One Big Beautiful Bill Act Cuts the Power: Phase-Outs, Foreign-Entity Restrictions, and Domestic Content in Clean-Energy Credits

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On July 4, 2025, President Trump signed H.R. 1—dubbed the One Big Beautiful Bill Act (**OBBBA**)—enacting significant modifications to clean-energy credits previously enacted under the Inflation Reduction Act of 2022.

OBBBA scales back clean-energy tax incentives under the Inflation Reduction Act of 2022 (**IRA**). This includes speeding up phase-outs for certain energy credits, tightening domestic content rules and foreign-entity restrictions, and imposing new deadlines for projects to qualify. Below is a summary of these changes along with our insights. Frost Brown Todd will continue to monitor any regulatory guidance or executive orders as they are published.

Foreign Entity Definitions

At the outset, OBBBA restricts access to certain credits[1] from certain Foreign Entities of Concern (**FEOC**) and those who receive material assistance from such entities. A Prohibited Foreign Entity (**PFE**) includes Specified Foreign Entities (**SFE**) and Foreign Influenced Entities (**FIE**), each of which are defined below:

An SFE includes the following:

- An entity designated as a foreign terrorist organization by the Secretary of State under Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189);[2]
- An entity included on the list of specially designated nationals and blocked persons maintained by the Treasury Department's Office of Foreign Assets Control (OFAC);[3]
- An entity alleged by the Attorney General to have been involved in activities for which a conviction was obtained under certain national security laws;[4]

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- An entity identified as a Chinese military company operating in the United States[5] pursuant to 1260H of the 2021 NDAA;
- An entity included on the Uyghur Forced Labor Prevention Act list;[6]
- Certain Chinese battery manufacturers;[7]
- A foreign controlled entity (**FCE**).[8]

A FIE is an entity, excluding certain public corporations, in which:

- A SFE has direct or indirect authority to appoint a covered officer (such as a member of the board or an executive officer) of such entity;
- A single SFE owns at least 25% of such entity;
- Multiple SFEs combined own at least 40% of such entity;
- At least 15% or more of the entity's debt is held in aggregate by one or more SFEs; or
- An "applicable payment" to an SFE is made pursuant to a contract, agreement, or other arrangement granting the SFE effective control over qualified facility or energy storage technology or production of eligible components.

Material Assistance from a Prohibited Foreign Entity: Under OBBBA, a project's eligibility for key energy credits turns on whether it receives "material assistance" of goods or service used within a facility. To measure this, the statute uses the Material Assistance Cost Ratio (**MACR**), which is calculated by subtracting the cost of PFE-sourced goods from the total cost of goods, and then dividing that result by the total. A project must meet or exceed certain MACR thresholds, which vary by technology and construction year, to remain eligible for the credits.[9]

The MACR calculation differs by credit type. For the Clean Electricity Production Credit (§ 45Y) and the Clean Electricity Investment Credit (§ 48E), the ratio includes all manufactured products (and their subcomponents) incorporated into a facility. For the Advanced Manufacturing Production Credit (§ 45X), only direct materials used to produce the eligible component are counted. In either case, if any portion of the product or its inputs

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originates from a PFE, that portion must be removed from the numerator.

To help taxpayers navigate this test, the Treasury Department is required to release safe harbor cost tables no later than December 31, 2026.[10] Until then, and for a brief period after the tables are released, taxpayers can rely on existing guidance under IRS Notice 2025-08 to estimate the total cost of eligible components and manufactured products. Taxpayers may also rely on certifications from suppliers confirming that the product or any of its components were not sourced from a PFE.[11] These certifications must include the supplier's EIN, be signed under penalty of perjury, retained for at least six years, and either attest that the property was not manufactured by a PFE (and that the supplier has no reason to believe otherwise), or specify the portion of costs not attributable to PFEs.[12]

A separate grandfathering rule, the binding contract exception, applies to any facility using products or components acquired under a written agreement executed before June 16, 2025, provided that the facility begins construction before August 1, 2025, and is placed in service by January 1, 2030 (or, for some solar and wind facilities, January 1, 2028). In those cases, the costs covered by the contract are excluded from the MACR entirely.

To enforce these requirements, the statute allows the IRS to assess any deficiency tied to an incorrect MACR calculation for up to six years after a return is filed. If a taxpayer overstates the MACR and receives a disallowed credit, a 20% accuracy-related penalty may apply. In the case of direct pay for applicable entities under § 6417, the disallowed credit triggers an excessive payment penalty of 20%. Suppliers that submit false certifications may also face penalties if the error results in a disallowed credit and the tax understatement exceeds certain thresholds.

Accelerated/Bonus Depreciation

Property that qualifies for the Clean Electricity Production Credit (§ 45Y) and the Clean Electricity Investment Credit (§ 48E) will continue to be treated as five-year MACRS property under § 168(a).

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By contrast, any "energy property" as defined in § 48(a)(3)(A)—including wind, solar, and standalone storage—with construction beginning after December 31, 2024, is removed from the five-year class designation. These assets may nonetheless qualify for 100 percent bonus depreciation (restored under OBBBA) if acquired and placed in service after January 19, 2025 (subject to the utility-owned property exclusion). In the absence of explicit guidance, taxpayers can rely on Rev. Proc. 87-56 and the general MACRS classification rules to establish an appropriate recovery period, or they may elect the Alternative Depreciation System under § 168(g) for a 12-year straight-line schedule.

Investment Tax Credits (ITC)

- *Clean Electricity Investment Credit (§ 48E)*
  - **Overview:** Under current law, § 48E provides a base investment tax credit of 6% for expenditures on zero-emission electricity or standalone energy-storage facilities. If prevailing-wage and apprenticeship requirements (or applicable exceptions) are satisfied, the credit rises to 30%.
  - **Enacted Changes:** OBBBA terminates the eligibility of wind and solar projects placed in service after December 31, 2027, for § 48E credits, with an exception for wind and solar projects that begin construction within twelve months of enactment of the legislation. By contrast, other qualifying facilities, such as nuclear, geothermal, and clean-hydrogen projects, remain on the original statutory timeline, phasing down after 2032 at 100% in 2033, 75% in 2034, 50% in 2035, and 0% in 2036.

    OBBBA also disallows the credit for residential solar-water-heating or small wind installations leased to third-party customers. Taxpayers who begin construction on qualified facilities after December 31, 2025, are not permitted to receive material assistance from a PFE (as defined above). Taxpayers that are considered a PFE are

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no longer eligible for §48E for tax year beginning after enactment. Finally, OBBBA adjusts the domestic content percentages that qualified facilities and energy storage technology must satisfy to qualify for the domestic content bonus as follows:

- 40% (20% for an offshore wind facility) if construction began before June 16, 2025;
- 45% (27.5% for an offshore wind facility) if construction begins on or after June 16, 2025, and before January 1, 2026;
- 50% (35% for an offshore wind facility) if construction begins during the calendar year of 2026; and
- 55% if construction begins after December 31, 2026.

These percentages are consistent with the current domestic content requirements under current §45Y.

- **Guidance:** Wind and solar developments face a compressed window to secure §48E credits where projects may want to target commencing construction within the next 12 months to satisfy the start of construction exception due to the general uncertainty of when a project may be placed in service to avoid the risk of becoming ineligible for the credits in their entirety. Developers should confirm prevailing wage compliance early to maximize the 30% rate and evaluate transferability as a tool to monetize credits if they lack sufficient tax liability. Those working on other advanced technologies can rely on the later 2032 timeline but must track domestic emissions metrics in case the alternative threshold date applies. Finally, all sponsors should undertake due diligence on their supply chains and ownership structures to screen for any prohibited foreign entity implicatures that would irrevocably

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disqualify §48E benefits.

- *Qualifying Advanced Energy Project Credit (§ 48C)*
  - **Overview:** Under §48C as previously enacted, taxpayers may claim a 30% investment credit for certified "advanced energy" projects. Congress capped total allocations at $10 billion, including $4 billion reserved for projects in low-income or disadvantaged areas, and required applicants to secure Treasury certification within two years and place their project in service within two years thereafter.
  - **Enacted Changes:** OBBBA stipulates that any §48C allocation withdrawn for missing the two-year in-service deadline will be permanently retired from the $10 billion pool, rather than reissued to another project.
  - **Guidance:** Awardees of the credit should treat their in-service deadlines as non-negotiable since missing the window forfeits their credit and reduces the total program capacity. Sponsors should consider frontloading project planning by securing permits, equipment, and financing early to ensure timely completion.

Production Tax Credits

- *Clean Electricity Production Credit (§ 45Y)*
  - **Overview:** §45Y provides a production tax credit of 0.3¢ per kWh for electricity generated by zero-emitting facilities for ten years after they're placed in service. Meeting prevailing-wage and apprenticeship rules raises the rate to 1.5¢ per kWh.
  - **Enacted Changes:** Wind and solar projects that begin construction more than one year after enactment must be placed in service by December 31, 2027, to claim any §45Y credit. Accordingly, those wind and solar facilities that start construction within the first post-enactment year do not face a placed in-service deadline. Wind and

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solar projects starting on January 1, 2025, until July 4, 2025, (i.e., the date of enactment) will receive credits at the full rate. Non-wind/solar facilities follow the existing post-2033 phase-out: 100% credit for 2033 starts, 75% for 2034, 50% for 2035, and zero thereafter. The credit no longer applies to residential solar water heating or small wind installations leased to third parties. Additionally, new measurement methods for capacity additions grant developers greater flexibility in calculating eligible output. Taxpayers who begin construction on qualified facilities after December 31, 2025, are not permitted to receive material assistance from a PFE (as defined above). Taxpayers that are considered a PFE are no longer eligible for 45Y for tax years beginning after enactment.

- **Guidance:** Developers of wind and solar may want to consider prioritizing meeting the start of construction exception to the December 31, 2027, placed-in-service deadline given the general uncertainty of construction timelines, accelerating procurement and construction schedules to secure full benefits. Those working on geothermal, nuclear, hydrogen, or other zero-emission projects can rely on the extended timeline through 2033 but should monitor Treasury's forthcoming capacity-addition guidance to optimize credit calculations. All sponsors must perform rigorous foreign-entity due diligence, including supplier certifications and ownership reviews, to avoid inadvertent disqualification under the material-assistance and prohibited-entity rules.

- *Advanced Manufacturing Production Credit (§ 45X)*
  - **Overview:** 45X offers a production tax credit for manufacturing certain eligible components and critical minerals within the United States. Credit amounts differ by component type. Under current law, component credits phase down after 2029 on a five-year schedule

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(100% for sales before 2030; 75% in 2030; 50% in 2031; 25% in 2032; and 0% thereafter), while credits for critical mineral extraction remain available indefinitely.

- **Enacted Changes:**
  - **Critical Mineral Phase Out:** The permanent credit for critical minerals (other than metallurgical coal) would instead taper off beginning in 2030 as follows:

2030	2031	2032	2033
100%	75%	50%	25%

- - **Wind Component Sunset**: All wind-related component credits would be eliminated for items produced and sold in 2028 and beyond.
  - **Metallurgical Coal**: OBBBA treats metallurgical coal as an eligible component under §45X. However, metallurgical coal produced after December 31, 2029, would not be eligible for the credit.
  - **Integration Rule Repeal**: The option to claim a credit on components incorporated into a larger eligible product sold to an unrelated buyer would be removed.
  - **Foreign Entity Exclusions**: Any component made with material assistance from a prohibited foreign entity after December 31, 2025 is ineligible, and taxpayers classified as specified foreign entities or foreign-influenced entities lose §45X eligibility for tax years beginning after enactment.

- **Guidance:** Manufacturers should accelerate production of wind components before the end of 2027 to capture remaining credits and reassess assembly strategies that rely on integration elections. Firms in the critical-minerals sector must plan extraction or processing activities to occur before 2034 or qualify projects

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ahead of accelerated phase-outs. Given the new foreign-entity bar, clients need to strengthen supplier due-diligence processes—tracking key inputs to ensure no impermissible material assistance—and maintain documentation proving domestic origin. Finally, companies should evaluate whether credit transfers remain the optimal monetization route or if reshaping operations to fully absorb credits in-house yields better after-tax returns.

- *Clean Hydrogen Production Credit (§ 45V)*
  - **Overview:** Qualified clean hydrogen produced by the taxpayer is eligible for a per kilogram credit percentage of $0.60 that ranges from 20% to 100% depending on the lifecycle greenhouse gas emissions rate that occurs in the process. The credit applies to the hydrogen produced during the ten-year period that the facility is placed in service.
  - **Enacted Changes:** Facilities that commence construction after December 31, 2027, would no longer be eligible for any § 45V credit. No new FEOC rules would apply to § 45V.
  - **Guidance:** Project developers should prioritize breaking ground on or before December 31, 2027, to preserve § 45V eligibility and avoid forfeiting the credit entirely. They must also optimize production processes and feedstock choices to qualify for the lowest-emission tier and secure the maximum per-kilogram rate. Early planning for credit transfers will help monetize benefits if on-site tax capacity is insufficient. Because § 45V is not subject to foreign-entity restrictions, sponsors can concentrate their due diligence on operational execution and offtake agreements rather than supply-chain or ownership concerns.

- *Zero-Emission Nuclear Power Production Credit (§ 45U)*

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- **Overview:** Electricity produced by existing nuclear power plants is eligible for a credit equal to 0.3¢ per kWh or, if prevailing wage and apprenticeship requirements or exceptions in constructing, repairing, or altering the facility are met, 1.5¢ per kWh with the credit being reduced as power prices rise above $25 per MWh.
- **Enacted Changes:** Beginning in 2028, taxpayers must certify that any nuclear fuel they use was not sourced from "covered nations" or covered entities—unless acquired under a binding contract in force prior to January 1, 2023. In addition, OBBBA bars SFEs from claiming § 45U for tax years beginning after enactment and disqualifies FIEs from claiming § 45U for tax years beginning two years after enactment.
- **Client Guidance:** Operators should inventory their fuel supply chains now and secure certifications to demonstrate compliance or rely on pre-2023 contracts to grandfather existing arrangements. Nuclear plant owners must implement robust tracking and documentation systems for fuel procurement to satisfy new certification requirements. Foreign-owned or -affiliated operators should evaluate their corporate structures immediately to determine whether they face outright ineligibility under the SFE/FIE bans and, if so, explore alternative credit monetization strategies before the two-year FIE cutoff. Finally, continuing to meet wage and apprenticeship rules remains the fastest route to the enhanced 1.5¢ rate, so workforce compliance programs should be maintained without interruption.

- *Clean Production Fuel Credit (§ 45Z)*
  - **Overview:** Certain transportation fuel is eligible for a credit equal to the applicable amount multiplied by an emissions factor. The applicable amount for transportation fuel is $0.20 per gallon, and the applicable amount for sustainable aviation fuel is $0.35 per gallon. If prevailing wage and apprenticeship

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requirements or exceptions are met, the credit is increased by a factor of five ($1 per gallon for transportation fuel and $1.75 per gallon for sustainable aviation fuel). The credit applies to fuel sold before 2028.

- **Enacted Changes:** The proposed legislation extends the availability of the §45Z credit through the end of 2029 but introduces a suite of significant eligibility and calculation changes starting in 2026. Most notably, the credit would no longer be available for fuel derived from feedstocks sourced outside of the United States, Mexico, or Canada, narrowing the geographic scope of eligible inputs. Additionally, the credit value for fuels derived from foreign feedstocks would be reduced by 20% beginning in 2026. The enhanced rates for sustainable aviation fuel are eliminated for fuel sold after December 31, 2025. In a move to standardize emissions accounting, the proposal bars the use of negative lifecycle emissions rates for most fuels starting in 2026, except in the case of animal-manure-based fuels. For those fuels, the Treasury Department is directed to issue specific lifecycle greenhouse gas emissions rates tailored to the type of manure feedstock (e.g., dairy, swine, or poultry). Further, lifecycle emissions calculations would be required to exclude emissions attributable to indirect land use changes, thereby aligning more closely with international sustainability standards. To prevent double-dipping, the credit is reduced by the amount of any excise tax credit under §6426(k)(1) for fuel sold after 2024, and the §6426(k)(1) credit itself would sunset on September 30, 2025. OBBBA also directs Treasury to issue guidance clarifying how related-party sales of qualifying fuel should be treated under §45Z. Finally, the credit would no longer be available to SFEs for tax years beginning after the date of enactment. FIEs would lose eligibility for §45Z in tax years beginning two years after

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enactment. These changes reinforce broader FEOC compliance themes present throughout the legislation and could significantly affect multinational producers and joint ventures operating in the biofuels space.

- **Guidance:** Producers should ensure compliance with prevailing wage and apprenticeship requirements in order to maximize the available credit rate. Given the restrictions on foreign entities, clients need to strengthen supplier due diligence processes, tracking key inputs to ensure feed stocks are of a domestic origin and maintaining documentation proving domestic origin. Clients that produce fuel made from foreign feedstocks should evaluate costs and look to potential domestic feedstocks as a cost-alternative option in production.

- *Carbon Oxide Sequestration Credit (§ 45Q)*
  - **Overview:** 45Q provides a federal tax incentive for projects that capture carbon dioxide or carbon monoxide emissions and either permanently store them in secure geological formations or utilize them in specific commercial applications such as enhanced oil recovery or chemical production. The credit is designed to encourage decarbonization across heavy industry and power generation by reducing the effective cost of deploying carbon capture, utilization, and storage technology. Eligibility generally hinges on placing qualified capture equipment in service and beginning construction by a statutory deadline. Once in operation, eligible facilities can claim the credit for a 12-year period. The amount of the credit per metric ton varies depending on whether the carbon is permanently sequestered or utilized and can be significantly increased for projects that comply with prevailing wage and apprenticeship standards.
  - **Enacted Changes:** OBBBA simplifies the credit structure by equalizing the rates for sequestration and

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utilization for qualified facilities placed in service after a certain date, with the base and enhanced rates fixed across project types. The base rate is now $17 per metric ton of carbon and the rate for qualified facilities placed in service after 2022 is $36. Additionally, the legislation imposes foreign-entity restrictions to prevent credits from flowing to entities tied to certain adversarial governments. Specifically, SFEs become ineligible for the credit in tax years beginning after OBBBA's enactment. Foreign-influenced entities FIEs, including those with material ownership or control links to SFEs, lose eligibility two years later. These restrictions apply regardless of whether the foreign involvement is direct or contractual and are aligned with similar limitations adopted for other clean energy incentives.

- **Guidance:** Developers and investors should carefully evaluate their ownership structures and supply chains in light of the new foreign-entity prohibitions. Companies with any degree of foreign participation should review whether their arrangements could compromise eligibility. While transferability remains available under § 6418, taxpayers may not transfer §45Q credits to SFEs, which could reduce the pool of eligible transferees and impact monetization strategies. As a result, sponsors should consider whether capturing the credit directly, or using partnerships or tax equity structures, better suits their project economics. Finally, sponsors pursuing carbon utilization strategies should review updated credit amounts and ensure that lifecycle emissions reporting, measurement, and verification procedures comply with evolving federal guidance. Robust documentation, early engagement with qualified independent engineers, and conservative tax position reviews will be critical to protecting the credit over the full claim period.

- *Clean Vehicle Credits*

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- **Overview:** Taxpayers may claim a credit for previously owned clean vehicles (§25E), new clean vehicles (§30D), and qualified commercial clean vehicles (§45W).
- **Enacted Changes:** OBBBA eliminates these clean-vehicle credits for vehicles acquired after September 30, 2025, and taxpayers may only claim them for purchases completed by that date.
- **Guidance:** Businesses should expeditiously evaluate future vehicle needs to take advantage of the clean vehicle credits during the brief window they remain available.

- *Residential Energy Credits*
  - **Overview:** Taxpayers may claim several credits or a deduction related to residential clean energy expenditures. The currently available tax incentives are the Energy Efficient Home Improvement Credit (§25C), the Residential Clean Energy Credit (§25D), the Energy Efficient Commercial Buildings Deduction (§179D), and the New Energy Efficient Home Credit (§45L).
  - **Enacted Changes:** The §25C and §25D credits terminate for property placed in service or cost paid after December 31, 2025. The §179D deduction now terminates for property the construction of which begins after June 30, 2026. The §45L credit terminates for qualified property acquired after June 30, 2026.
  - **Guidance:** Homeowners planning efficiency upgrades or renewable installations should consider starting work well before late 2025. Contractors or builders of energy-efficient homes should time construction and sales to meet eligibility. With respect to the §45L credit, it may be difficult for contractors or builders (especially with respect to multifamily developments) to meet the June 30, 2026, requirement to sell or lease the qualified property. Taxpayers should maintain documentation and ensure equipment meets quality standards (Energy Star, etc.).

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Transferability

Section 6418 preserves the ability to transfer credits, including those under §§ 45Q, 45U, 45X, 45Y, 45Z, and 48E, without imposing a new sunset on transfer elections, but it explicitly prohibits any transfer of these credits to an SPE. Under OBBBA, taxpayers would still be free to sell their credits broadly—subject only to the FEOC's prohibitions on certain purchasers—without any added constraints. In addition, the measure introduces a twelfth sellable credit: the biodiesel incentive under section 40A for small agricultural producers, which had lapsed after 2024. OBBBA would resurrect that incentive through the end of 2026 and increase the subsidy from ten cents to twenty cents per gallon. While this maintains transferability in principle, clients should note that the overall value of these elections may be diminished by the accelerated phase outs and placed in service deadlines embedded elsewhere in OBBBA. Moreover, OBBBA additional foreign entity restrictions onto §§ 45Y, 48E, and 45X, rules that do not extend to credits under §§ 45U, 45Q, 45Z, or the broader § 48 investment credits, further complicating structuring for affected taxpayers.

Penalties

Taxpayers who choose to avail themselves of the energy tax credits must be diligent in ensuring compliance with the requirements and restrictions of the sought-after credits. Noncompliance may be accompanied by strict penalties. Taxpayers who understate income by 1% or more due to disallowed energy credits (§§45X, 45Y, or 48E) are hit with a penalty equal to 20% of the understatement under a change to § 6662. Credits disallowed due to FEOC or foreign-sourcing restrictions may contribute to a taxpayer's understatement, so it is critical that clients are diligent in ensuring compliance through their supply chains. Misstatements on certifications made by suppliers regarding domestic content or foreign sourcing after 2025 will be subject to a penalty that is the greater of $5,000 or 10% of credit amount claimed by the taxpayer relying on the misstated certification.

Questions? Let's Talk

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If you have questions about how OBBBA may impact your renewable energy projects, tax credit eligibility, or compliance obligations, please don't hesitate to reach out. Frost Brown Todd's Renewable Energy Team is here to help you navigate the new landscape.

Contact

- Brian Zoeller
- Greg Dutton
- Raghav Agnihotri
- Chris Coffman
- Brian Masterson

We're closely monitoring Treasury Department guidance and executive orders relevant to renewable energy tax projects and can assist you with structuring, due diligence, and credit monetization strategies tailored to your needs.

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[1] The following credits are subject to varying foreign entity restrictions: the Zero-Emission Nuclear Power Production Credit (§45U), the Clean Electricity Production Credit (§45Y), the Clean Electricity Investment Credit (§48E), the Advanced Manufacturing Production Credit (§45X), the Clean Fuel Production Credit (§45Z), and the Carbon Oxide Sequestration Credit (§45Q).

[2] *Foreign Terrorist Organizations*, U.S. Dep't of State, Foreign Terrorist Organizations – United States Department of State, (last visited July 3, 2025).

[3] *Specially Designated Nationals List*, OFAC Sanctions List Service, OFAC Specially Designated Nationals List – Sanctions List Service, (last visited July 3, 2025).

[4] *E.g.*, Espionage Act, 18 U.S.C. §§ 792–799; Agents of Foreign Governments, 18 U.S.C. § 951; Major Fraud Against the United States, 18 U.S.C. § 1031. For a complete list, see 15 U.S.C. § 4651(8)(D).

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[5] William M.William M (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116–283 § 1260H, 134 Stat. 3388. For a list of entities identified as Chinese military companies operating in the United States, see Entities Identified as Chinese Military Companies Operating in the United States.

[6] Pub. L. No. 117–78 § 2(d)(2)(B)(i), (ii), (iv), or (v), 135 Stat. 1527.

[7] Listed in the National Defense Authorization Act for Fiscal Year 2024 § 154(b)(1) – (7) on page 47. *E.g.*, CATL, BYD Company, Envision Energy.

[8] A foreign controlled entity includes the government of a covered nation (North Korea, China, Russia, and Iran), an agency or instrumentality of a covered nation, a person who is a citizen or national of a covered nation, an entity or business unit incorporated or organized or having its principal place of business in a covered nation, or any entity "controlled" by those described in this parenthetical) (where "control" = 50 percent vote or value of stock of corporation or 50 percent capital interest or beneficial interests). Publicly traded entities are excluded from this restriction except to the extent that (i) any exchange or market which is incorporated or organized under the laws of a covered nation or has its principal place of business in a covered nation, or (ii) 1 or more specified foreign entities or foreign-controlled entities controls more than 50%.

[9] The MACR thresholds vary by technology and start of construction date. For example, qualified facilities under §§ 45Y & 48E must meet 40 percent in 2026, rising to 60 percent for projects starting after 2029; energy storage thresholds begin at 55 percent in 2026 and climb to 75 percent post-2029; solar component sales require 50 percent in 2026 up to 85 percent after 2029; and similar step-ups apply to wind, inverters, batteries, and critical minerals.

[10] Until the tables are issued, taxpayers may use the domestic content cost tables in IRS Notice 2025-08 and rely on supplier certifications. Projects beginning within 60 days of the tables' release may also use this transitional approach.

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[11] Certifications must: (i) include the supplier's EIN; (ii) be signed under penalty of perjury; (iii) be kept for at least six years; and (iv) state either that no PFEs were involved and that the supplier has no contrary knowledge, or disclose the cost share not linked to PFEs.

[12] However, if a taxpayer has actual knowledge, or reason to know, that a product or component was manufactured by a PFE, then the taxpayer must treat all associated costs as PFE-sourced and may not rely on the supplier's certification. Treasury is also directed to issue regulations aimed at preventing abuse of these rules, such as through misleading licensing arrangements or attempts to stockpile materials under the binding contract exception.

More OBBBA Coverage

The One Big Beautiful Bill Act stands to fundamentally reshape the fiscal landscape across key sectors, introducing both immediate compliance challenges and long-term planning imperatives for businesses. This collection of articles sheds light on the OBBBA's key components to help you better understand and prepare for the changes ahead while taking advantage of the new tools (and tradeoffs) offered by the OBBBA.

View Collection

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