Section 45Q Carbon Capture and Sequestration (CCS) Credit

Overview and Recently Issued and Future Guidance

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Section 45Q Credit Overview
Why Now?

- October 2008: Originally enacted

- February 2018: Law substantially revised
  - Allowed for 12 years
  - Larger credit
  - Reduced minimum carbon capture thresholds
  - Monetization of credits available

- May 2019: IRS issued request for comments for guidance
  - About 110 comments filed

- February 19, 2020: First two pieces of guidance issued

Example:
Carbon capture equipment placed in service (PIS) in 2020 capturing and securely storing 500,000 metric tons (MT) of qualified carbon oxide per year yields about $260M of credits over 12 years.
Section 45Q Credit Overview

In Summary

– Carbon Capture Requirement—Must:
  • Capture carbon dioxide or carbon oxide
  • From a direct air capture facility or industrial facility
  • Using carbon capture equipment

– Carbon Sequestration Requirement—Must:
  • Use carbon oxide for enhanced oil or natural gas recovery and dispose in secure geological storage
  • Dispose in secure geological storage (higher credit amount)
  • Use for certain commercial purposes

– Tax credit is generally available to the owner of the carbon capture equipment

– Construction must begin before January 1, 2024
Beginning of Construction Guidance—Notice 2020-12
Released February 19, 2020

– Very similar to beginning of construction guidance for renewables

– Can begin construction by actual physical work or paying or incurring 5% or more of the total project cost
  • Provides examples of on-site and off-site physical work

– Must thereafter have continuous progress toward completion of construction
  • Automatically satisfied if placed in service within 6 years
  • Otherwise based on facts and circumstances test that allows for certain construction delays
Partnership Allocation Guidance—Revenue Procedure 2020-12
Released February 19, 2020

— Very similar to partnership allocation guidance for wind projects (and used for other renewables projects) (Rev. Proc. 2007-65)

— Provides a safe harbor that, if satisfied, will allow an investor to be allocated the section 45Q tax credit to monetize those credits to a person that has the tax appetite to use them
Future Guidance
Timing: TBD

- Should address requirements for claiming and keeping the credit:
  - Secure geological storage
  - Recapture
  - Measurements