



Corporate Tax Strategy and Opportunities in Renewable Energy

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Tax and Accounting – Renewable Energy

Scott Davis, Senior Manager, BerryDunn

Polling question

How frequently do you encounter renewable energy initiatives in your daily life?



Learning objectives



- ▲ Become familiar with ITC for renewable energy projects
- ▲ Identify typical structures for solar equity investment and the benefits to each party – the sponsor/developer and the equity investor
- ▲ Outline return on investment
- ▲ Update on federal tax legislation

ITC

- ▲ Tax Credit equal to percentage of qualified construction costs for renewable energy project.
- ▲ Credit percentage generally based on year construction begins following safe harbor provisions to ensure project continues toward completion.
- ▲ Solar ITC is 26% for projects placed in service during 2021 and 2022 then gradually phased out.

Investment tax credit – solar ITC example

Incentive	Date construction begins	Placed in service date	ITC amount
Solar ITC	Before Calendar 2020	Before Calendar 2026	30%
	During Calendar 2020, 2021, or 2022	Before Calendar 2026	26%
	During Calendar 2023	Before Calendar 2026	22%
	Before Calendar 2024	During or after Calendar 2026	10%
	During or after Calendar 2024	N/A	10%



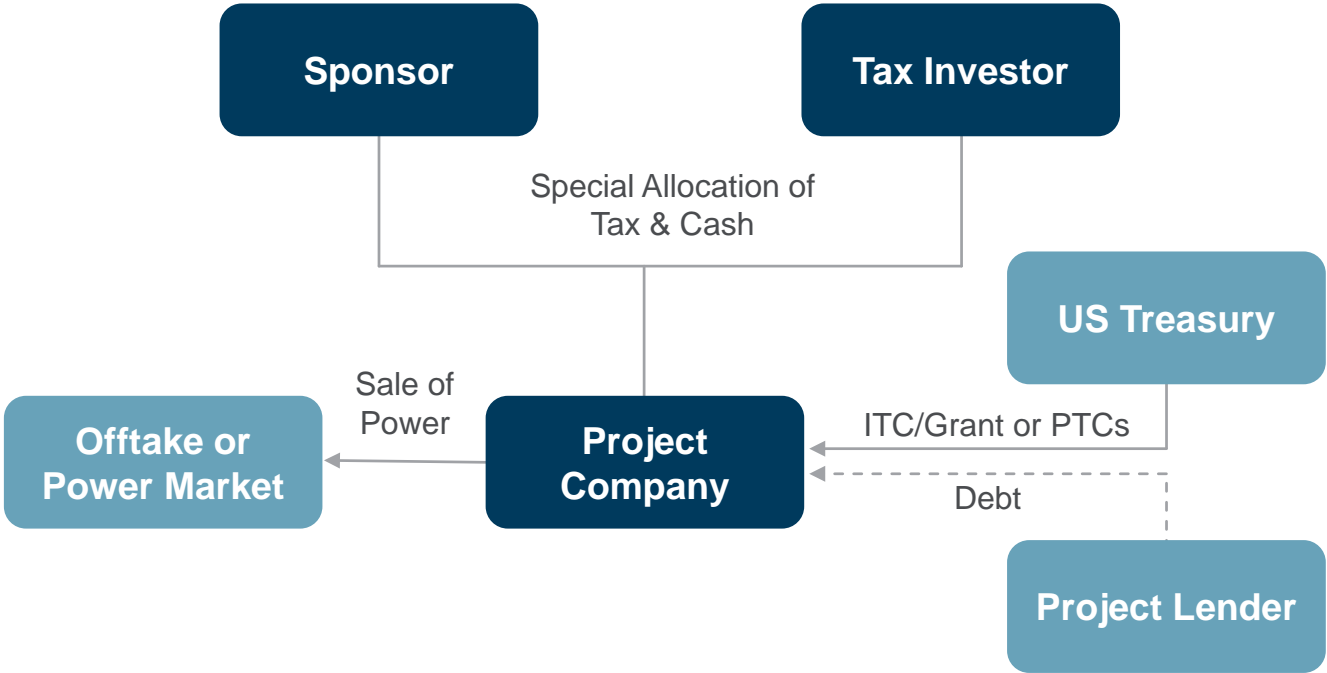
Structures

- Complex - Inverted Lease Flip Structure

- Simplified - Flip Structure (most common)

- Equity Investor and Sponsor 99/1 ownership then flip to 5/95 ownership after 60 months to avoid ITC recapture
- Allocations of ITC and corresponding deductions follow ownership percentages
- Equity Investor may receive a preferred return on investment
- Sponsor may buy out Equity Investor remaining 5% interest post-flip, typically with a call option based on post-flip FMV.

- Structure may or may not be leveraged





Returns on Investment

- ▲ ITC generated in initial year – date project placed in service
- ▲ Depreciation – majority of project eligible for bonus depreciation (100%)
- ▲ Preferred Return on equity investment
- ▲ Liquidation of post-flip interest

Legislative Update

1

Green Book
Delayed ITC
phase out to 2027

2

Green Act
delayed phase
out to 2026

3

**Clean Energy for
America Act**
permanent 30%

4

**Build Back Better
(Proposed 2021)**



Polling question

Do you have clients that have discussed financing for renewable energy projects?



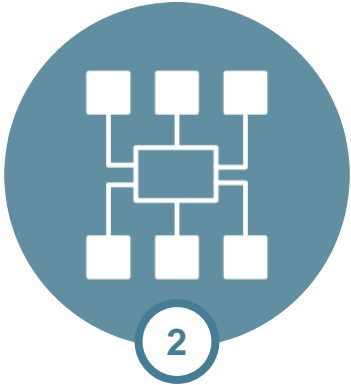
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Modeling

after-tax benefits including IRR and/or ROI calculations



2

Structuring

work with attorneys to establish project structure and review organizational documents



3

Financial Reporting

provide necessary reports to investors and lenders





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Tax updates you need to know now

Jeffrey A. Ring, CPA, Principal, BerryDunn

Agenda

- ▲ **1** Legislative Update – Build Back Better
- ▲ **2** Tax Planning to Maximize Benefit of Tax Rates



Learning objectives



- ▲ Understand the current status of the legislative process
- ▲ Discuss planning ideas and ramifications of any potential tax rate increases

Status of legislative process

Build back better bill

BBB Act Bill Progression



Next Steps

- Senate Votes on the Bill
- Difference Between Senate and House version reconciled
- Reconciled version voted – only needs 51 votes in Senate to pass



Timing

- Unclear but possibly before year-end
- Will require significant negotiations
- Some Dems waiting on CBO assessment of costs and benefits
- Sen Joe Manchin III of WV is concerned about the Bill's impact on inflation

Corporate tax provisions

Original Bill

Graduated brackets

- ▲ 18% of first \$400,000
- ▲ 21% of >\$400,000 and up to \$5,000,000
- ▲ 26.5% on excess over \$5,000,000
- ▲ Phase out of lower brackets until fully in 26.5%
- ▲ Misc other provisions such as credits, crypto, bank-qual

House bill

No corporate tax increase

- ▲ Does this mean we are safe?
- ▲ Not necessarily – depending on CBO scoring and need to raise additional revenue
- ▲ Could there be an additional Bill in 2022?



Corporate alternative minimum tax

Old law

- ▲ **Pre 2018** – corporate AMT at 20%
- ▲ **Post 2017** – No corporate AMT

House bill

- ▲ 15% AMT
- ▲ Assessed on adjusted financial statement income in excess of \$1 billion
- ▲ Only assess is this amount exceeds corporate income tax

Excise tax on stock buybacks

- ▲ 1% excise tax on public company stock buy backs
- ▲ Need further information on the scope of public company

Polling question

Have you or are you planning to claim the Employee Retention Tax Credit?





Miscellaneous provisions

- ▲ Loss on worthless partnership interest subject to same rules as a sale. Effective on or after date of enactment.
- ▲ LIHTC – clarifications and 8% allocation to extremely low income.
- ▲ Advanced manufacturing credit of up to 25%; if qualify no less than 5%
- ▲ Energy Provisions
- ▲ International Provisions
- ▲ Individual Provisions
- ▲ SALT deduction capped at \$72,500 for MFJ, \$36,250 for others – through 2031
 - Applies NII to high earners - \$400,000 single and \$500,000 joint
 - 5% / 3% surcharge on high earners – over \$10/25 million for MFJ

Financial statement impact

- ▲ Tax rate change offers opportunities for permanent benefits
- ▲ Deferred tax assets and liabilities measured at tax rate they are expected use
- ▲ Most banks are in a net DTA position
- ▲ Re-measurement occurs on the date of enactment, not effective date
- ▲ Re-measurement would result in an increase to net income (decrease tax expense)
- ▲ Recorded through income tax expense – even OCI re-measurement
 - Will FASB offer balance sheet reclass (update ASU 2018-2)?



Tax planning for potential rate increase

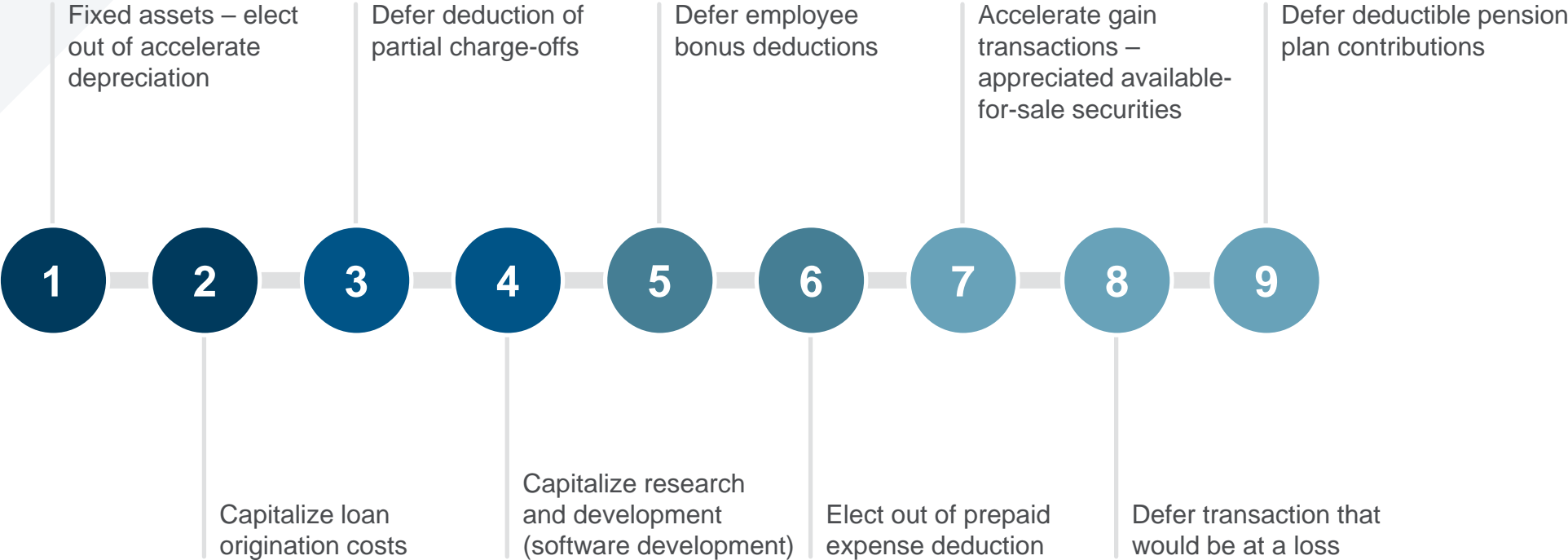
- ▲ Planning applied is reverse – increase income and delay deductions
 - Goal is to increase DTAs or decrease DTLs
 - Accelerate income
 - Defer deductions



▲ Two classes of planning strategies

- **Prior to year-end**
 - Sale of appreciated securities
- **After year-end**
 - Tax elections prior to filing the tax return, some need a Form 3115 and some do not

Planning examples applicable to most banks



Questions?

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