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Inflation Reduction Act Credits

How Co-Ops Are Utilizing or Generating Credits

May 6, 2025

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Overview

Under the Inflation Reduction Act ("IRA") many renewable energy tax credits are now transferable

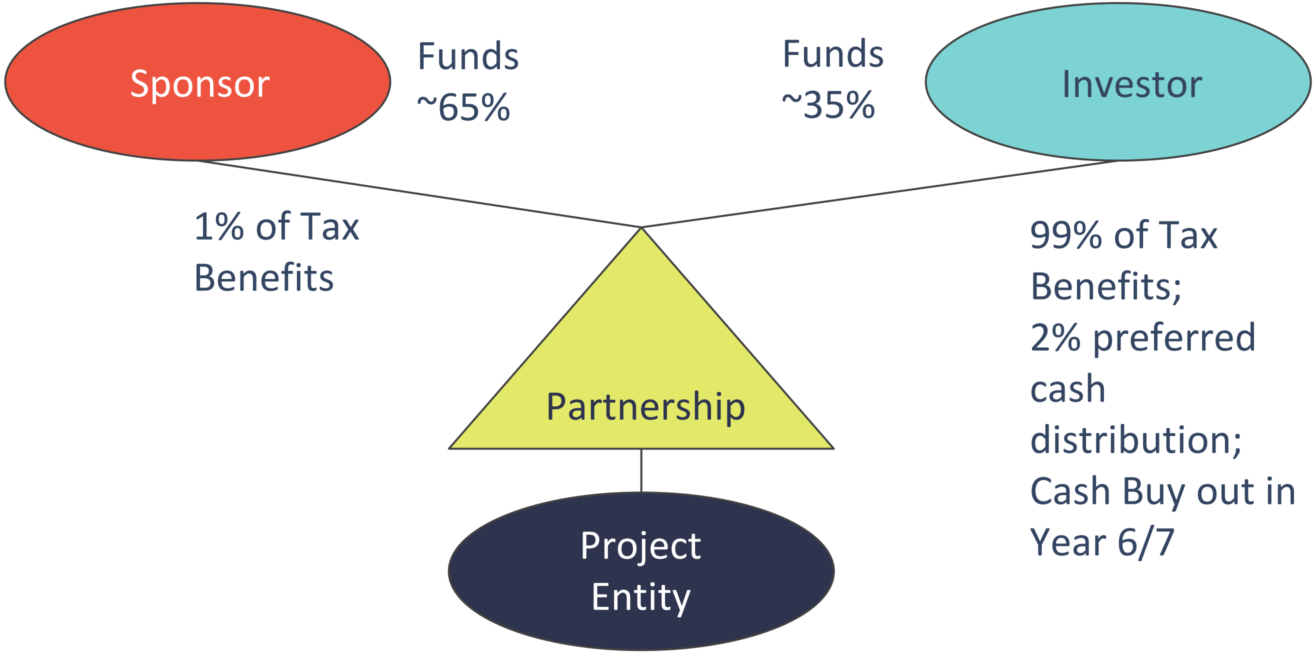
Previously, many project developers relied upon "tax equity" transactions with investors to monetize federal tax credits and related tax benefits (i.e., partnership flip structure).

Illustrative credit generating activities: Solar, Wind, Energy Storage, Biogas, Geothermal, Solar/Wind Manufacturing, Electric Vehicle Fleets, Car Chargers

Tax credit transactions can reduce the corporate tax burden, improve cash flow, and allow investors to play a key role in the clean energy transition with the growing emphasis on environmental, social, and governance ("ESG") standards.

Illustrative Partnership Flip

Historical Tax Credit Monetization Structure



Transferability, at a Glance

The IRA now permits tax credit transfers (i.e., sales) of eleven different types of tax credits which were previously unavailable under the U.S. tax code

- Post-IRA, additional renewable projects/technologies now qualify for the investment tax credit (“ITC”) under IRC Sec. 48.

On December 22, 2023, the IRS released a registration system for which all tax credit sellers must register

Purchasers can time the transaction around estimated tax payments, extensions, or tax return due dates to maximize IRR

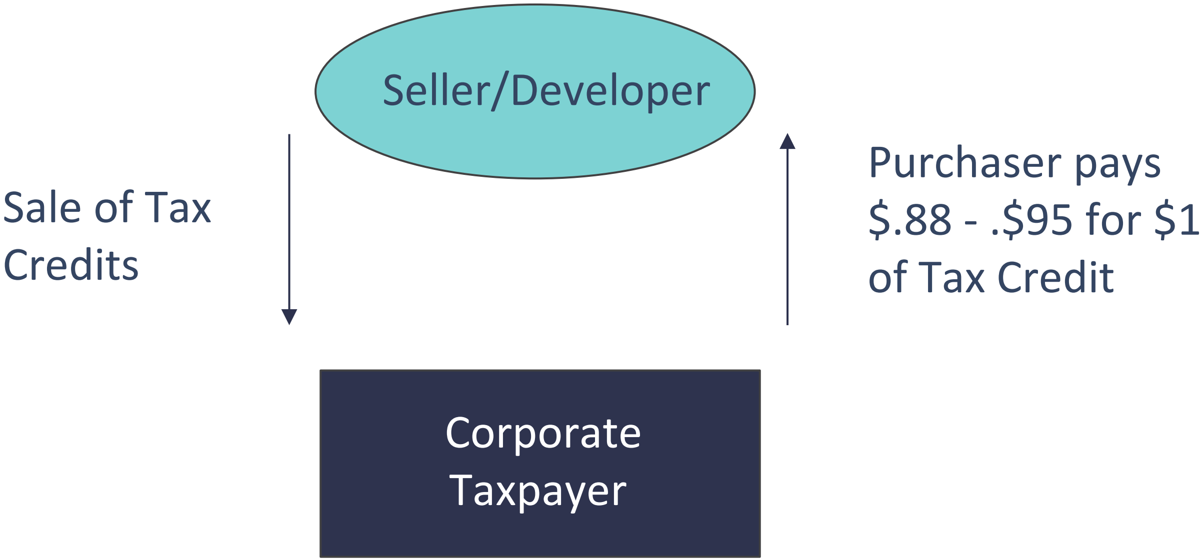
- Consider potential carryback opportunities

Transferability Process

How to buy and sell credits

- Taxpayers must be unrelated parties
- Must be purchased solely for cash (i.e., U.S. dollars only, no foreign currency or cash equivalents are permitted)
- Credit can only be sold once
- Taxpayers must complete pre-filing registration with the IRS if they intend to transfer some or all of an eligible credit
- Typical transactions are within the .88 to .95 credit range with pricing dependent upon creditworthiness of seller, project/credit size, credit type, and the existence of indemnification/tax insurance
- Consider general business credit rules when sizing purchase amount (i.e., only reduce tax liability by 75% under IRC 38(c)(1)).
- Risk mitigation via Seller indemnification and tax insurance

Tax Credit Purchase & Sale Transaction



Illustrative Credit Computation – GBC Limitation

Tax Credit Benefit Illustration	$5M Tax Credit Purchase	
Estimated Tax Liability	$	5,000,000
Amount of Tax Liability Available for General Business Credit Offset	$	3,756,250
Tax Credit Purchase at .90	$	3,380,625
Estimated Cash Tax Savings (Tax-Free)	**$**	**375,625**

2023 Tax Credit Monetization Case Study

Tax Credit Benefit Illustration	
Targeted Tax Credit Purchase	**$ 6,100,000**
Tax Credit Purchase at .92	$ 5,612,000
Cash Tax Savings (Tax-Free)	**$ 488,000**

Buyer signed a Statement of Work with CLA in March 2024

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Credit sourcing commenced April 2024 where a 2023 Investment Tax Credit ("ITC") for $6,100,000 at $.92/credit was found

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Non-binding Term Sheet was signed mid-May 2024

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Transaction closing/signing occurred early-July 2024

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Buyer's 2023 tax return was filed with the IRS mid-July 2024

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Immediately after the tax return filing, the Form 1139 was filed

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Cash refund paid to Buyer August 2024

Transferability

Summary

- Credits transferred by means of a Purchase and Sale Agreement
- Relatively straightforward legal and accounting
- Purchase must be in cash from an unrelated party
- Due diligence and insurance still recommended to mitigate risks related to 5-year credit recapture period

Our Experience

- Examples of projects: cooperatives/agriculture industry
  - Developer of Project – Biogas Credit Generation
    - Challenges: Prevailing wage and domestic content criteria
  - Buyer of Credits
- Practical considerations
- Proceeds to Seller of the credit and spread to Buyer are not taxable

Cooperative Considerations

- Use at cooperative or pass out to patrons; no carryforward
- Cooperative – 25% GBC limitation applies
- If patron cannot use can carryforward
- No guidance on if credit is patronage or nonpatronage sourced
  - Generated by cooperative - Seems to imply patronage sourced as would have to pass out and can not carry forward however may be position and argument to offset tax on any source of income
  - Bought by cooperative – May be seen as nonpatronage since purchased however may be position to offset tax on any source of income

Looking Ahead

Potential Legislative Changes

- Some modifications to the IRA are likely, however the IRA is a large and complex piece of legislation
- Clean energy installations grew significantly during Trump's first term, despite tariffs on certain imported components for clean energy projects. Significant use of tariffs could slow the pace of project development in certain categories
- Material changes to the credits would require new legislation. Any changes to tax law are typically forward looking and with some phase-in period
- Uncertainty does provide some incentive to move now

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