Energy community census tracts are tracts that (1) did not have a project that received a certification or allocation of credits under pre-IRA Section 48C and (2) in which a coal mine was closed after 1999 or a coal-fired electric generating unit was retired after 2009, or that directly adjoins such a coal mine tract or a coal-fired electric generating unit.

Why does the Section 48C credit provide a special allocation provision?

Section 48C provides a 30 percent credit of the “qualified investment” for any taxable year with respect to any “qualifying advanced energy project.”[46] The IRA provided $10 billion in funding for taxpayer allocations under Section 48C(c)(1). At least $4 billion of this $10 billion amount is allocated to projects in Energy Community Census Tracts that are treated as coal tracts.[47] A census tract that contains a project that previously received a Section 48 allocation cannot obtain an additional allocation.

A qualified investment is the basis of eligible property the taxpayer places in service during the taxable year that is part of a qualifying advanced energy project.[48] A qualifying advanced energy project is the portion of the qualified investment certified by the Treasury Secretary as eligible for this credit that re-equips, expands, or establishes an industrial or manufacturing facility meeting certain statutory requirements and that are designed to reduce greenhouse gas (GHG) emissions.

How are coal mines identified and treated as being “closed”?

A surface or underground coal mine is identified for purposes of the energy community coal closure census tracts if it is (or has been) in the Department of Labor’s Mine Safety and Health Administration’s (MSHA’s) data set after December 31, 1999.

A mine is treated as being closed if—after December 31, 1999—it was ever listed in MSHA’s Mines dataset as having been “abandoned” or “abandoned and sealed.” “Location information for coal mine closures is evaluated for accuracy prior to granting the ability to confer eligibility to the census tract in which the mine resides. Closed coal mines listed in the MSHA Mines dataset are excluded from conferring eligibility for the “energy communities” designation if they have irregular location information. This includes closed coal mines with listed latitude and longitude coordinates that do not place the mines in the listed county and state, and mines with latitude and longitude coordinates that only extend to the tenth place.”[49]

Is a coal-fired electrical generating unit that switches to a different fuel source treated as “retired” to qualify as a “retired coal-fired electricity generating unit”?

No. The generating unit must have been coal-fired when it was retired.

The firm extends gratitude to Nicholas C. Mowbray for his comments and exceptional assistance in the preparation of this article.

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[1] The Inflation Reduction Act of 2022, Pub. L. No. 117-169, 136 Stat. 1818 (2022) (IRA), August 16, 2022.

[2] “Treasury Releases Additional Guidance to Drive Investment to Energy Communities As Part of President Biden’s Investing in America Agenda,” Press release, U.S. Treasury, March 22, 2024, *available at* https://home.treasury.gov/news/press-releases/jy2203

[3] *Ibid.*

[4] Section 45(b)(11).

[5] Section 45Y(g)(7).

[6] Section 48(a)(14).

[7] Section 48E(a)(3).

[8] “Energy Community Tax Credit Bonus,” Interagency Working Group on Coal & Power, Plant Communities and Economic Revitalization, Q4, available at https://energycommunities.gov/energy-

community-tax-credit-bonus-faqs/

[9] Section 48(a)(14)(B)(ii); Section 48E(a)(3)(A)(ii)(II). *See Part IV* of this series, *Part IV: Prevailing Wage and Apprenticeship Bonus Credits.*

[10] Section 48(a)(14)(B)(i); Section 48E(a)(3)(A)(ii)(I). *See Part IV* of this series, *Part IV: Prevailing Wage and Apprenticeship Bonus Credits.*

[11] *Ibid.*

[12] "IRA Energy Community Tax Credit Bonus" DOE, a*vailable at* https://arcgis.netl.doe.gov/portal/apps/experiencebuilder/experience/?id=a2ce47d4721a477a8701bd0e08495e1d

[13] Defined in Section 9601(39)(A). *See* Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

[14] Notice 2023-29, IRS, April 4, 2023, clarified by Notice 2023-45, IRS; IR-2023-118, both notices and appendices *available at* https://www.irs.gov/newsroom/irs-treasury-update-notice-2023-29-related-to-energy-community-bonus-credit-amounts-under-the-inflation-reduction-act.

[15] Section 9601(39)(A).

[16] Notice 2024-30 includes two Appendices. *Appendix 1* adds 446 MSAs/non-MSAs that potentially qualify as energy communities, and *Appendix 2* adds 122 MSAs/non-MSAs that qualify as energy communities in 2023.

[17] "Directly adjoining" properties include another census tract that shares a single point with the tract under analysis.

[18] The mine that was closed or the generating facility that was retired must be located in an Energy Community.

[19] "Frequently asked questions for energy communities," Timing and location, Q4, IRS. Available at https://www.irs.gov/credits-deductions/frequently-asked-questions-for-energy-communities

[20] *Ibid.*

[21] *Ibid.*

[22] *Ibid,* Timing and location, Q6; *see also* IRS, Publication 946, How to Depreciate Property *available at* https://www.irs.gov/forms-pubs/about-publication-946.

[23] *Ibid,* Timing and location, Q3.

[24] *See* discussion of Notice 2024-30 in *Part VII* of this series, *Low-Income Communities Bonus Credits* (forthcoming).

[25] “Treasury Releases Additional Guidance to Drive Investment to Energy Communities As Part of President Biden’s Investing in America Agenda,” Press release, U.S. Treasury, March 22, 2024, *available at* https://home.treasury.gov/news/press-releases/jy2203.

[26] *Ibid.*

[27] Modified Notice 2023-29 clarified by Notice 2023-45.

[28] Notice 2023-29, 4.02(2).

[29] “Frequently asked questions for energy communities,” Timing and location, Q5, IRS, a*vailable at* https://www.irs.gov/credits-deductions/frequently-asked-questions-for-energy-communities.

[30] “Brownfield Questions Surround IRS Tax Credit Bonus,” Megan Caldwell and Jon Micah Goeller, Law360, August 21, 2024.

[31] Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k).

[32] “Frequently asked questions for energy communities,” Determining Brownfield Status, Q3, IRS, a*vailable at* https://www.irs.gov/credits-deductions/frequently-asked-questions-for-energy-communities.

[33] “Brownfield Overview and Definition,” Overview, EPA, *available at* https://19january2017snapshot.epa.gov/brownfields/brownfield-overview-and-definition_.html.

[34] “Cleanups in My Community,” EPA, *available at* https://www.epa.gov/cleanups/cleanups-my-community.

[35] “Frequently asked questions for energy communities,” Determining Brownfield Status, Q5, Q6, IRS, a*vailable at* https://www.irs.gov/credits-deductions/frequently-asked-questions-for-energy-communities.

[36] 42 U.S.C. Section 9601(39)(A).

[37] Notice 2023-29, Section 5; *see also* “Frequently asked questions for energy communities,” Determining Brownfield Status, Q9, IRS, *available at* https://www.irs.gov/credits-deductions/frequently-asked-questions-for-energy-communities.

[38] As defined under 42 U.S.C. Section 9601(14).

[39] As defined under 42 U.S.C. Section 9601(33); Notice 2023-29.

[40] Notice 2023-45; “Frequently asked questions for energy communities,” Determining Brownfield Status, Q10, IRS, a*vailable at* https://www.irs.gov/credits-deductions/frequently-asked-questions-for-energy-communities.

[41] “The Inflation Reduction Act’s Brownfields Adder: Updates on What Sites Qualify,” Megan Caldwell, Husch Blackwell LLP, July 22, 2024.

[42] *Ibid*.

[43] “Frequently asked questions for energy communities,” Timing and location, Q9, IRS, a*vailable at* https://www.irs.gov/credits-deductions/frequently-asked-questions-for-energy-communities.

[44] *Ibid,* Timing and location, Q7, *see also,* Notice 2024-48, *Appendix 2* for 2024 list of MSAs and Non-MSAs.

[45] “Energy Community Tax Credit Bonus,” Interagency Working Group on Coal & Power, Plant Communities and Economic Revitalization, Q16, *available at* https://energycommunities.gov/energy-community-tax-credit-bonus-faqs/. A taxpayer should consult U.S. Census Bureau tract shapefiles to identify adjoining census tracts.

[46] Section 48C(a).

[47] Notice 2024-36, Appendix C.

[48] Section 48C(b)(1).

[49] The relevant appendices to IRS Notice 2023-29 *Appendix C,* Notice 2023-47 Appendix 3, and Notice 2024-48 *Appendix 2* show the census tracts that have had coal mine closures since 1999 (with accurate location information) and census tracts directly adjoining such census tracks. Notice 2023-29 *Appendix C* shows MSHA Mines data as of February 7, 2023. Notice 2023-47 *Appendix 3* shows MSHA Mines data as of May 1, 2023. *Notice 2024-48 Appendix 2 shows MSHA’s Mines as of April 1, 2024.*

Read Part I, Part II, Part III, Part IV, and Part V here.

National Law Review, Volume XIV, Number 254