

LEGAL UPDATES

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IRS Issues 2015 PTC Guidance Extending Placed-in-Service Date

On March 11, 2015, the IRS issued Notice 2015-25, revising its prior guidance regarding the “continuous construction” and “continuous efforts” tests for production tax credit (PTC) qualification, to align prior IRS guidance with the extension of the beginning of construction deadline from December 31, 2013 to December 31, 2014 by the Tax Increase Prevention Act of 2014.

Prior IRS guidance establishing the alternative “Physical Work” and “5% Safe Harbor” tests indicated that, while the IRS would scrutinize whether construction of a facility had begun prior to December 31, 2014 if the project did not (a) maintain a “continuous program of construction” (in the case of the Physical Work test), or (b) make “continuous efforts to advance towards completion” (in the case of the 5% Safe Harbor), a facility would be deemed to have met those standards if it was placed in service prior to January 1, 2016.

With the extension of the beginning of construction deadline to December 31, 2014, Notice 2015-25 confirms that a facility that met the “Physical Work” or the “5% Safe Harbor” test prior to January 1, 2015 will be deemed to have met the related “continuous construction” test or “continuous efforts” test if the facility is placed in service prior to January 1, 2017.

Notably, the guidance does not make any distinction between facilities for which construction commenced during 2014 and facilities for which construction commenced prior to 2014.

Read our previous alert regarding IRS clarification of PTC qualifications [here](#).

Contact Us

For additional information regarding how these guidelines impact your business and potential investments, please contact John Crossley at

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