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#### For Solar and Wind Alternatives, Christmas Comes Early

With the financial crisis wreaking havoc on the economies of the world, it is easy to overlook the Christmas tree ornaments or “sweeteners” hidden in the fine print of the recently enacted *Emergency Economic Stabilization Act of 2008*, H.R. 1424 (P.L. 110-343) (“EESA”). Two of the add-ons are of particular importance to the survival and advancement of alternative energy technologies: the solar investment tax credit (“ITC”) and the wind production tax credit (“PTC”). Both of these tax credits—set to expire on December 31, 2008, with little hope of being extended—were saved by the landmark *Energy Improvement and Extension Act of 2008* (“EIEA”), which along with the *Tax Extenders and Alternative Minimum Tax Relief Act of 2008*, were appended to the EESA. This newsletter summarizes the recent changes to the PTC and ITC and the corresponding benefits to the solar and wind power industries in the United States.

#### The Renewable Energy Production Tax Credit and Investment Tax Credit

##### What is the Wind Production Tax Credit?

The PTC is a per-kilowatt-hour tax credit for electricity generated by utility-scale wind energy facilities and other “qualified energy resources.” The PTC was originally enacted in 1992 but has been renewed and expanded numerous times on a short-term basis, which has caused the wind industry to endure “boom and bust” cycles over the last decade. The two primary characteristics of the tax credit are the “in service deadline” and the “credit amount,” which determine how the PTC is applied to the different energy resources and facilities. The current value of the wind PTC is \$.02/kWh (adjusted for inflation). The duration of the credit is for a period of 10 years after the date the wind energy facility is placed in service.

##### What is the Solar Investment Tax Credit?

The ITC was enacted as part of the federal Energy Policy Act of 2005, which established and expanded federal income tax credits for solar and geothermal energy projects. The ITC is available to both commercial and residential taxpayers for investments in solar and certain other renewable energy sources, generally permitting an income tax credit of 30% of adjusted qualifying expenditures associated with eligible solar energy systems. Eligibility for the solar ITC is primarily determined by the date on which the qualifying systems are put into service. Prior to the enactment of the EIEA, the commercial ITC contained an exclusion for public utilities—making public utilities ineligible for the ITC—and the residential ITC was limited to a maximum tax credit of \$2,000 per solar energy system installed.

#### Changes to the Wind PTC and Solar ITC Under the EIEA

The EIEA’s wind PTC provisions:

- Extend through December 31, 2009 the PTC for wind energy production facilities;
- Do not limit the dollar amount of the tax credit claimed; and
- Allow the wind industry to benefit from the new “Clean Renewable Energy Bonds” provisions (described in further detail below).

The EIEA’s solar ITC provisions:

- Extend through December 31, 2016 the 30% ITC for both residential and commercial solar installations;

- Eliminate the \$2,000 cap on qualified residential solar electric property expenditures (effective for property placed in service after December 31, 2008), thereby creating a true 30% tax credit (however, the \$2,000 monetary cap on solar water heating property was not lifted and remains in effect);
- Eliminate the exclusion making public utilities ineligible for the ITC, thereby permitting public utilities to invest directly in solar facilities and claim the ITC;
- Permit both business and individual taxpayers to use the ITC to offset both regular and alternative minimum tax obligations, and allow individual taxpayers to carry forward any unused credits to the next succeeding taxable year; and
- Authorize \$800 million for “Clean Renewable Energy Bonds” for renewable energy generating facilities, including solar, wind, closed-loop, biomass, open-loop biomass, geothermal, small irrigation, qualified hydropower, landfill gas, marine renewables and trash combustion facilities.

### **Significance of the EIEA Legislation to the Solar and Wind Industries**

On the wind side, the EIEA’s short-term extension of the PTC temporarily prevented a “bust” cycle by pushing back the expiration of the PTC scheduled for December 31, 2008. At a minimum, this extension gives the wind and other PTC industries the opportunity to continue investing in renewable energy production and infrastructure through 2009 while continuing to work with Congress and the new administration to develop long-term policies and incentives to extend and expand PTC benefits similar to those provided by the EIEA for the ITC, which are crucial for the security and growth of the domestic wind industry.

On the solar side, the enactment of the EIEA marks a policy change critical to taking the solar industry to the next level. The 8 year extension of the ITC provides incentives for long-term investment in solar infrastructure and the manufacturing necessary for the creation of a meaningful domestic solar industry. Perhaps the most significant change resulting from the enactment of the EIEA, however, is the removal of the exclusion that previously prevented regulated electric utilities from taking advantage of the ITC. Access to the ITC is now an added incentive to public utilities to invest directly in solar facilities and diversify their electric generation portfolios to include carbon-free, clean solar power. Public utilities could rapidly become the largest customer base for the solar industry. The changes to the ITC make solar power more accessible and affordable for all consumers and are likely to increase private commercial solar installations and site-specific power plants for “big box” stores, hospitals, universities and other consumers with a large energy needs.

With the new ITC provisions we could also see dramatic growth in the U.S. solar market, improvements in solar technology, reductions in the cost of production of solar energy and significant job creation, all while expanding the availability of carbon-free, clean energy. According to solar industry experts, the EIEA’s extension and expansion of the ITC has the potential of creating hundreds of thousands of domestic jobs across all sectors of the economy and drive hundreds of billions of dollars of private investment into solar and related renewable energy industries. Given the current credit crunch, declining natural gas prices (settling below \$7.00 per thousand cubic feet last week), and sliding stock values in alternative technologies across the board, this view might be optimistic in the short-term. In the long run, however, the EIEA will likely provide added incentives for investments in solar and wind renewable energy projects. And for that reason, the EIEA “sweeteners” to the government’s \$700 billion bailout is, indeed, an early (and unexpected) Christmas gift to the solar and wind power industries.

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