



TAX NEWS & VIEWS PODCAST

What's shaping nuclear tax planning today

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Carrie Falkenhayn: From Deloitte Tax, welcome to the Tax News and Views podcast. In this series, we talk to specialists from Deloitte about the latest business issues. I'm Carrie Falkenhayn, your host for Tax News and Views, and today we're going to be talking about tax incentives for investments in nuclear energy. Nuclear has increased in attractiveness as an energy source, given its low carbon emissions and reliability, but cost remains a real challenge for new construction. That's where tax incentives can come in. So, to provide an overview of what we're seeing in the marketplace, and to cover some specific incentives, I'm joined today by three Deloitte specialists. First, Jason Jacobs, he serves as the Tax Power, Utilities, and Renewables Leader. And then I have two colleagues from Deloitte Consulting Services, Patricia Tuite, who is the Engineering and Construction Lead for Clean Energy Projects, and Adrienne Himmelberger, who is the Energy Infrastructure Lead. I'm looking forward to this conversation, everyone, today. But Adrienne, I'm going to get started with you. Can you provide a quick overview of where the nuclear industry currently is in their deployment journey?

Adrienne Himmelberger: Yes, absolutely, and happy to be here with you today. So, the nuclear industry is really using a parallel path for deploying additional electrons onto the grid. First, by upgrading and extending the lives of the current fleet, and secondly, by exploring new technologies in the form of small modular reactors, or SMRs, or micro-reactors. With that said, this additional load coming on is not without a few of its roadblocks. And we have the current roadblocks that we are seeing today really center around project financing, supply chain, and workforce. You know, we know technology feasibility for nuclear has

already been proven. Our existing fleet, has been fantastic at really demonstrating that nuclear can provide reliable 24-7 baseload power. But the critical next step with the new build reactors, both large and, you know, and smaller SMRs, and one that is especially relevant for our conversation today, really comes down to that project financing.

There's tension between what risks investors are willing to take on versus what the private capital, or I should say, what the public sector is willing to provide, for example, in the form of tax credits. And we know that the solution does need to involve both the public and private sectors, but it is still up for debate on what that exact structure, or structures, will look like today. You know, based on past history of nuclear builds, going over budget and beyond schedule. Being able to, really demonstrate that these new builds can come on schedule and within budget is really important to the investors, and it's what the investors are looking at these demonstration projects that are being built today, both here in the U.S. and worldwide, to prove out that cost and schedule can be maintained. And I think once that happens, you're going to start to see more of these projects come under contract, which will then have the knock-on effects and send the right signals to those other roadblock areas of supply chain and workforce development. So, it is a really exciting industry and time for the industry. Right now, it is moving fast, and we look forward to seeing what happens, you know, in the near future.

Carrie Falkenhayn: Absolutely. Jason, share with us what the current federal tax landscape looks like for nuclear investments?

Jason Jacobs: Yeah, thanks, Carrie. I would say two federal laws define the current landscape. The Inflation Reduction Act, or IRA, created the basic framework, and the One Big Beautiful Bill Act, or OB3, as I will refer to it, modified that framework in ways that were comparatively favorable to nuclear. For the existing nuclear fleet, the central provision is Section 45U, a production tax credit. In simple terms, it rewards qualifying nuclear facilities based on the amount of electricity produced and sold to an unrelated buyer. It generally applies to existing nuclear facilities that were placed in service before August 16th, 2022. The credit has a base rate of 0.3 cents per kilowatt hour, and can increase five-fold to as much as \$15 per megawatt hour, if the facility satisfies certain prevailing wage requirements. Now, this is potentially material. As a simple illustration. Take a 1,000 megawatt plant operating at 90% capacity factor. It could generate approximately \$118 million of annual credit value at the full \$15 per megawatt hour rate.

Before applying the statutory gross receipts reduction. Now, that last point is important. Section 45U is not a guaranteed \$15 per megawatt hour payment. The credit is reduced when a facility's qualifying gross receipts exceed a statutory threshold. So, the economics depend on the facility's power prices, subsidies, contracting model, and how gross receipts are measured OB3 preserved Section 45U through December 31st, 2032. For new, advanced nuclear projects, the relevant provisions are generally Section 45Y, a production tax credit, and Section 48E, an investment tax credit. These credits are technology neutral, meaning they can support qualifying zero-emission generation without being limited to a particular technology. Following enactment of OB3, and related guidance. Phase out supply as follows for new projects. Projects beginning construction by the end of 2033 can generally receive full credit. Projects beginning construction in 2034 and 2035 receive 75% and 50%, respectively. And projects beginning construction after 2035 receive no credit under this schedule.

Patricia Tuite: So, in order to receive the full credit of 30%, which is a 30% clean energy investment credit, you would have to have begun construction on your project prior to January 29th, 2023, if it's starting construction after that date, the project must meet prevailing wage and apprenticeship requirements. And so those prevailing wage and apprenticeship requirements are loosely fashioned after, Davis-Bacon Act which was from the 1930s and, you know, prescribed, how to track that, you know, people were, getting, apprenticeship requirements and then prevailing wage for that, jurisdiction. So, when you have the deadline of, begun construction basically giving all the deadlines that you have for timing, tax leaders should make sure that teams across their organization, especially procurement, engineering, and construction, and then their HR department are tracking these key dates and requirements, especially when it comes to prevailing wage and apprenticeship.

Jason Jacobs: Yeah, thanks, Patty. So, when we think of OB3, there are some trade-offs to consider. With tax analysis, now closely tied to ownership, financing, procurement, and also supply chain decisions. So, OB3 added restrictions involving foreign-influenced entities, and material assistance from prohibited foreign entities. For a nuclear project, tax eligibility needs to be considered before major sourcing and financing decisions are locked in, not after the fact. And finally, the IRA's monetization rules matter. Eligible credits, including Section 45U, may generally be transferred for cash, and certain tax-exempt entities may be able to benefit from direct pay. That means the value of the credit is relevant even when the project owner does not have sufficient tax liability to use it directly.

Carrie Falkenhayn: So, we have the provisions under 45E and 45Y, that are beneficial. Are there any enhancements, for those credits, perhaps related to domestic content as well?

Patricia Tuite: Yes, that's a great question. And, you know, these acts have, encouraged you know, companies that are building these assets in the United States to construct them with materials and manufacture products and manufacture product components that are manufactured domestically in the United States. So, under Internal Revenue Code Section 48E, which is the Clean Energy Investment Tax Credit, and 45Y, which is the production tax credit, nuclear power plant projects that satisfy the aforementioned prevailing wage and apprenticeship standards can receive a hefty bonus, a 10% bonus adder to their base tax credit value if all the structural steel, iron, and manufactured products are produced in the United States. So that's quite a, quite, quite an enhancement, or quite an, quite an adder that can be, move your investment tax credit from 30% to 40%. To qualify for the 10% domestic content enhancement under IRC Section 48E, a nuclear facility must meet escalating minimum U.S. content thresholds for its manufactured products and manufactured product components, based on when the construction begins for that project. So, if the project constructed met begun construction rules prior to June 16th, 2025, the domestic content requirement is 40%. If the, construction begins, between June 16th, 2025, and December 31st, 2025, the requirement is bumped up from 40% to 45% from a domestic content requirement. During the calendar year of 2026, if construction begins during that calendar year, the domestic content requirement is 50% and then starting January 1st, 2027. The requirement for domestic content is 55%. So as time goes by, the more that the construction start gets delayed, then the requirements for the domestic content to qualify for the 10% adder increases.

Carrie Falkenhayn: So, some really significant benefits, are there, which are helpful for these projects, but lots of rules as well, to be able to achieve those benefits. What do you all see as being ahead for taxes as they relate to nuclear energy?

Jason Jacobs: Yeah, Carrie, I would say I see four potential issues shaping the next phase of nuclear tax policy. First, timing will matter. The Section 45U credit for existing nuclear facilities ends after December 31st, 2032. As mentioned earlier, the technology-neutral credits under sections 45Y and 48E begin stepping down based on when construction begins. That creates a clear incentive to focus now on project schedules, beginning of construction, qualification, permitting, financing, and supply chain readiness. Second, guidance will matter almost as much as legislation. Questions about gross receipts, foreign entity restrictions, material assistance, and credit monetization can affect the value of a project even when the headline credit rate appears attractive. Companies should build documentation and controls to support eligibility as procurement and financing decisions are made. Third, state and local policy will become more strategic, and taxpayers will need to stay tuned to updates. States are using tax incentives to attract reactors recommission existing facilities, develop fuel cycle capabilities, build workforces, and compete for investment. That means the tax conversation is increasingly connected to other issues, such as economic development, grid capacity, Workforce and community. Fourth, the growth in electricity demand from artificial intelligence and broader electrification could strengthen the case for nuclear as a reliable, carbon-free resource. However, executives should distinguish between a strong strategic case for nuclear and the assumption that today's tax incentives will remain unchanged. Tax policy remains subject to future legislation, administrative guidance, and also changing political priorities.

Carrie Falkenhayn: Adrienne, you kicked us off. How would you wrap us up?

Adrienne Himmelberger: Yeah, no, thank you for that, and, you know, thank you for being able to be here for this conversation, and I think that my expectation is that nuclear will remain an important focus of federal and state and local policies. But the next phase will be less about simply asking, you know, is there credit? And the more important question will be, can the project qualify? Can the supply chain support that qualification? Can the credit be monetized? And what are the state and local tax consequences? And lastly, how does the project create value for the grid and the surrounding community?

Carrie Falkenhayn: Terrific, yeah, what a great conversation, and I know these are areas where you all assist our clients with, every day, so I really appreciate you all being here for the discussion today. If our audience would like more information, I'd encourage you to go to [Deloitte.com](https://www.deloitte.com). You could search on OBBBA, you could search on clean energy, there's just a wealth of resources that will take you deeper into these topics. You could also reach out to Patty, Adrienne, or Jason directly via LinkedIn. They'd love to hear from you as well. Thank you, audience, as always, for joining us, and we hope you join us next time. Until then, everyone, be well. Take care!

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