

2009 Recovery Act: Renewable Energy Production Facilities

The *American Recovery and Reinvestment Tax Act of 2009* (2009 Recovery Act) extends the placed-in-service date for renewable energy production facilities and allows certain facilities an election to claim the investment tax credit in lieu of the production credit.

Qualified facilities are generally facilities that generate electricity using qualified energy resources. Qualified energy resources include wind, refined coal, closed-loop biomass, open-loop biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, and qualified hydropower production. To be eligible for the renewable electricity production credit (REPC), electricity produced from qualified energy resources at qualified facilities must be sold by the taxpayer to an unrelated person. In addition, these facilities must be placed in service by a certain date.

Highlights of the 2009 Recovery Act provisions related to renewable energy production facilities include the following:

Long-term extension and modification of renewable energy production tax credit.

The 2009 Recovery Act extends the placed-in-service date for wind facilities for three years, through December 31, 2012. The 2009 Recovery Act also extends the placed-in-service date for closed-loop biomass, open-loop biomass, geothermal, small irrigation, hydropower, landfill gas, waste-to-energy, and marine renewable facilities for three years, through December 31, 2013.

Temporary election to claim the investment tax credit in lieu of the production tax credit. Facilities that produce electricity from wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation, hydropower, landfill gas, waste-to-energy, and marine renewable energy are eligible for the production credit. However, the 2009 Recovery Act allows wind property that is placed in service in 2009 through 2012, and other renewable energy property placed in service in 2009 through 2013, an election to claim the investment tax credit in lieu of the production tax credit.

Subsidized energy financing limitation on the investment tax credit repealed. The 2009 Recovery Act repeals the subsidized energy financing limitation on the investment tax credit even if such property is financed with industrial development bonds or through any other subsidized energy financing. This provision is in effect for periods after December 31, 2008.

As you may know, the rules relating to the renewable electricity production credit are quite complex. We can help you determine whether you are eligible to claim the REPC or the investment tax credit, and guide you in documenting your claim. Please call our office at your earliest convenience to arrange an appointment.