



LEGAL ALERT

February 2023

IRS Issues Guidance on Low-Income Communities Bonus Credit Program

By: Christy Vouri-Misso

On February 14, 2023, the IRS released Notice 2023-17, Initial Guidance Establishing Program to Allocate Environmental Justice Solar and Wind Capacity Limitation Under Section 48(e).

The Notice provides guidance on the Inflation Reduction Act of 2022 (IRA), which allocated solar and wind facilities an additional 10% of energy tax credits if located in low-income communities or on Indian Land, and an additional 20% for facilities in qualified low-income residential building projects and economic benefit projects.

The Notice establishes the allocated amounts and provides the initial guidance regarding the program's design, application process, and criteria that will be considered in determining which applications will receive allocations.

The credits are allocated by megawatts, and the total capacity of 1.8 gigawatts for the 2023 calendar year will be divided among the categories as follows:

- Category 1: Located in a Low-Income Community – 700 Megawatts
- Category 2: Located on Indian Land – 200 Megawatts
- Category 3: Qualified Low-Income Residential Building Project – 200 Megawatts
- Category 4: Qualified Low-Income Economic benefit Project – 700 Megawatts

The Notice also explains that the following additional criteria will be used to determine how Capacity Limitation is allocated:

1. Owned or developed by community-based organizations and mission-driven entities
2. Have an impact on encouraging new market participants
3. Provide substantial benefits to low-income communities and individuals marginalized from economic opportunities
4. Have a higher degree of commercial readiness

Additionally, the Notice specifies that if more applicants are selected than the total megawatts capacity for each category, then a lotto system will be used.

For more information, please contact attorney Christy Vouri-Misso.

IRS Low-Income Communities Bonus Credit Program Guidance Summary Under Notice 2023-17

CATEGORY	ALLOCATION	TAX CREDIT BONUS
Located in a Low-Income Community	700 MW	10%
Located on Indian Land	200 MW	10%
Qualified Low-Income Residential Building Project	200 MW	20%
Qualified Low-Income Economic Benefit Project	700 MW	20%



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Source: IRS Notice 2023-17, Inflation Reduction Act (IRA)
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February 14, 2023

For any questions regarding the IRA program or new guidance, please contact:

Christy Vouri-Misso Esq.

Bousquet Holstein

Bousquet Holstein PLLC

Ph: 315.701.6449
cvourimisso@bhlawpllc.com
www.bhlawpllc.com

