

Utility Industry Roundtable

Considering the impact of the Inflation
Reduction Act for tax and regulatory

Welcome!

Over 30 Utility organizations
and other guests



Panelists



**Jonathan
Bass**

Financial Accounting
Tax Strategic Advisor



**Brad
Coenen**

Manager, Tax Strategy



**Matt
Marcelia**

Director of Finance IT
Projects and Tax



**Eric
Nicolaus**

Manager, Tax
Regulatory



**Rory
Roberts**

Director of Regulatory
Tax Accounting



Panelists



**Blake
Andrews**

VP Product
Management,
RCC & ASI



**Elhadj
Bah**

VP Tax
Consulting



**Panpilas
Fischer**

Tax
Consultant



**Jonathan
Williams**

Founder,
RCC & ASI

RCC | **REGULATED
CAPITAL
CONSULTANTS**

CREATORS OF AGGREGATE SINGULARITY 

Proprietary Information of Regulated Capital Consultants, LLC

Company Profile



| | |
|----------------|---|
| ERP | SAP |
| Tax Accounting | PowerPlan PowerTax Provision ASI |
| Tax Compliance | CorpTax |

Jurisdictions

Virginia
North Carolina
South Carolina
Ohio
Utah, Wyoming, Idaho
FERC

Services

Electric
Electric, Gas
Electric, Gas
Gas
Gas
Electric

Renewable Sources

Solar, Wind, Biomass, Hydro
Solar and RNG (Merchant)
Solar (Merchant), Hydro
Solar (Merchant)
RNG (Merchant)
Solar, Wind, Biomass, Hydro

Company Profile



| | |
|-----------------------|---|
| ERP | Oracle PeopleSoft |
| Tax Accounting | PowerPlan PowerTax Provision ASI |
| Tax Compliance | OneSource |

Jurisdictions

Arkansas
Louisiana
Mississippi
New Orleans
Texas
FERC

Services

Electric
Electric, Gas
Electric
Electric, Gas
Electric
Electric

Renewable Sources

Nuclear, Solar
Nuclear, Solar
Nuclear, Solar
Nuclear, Solar
Nuclear
Nuclear

Company Profile



| | |
|----------------|------------------------------------|
| ERP | SAP |
| Tax Accounting | PowerPlan PowerTax Provision |
| Tax Compliance | OneSource |

Jurisdictions

Washington

Services

Electric, Gas

Renewable Sources

Hydro, Wind, Solar

Company Profile



| | |
|----------------|---|
| ERP | SAP |
| Tax Accounting | PowerPlan PowerTax Provision ASI |
| Tax Compliance | OneSource |

| Jurisdictions | Services | Renewable Sources |
|-----------------|----------------------|-----------------------------|
| Wisconsin | Electric, Gas, Steam | Solar, Wind, Biomass, Hydro |
| Illinois | Gas | |
| Minnesota | Gas | |
| Michigan | Electric, Gas | |
| FERC | Electric, Gas | Solar, Wind, Biomass, Hydro |
| Non - Regulated | Electric | Wind |

Utility Industry Roundtable

Agenda

What we know

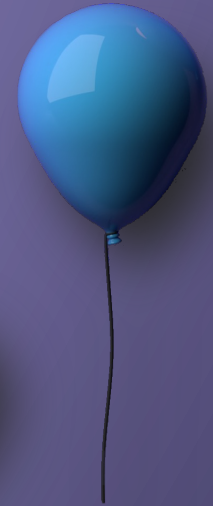
Corporate Alternative Minimum Tax

Modeling

PTC's and ITC's

Other Provisions and Considerations

Q&A



Utility Industry Roundtable

What we know

H.R. 5376 Inflation Reduction Act (“IRA”) passed August 2022

No change to Corporate Income Tax Rate

Corporate Min Tax of 15% effective 1-1-23

Extension of PTC’s & ITC’s for renewables (wind & solar) through 2028 if construction begins before 2025

Many other clean energy credits (electric transportation, manufacturing etc...)

Let's dive in



Corporate Alternative Minimum Tax

Applicable Corporation

Adjusted Financial
Statement Income
(AFSI) exceeds \$1 billion

Controlled group
for this test

Applicable Financial
Statement

Corporate Alternative Minimum Tax

Applicable Corporation

Adjusted Financial Statement Income (AFSI) exceeds \$1 billion

- Average of previous 3 years
- Once an Applicable Corporation, Always an Applicable Corporation???
- Requires IRS permission to stop

Controlled group
for this test

Applicable Financial
Statement



Corporate Alternative Minimum Tax

Applicable Corporation

Adjusted Financial
Statement Income
(AFSI) exceeds \$1 billion

Controlled group for this test

- Uses Single Employer Rule
- IRC Section 52(a)
- Ownership greater than 50%

Applicable Financial
Statement



Corporate Alternative Minimum Tax

Applicable Corporation

Adjusted Financial
Statement Income
(AFSI) exceeds \$1 billion

Controlled group
for this test

Applicable Financial Statement

- IRC Section 451(b)(3)
- Not optional, use first on list
 1. 10-K
 2. Audited Financial Statement
 3. Filed with Federal agency other than for tax purposes



Corporate Alternative Minimum Tax

Applicable Corporation

Annual Income Test – Greater than 1 billion?

Test for 2023

AFSI – 2020 - \$1,000,000,000

AFSI – 2021 - \$1,000,000,000

AFSI – 2022 - \$1,000,000,000

✗ Average \$1,000,000,000
therefore **not** an **applicable
corporation** in 2023

Test for 2024

AFSI – 2021 - \$1,000,000,000

AFSI – 2022 - \$1,000,000,000

AFSI – 2023 - \$1,000,000,003

✓ Average \$1,000,000,001
therefore **is** an **applicable
corporation** in 2024

Test for 2025

AFSI – 2022 - \$1,000,000,000

AFSI – 2023 - \$1,000,000,003

AFSI – 2024 - \$700,000,000

? Average \$900,000,001-
Requires **IRS determination**
to not be an **applicable
corporation**



Corporate Alternative Minimum Tax

Adjusted Financial Statement Income (AFSI)

Start with the net income from Applicable
Financial Statement

Disregard federal
income taxes

Depreciation

- Deduct tax depreciation under section 167 with respect to 168 property
- Add back book depreciation with respect to such property



Corporate Alternative Minimum Tax

Adjusted Financial Statement Income (AFSI)

Start with the net income from Applicable Financial Statement

| | |
|------------------------------|---------------|
| 10-K Consolidated Net Income | 1,200,000,000 |
|------------------------------|---------------|

Adjustments

| | |
|--|-------------|
| <u>Disregard Federal income taxes on AFS</u> | 319,000,000 |
|--|-------------|

Depreciation

| | |
|-------------------------|-----------------|
| Deduct tax depreciation | (1,700,000,000) |
|-------------------------|-----------------|

| | |
|--|---------------|
| Add back book depr with respect to such property | 1,000,000,000 |
|--|---------------|

| | |
|---|--------------------|
| Adjusted Financial Statement Income (AFSI) | 819,000,000 |
|---|--------------------|



Corporate Alternative Minimum Tax

Adjusted Financial Statement Income (AFSI)

Other Adjustments

- Appropriate adjustments if reporting year differs from taxable year
- Allocations of AFS items between consolidated groups and/or non-consolidated members
- Adjustment for certain non-consolidated corporation dividends and partnerships
- Certain items of foreign income
- Taxpayer includes disregarded entity AFSI
- Defined benefit pensions
- Financial statement net operating loss carryover



Corporate Alternative Minimum Tax

Normalization Issues

AMT does not increase book net income tax expense

- Unless there is a valuation allowance

AMT carryforward increases FERC Account 190 and should increase rate base

- Recommend discussions with Commissions
- Negative impact on cash flow



Corporate Alternative Minimum Tax

Other Considerations

Valuation allowances

- Interaction of NOL carryforward and AMT carryforward valuation allowance
- Tax credits – does valuation allowance disregard ability to sell credits?



Corporate Alternative Minimum Tax

Discounts on tax credits sold

Which FERC account?

Which line of 10-K?



Discuss



Corporate Alternative
Minimum Tax



Modeling

- 1 ☒ Creating multiple forecasting scenarios in the UI forecasting tool and reviewing the results

- 2 ☐ Analyzing scenarios to explain implications across the company

- 3 ☐ Meeting with various accounting firms to understand differing interpretations of the new law and adjusting assumptions as needed.

Modeling

7 ■ Creating multiple forecasting scenarios in the UI forecasting tool and reviewing the results

- Increasing tax credits on projects previously thought to be on the phase out timeline (i.e. 30% ITC and 100% PTC)
 - Electing PTC or ITC on solar projects
 - Potential sale of tax credits based on projected credit monetization constraints
 - Normalization opt out on battery storage
 - Book Minimum Tax
 - Bonus Credits for domestic content and energy communities
 - Reviewing the results
-

Modeling

7 ■ Creating multiple forecasting scenarios in the UI forecasting tool and reviewing the results

Other systems leveraged

Excel - Majority of UI input updates discussed previously are currently being developed in spreadsheets

Provision - Attempted to model the Book Minimum Tax in Provision in a test scenario using the consolidating feature.



Modeling

- 1 Creating multiple forecasting scenarios in the UI forecasting tool and reviewing the results
- 2 Analyzing scenarios to explain implications across the company
- 3 Meeting with various accounting firms to understand differing interpretations of the new law and adjusting assumptions as needed.



Modeling

1 Creating multiple forecasting scenarios in the UI forecasting tool and reviewing the results

2 Analyzing scenarios to explain implications across the company

- **Regulatory** – Impact on customer rates
- **Treasury** – Impact on cash flows and debt metrics
- **Executive Management** – communication to various stakeholders (investors, commissions, etc.)



Modeling

- 1 Creating multiple forecasting scenarios in the UI forecasting tool and reviewing the results

- 2 Analyzing scenarios to explain implications across the company

- 3 Meeting with various accounting firms to understand differing interpretations of the new law and adjusting assumptions as needed.



Modeling

Example:

| | 2023 | 2024 | 2025 | 2026 |
|--|-----------|-----------|-----------|-------------|
| Adjusted Taxable Income (TI) | 800,000 | 800,000 | 700,000 | 600,000 |
| Regular Tax Liability (Before Credit Usage) | 168,000 | 168,000 | 147,000 | 126,000 |
| Pretax Minimum Tax | | | | |
| Income Before Income Taxes | 1,700,000 | 1,700,000 | 1,800,000 | 1,800,000 |
| Depreciation Adjustments | (600,000) | (800,000) | (600,000) | (1,000,000) |
| State Income Taxes | 100,000 | 100,000 | 100,000 | 100,000 |
| Minimum Taxable Income | 1,000,000 | 800,000 | 1,100,000 | 700,000 |
| 15% Minimum Tax Liability | 150,000 | 120,000 | 165,000 | 105,000 |
| Incremental Minimum Tax | - | - | 18,000 | - |
| Total Tax Liability Before Credits (Greater of Reg Tax vs Min Tax) | 168,000 | 168,000 | 165,000 | 126,000 |
| GBC Tax Credit Limit (75% of Tax Liability) (Burn Rate) | 126,000 | 126,000 | 123,750 | 94,500 |
| Total Credit Carryforward | 100,000 | 124,000 | 148,000 | 174,250 |
| Credits generated (PTC/ITC) not sold | 150,000 | 150,000 | 150,000 | 150,000 |
| Total Credits Available (Old plus new) | 250,000 | 274,000 | 298,000 | 324,250 |
| Total Credits Used | 126,000 | 126,000 | 123,750 | 94,500 |
| Tax Credit Carryforward to Next Year | 124,000 | 148,000 | 174,250 | 229,750 |
| AMT Carryforward at Beginning of Year | - | - | - | 18,000 |
| AMT Credit Generated | - | - | 18,000 | - |
| AMT Credit Used | - | - | - | (18,000) |
| AMT Carryforward to Next Year | - | - | 18,000 | - |
| Net Tax Liability Paid (Cash Tax) | 42,000 | 42,000 | 41,250 | 13,500 |
| Total Credits Sold | - | 30,000 | 150,000 | 200,000 |
| Haircut on Credits Sold | - | 1,500 | 7,500 | 10,000 |
| Net Cash Taxes Paid/(Received) | 42,000 | 13,500 | (101,250) | (176,500) |

Discuss



Modeling



Inflation Reduction Act of 2022

PTCs and ITCs

Renewable Energy Tax Credits

- **10+** years of full-value credits for **onshore/offshore wind, solar, stand-alone storage, hydrogen**, and after 2024 other zero-emissions facilities
- Expansion of ITC to include **biogas** for projects starting construction **before 2025**
- Creation of new PTC for existing **nuclear** units if revenue is less than **\$43.75/MWh**
- Creation of a two-tiered credit system with increased or full-value credits tied to wage & apprenticeship requirements
- **Bonus credits** for projects using domestic content (+10%) and/or those located in an “energy community” (+10%)

Inflation Reduction Act of 2022

Renewable Energy Tax Credits

New Multi-Tiered System with Bonus Credits

Increased Credits

- Total credit = **5x** base credit if prevailing wage & apprenticeship requirements are met:
 - All laborers must be paid prevailing wages for construction & repair work during the 10-year PTC period or 5-year ITC recapture period
 - Qualified apprentices, if available, must perform no less than 10% of total labor hours during construction, this percentage increases to 15% after 2023
- Requirement applies to projects beginning construction 60 days after published guidance

Inflation Reduction Act of 2022

Renewable Energy Tax Credits

New Multi-Tiered System with Bonus Credits

Bonus Credits

- Additional PTC/ITC credits if domestic content requirements are met (**2%** if labor requirements are **not met**; **10%** if labor requirements **are met**)
- Additional ITC credit for projects located in an “energy community”
- Small scale (<5 MW) **solar & wind** projects located in low-income communities qualify for additional bonus ITC (must apply for credits, total allocation limited to **1.8 gigawatts annually** until at least 2032)



Inflation Reduction Act of 2022

Renewable Energy Tax Credits

New Multi-Tiered System with Bonus Credits

| | PTC | ITC |
|---|--------------------|---------------------|
| Base credit, and | 0.550¢/kWh | 6% of basis |
| Increased credit (assuming labor requirements are satisfied) | 2.200¢/ kWh | 24% of basis |
| Plus: Bonus credit for domestic content | 0.275¢/ kWh | 10% of basis |
| Plus: Bonus credit if located in energy community | 0.275¢/ kWh | 10% of basis |
| Total potential credit (Bonus credit + Additional credits) | 3.300¢/ kWh | 50% of basis |



Inflation Reduction Act of 2022

Renewable Energy Tax Credits

Bonus Credits Available After 2022

Domestic Content Bonus Credit

To obtain the “domestic content” additional 10% bonus credit, facilities must certify that **steel** and **iron** as well as **a percentage of manufactured product** was produced in the United States.

Two-Prong Test

- **100%** of **steel** and **iron** manufactured in United States, and
- **40%** of **manufactured product costs** are attributable to products which are mined, produced or manufactured in the United States (this percentage is lowered to **20% for offshore wind**)
 - For the technology neutral credit, these amounts phase-up to **55% by 2027** (2028 for offshore wind)



Inflation Reduction Act of 2022

Renewable Energy Tax Credits

Bonus Credits Available After 2022

Energy Community Bonus Credit







To obtain the “energy community” additional **10%** bonus credit, facilities must be located in:

- A brownfield site
- An area which has (or had after 2009) $\geq .17\%$ direct employment or $\geq 25\%$ local tax revenues related to the extraction, processing, transport, or storage of coal, oil, or natural gas and has an unemployment rate at or above the national average for the previous year, or
- A census tract or any adjoining tract in which a coal mine closed after December 31, 1999 or a coal-fired electric power plant was retired after December 31, 2009.



Renewable Energy Tax Credits

Key Technology Comparison

| |  Solar & Onshore Wind |  Offshore Wind |  Nuclear |  RNG & Storage |  Clean Hydrogen |  Hydro |
|------------------------------------|---|--|--|---|---|--|
| Increased PTC Bonus PTC | 2.75¢/kWh 0.275-0.55¢/kWh | 2.75¢/kWh 0.275-0.55¢/kWh | 1.5¢/kWh N/A | RNG varies based on emissions and use | Varies based on greenhouse gas emissions | 2.75¢/kWh 0.275-0.55¢/kWh |
| Increased ITC Bonus ITC | 30% of basis 10-20% of basis | 30% of basis 10% of basis | N/A | 30% of basis 10-20% of basis | Varies based on greenhouse gas emissions | 30% of basis 10-20% of basis |
| Refundable | ✗ | ✗ | ✗ | ✗ | ✓ | ✗ |
| Transferable | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Eligibility | <ul style="list-style-type: none"> • PIS after 2021 • Construction begins before 2032 at the earliest | <ul style="list-style-type: none"> • Construction begins before 2032 at the earliest | <ul style="list-style-type: none"> • Produced '24 – '32 • Phase-out TBD but expected between \$25 and \$43/MWh | <ul style="list-style-type: none"> • PIS after 2022 • Construction begins before 2025 (RNG ITC); 2032 (Storage) | <ul style="list-style-type: none"> • ITC: PIS after 2022 • PTC: After 2022 if construction begins before 2033 | <ul style="list-style-type: none"> • PIS after 2022 • Construction begins before 2025 (Pumped Storage); 2032 (if zero emissions) |

Other Tax Credits

Potential Benefits for Utilities

| | Advanced Mfg. Production Credit | Advanced Energy Project Credit | Consumer Clean Vehicle (EV) Credit | Commercial Clean Vehicles | Alternative Fuel Refueling Property Credit |
|----------------------------|--|--|--|--|---|
| Increased PTC Bonus PTC | Varies depending on eligible component | N/A | N/A | N/A | N/A |
| Increased ITC Bonus ITC | N/A | 30% of basis Bonus ITC N/A | \$7,500 new car; \$4,000 used car | Up to \$40k per vehicle | 30% of basis up to \$100k credit |
| Refundable | ✓ | ✗ | ✗ | ✗ | ✗ |
| Transferable | ✓ | ✓ | ✓ | ✗ | ✗ |
| Eligibility | <ul style="list-style-type: none"> • Production completed and sold after 2022 • Phase-out beginning in 2030 • Can't stack with the advanced energy project credit | <ul style="list-style-type: none"> • Applies to projects certified after 2022 | <ul style="list-style-type: none"> • Purchased 2023 – 2032 • 50% credit reduction if battery made outside of North America | <ul style="list-style-type: none"> • Purchased 2023 – 2032 • 50% credit reduction if battery made outside of North America | <ul style="list-style-type: none"> • PIS before 2033 • Charging property must be located in rural or low-income areas |



Inflation Reduction Act of 2022

Renewable Energy Tax Credits

Monetization of Credits

Direct Pay

Direct pay is generally only available for tax exempt entities or a State or local government.

However, the Clean Hydrogen Production Credit, Carbon Capture, and Advanced Manufacturing Production Credit are eligible for direct pay for most taxpayers.

Transferability

- For taxable years beginning after December 31, 2022, taxpayers may elect to transfer certain credits to an unrelated taxpayer for cash.
- The credit must be transferred by the due date of the tax return for the taxable year in which the credit is generated, and a credit cannot be subsequently transferred.
- Taxpayers may not transfer existing credit carryforwards.
- Unclear if cash received for transferred credits is subject to the normalization rules.
- Uncertainty regarding accounting treatment.



Discuss



PTCs & ITCs



Other Provisions & Considerations

- Stock repurchases excise tax
- Financial Statements (Q3 Disclosures)
- Biogas Property ITC
- Impact to Transmission Owners



Reach out!



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**Congratulations,
Rory!!**

Thank you!

