

## How the One Big Beautiful Bill Act Changes the ITC

As referenced in this resource, Section 48E of the U.S. tax code refers to an investment tax credit (ITC) for clean energy projects. Credit rate increases are available if specific domestic content and low-income community requirements are met.

The information included in this resource is intended as general information about the changes to the ITC from the One Big Beautiful Bill Act (OBBA). If you are monetizing the ITC, please consult a tax professional. Additional resources to become available as the IRS publishes additional guidance and rules.

### What Changed—Why It Matters

- **Near-Term Cliff for Solar Projects.** The OBBBA significantly shortens the availability window for solar projects. Projects must be placed in service (PIS) no later than December 31, 2027, unless construction begins (BOC) by July 4, 2026.
- **Established BOC Preserved for Small Solar.** For projects that begin construction after September 2, 2025, the IRS has eliminated the 5% Safe Harbor for solar projects greater than 1.5 MW (AC). Projects under 1.5 MW may still rely on either the Physical Work Test or the 5% Safe Harbor to establish BOC.

The IRS has also preserved the Continuity Safe Harbor, which allows up to four years for a project to be placed in service, depending on when construction began.

- **New Foreign Entities of Concern (FEOC) Restrictions.** Under the new FEOC restrictions, the OBBBA introduced the concept of a *Prohibited Foreign Entity (PFE)*. The PFE regulations primarily focus on control and influence over a creditable property or taxpayer. A PFE can be either a *Specified Foreign Entity (SFE)* or a *Foreign Influenced Entity (FIE)*, with the regulations ultimately centered on foreign control and influence. Property owners should consult a tax advisor regarding ownership and control questions specific to PFE regulations.

Also new under the FEOC restrictions is the *material assistance rule*. Under this rule, qualified projects cannot exceed specific project-level thresholds for material assistance from PFEs. It is reasonable to conclude that if a project begins construction on or after January 1, 2026, the material assistance rule will apply. However, the U.S. Department of the Treasury and the IRS have not yet released guidance on the application of PFE rules or the regulations pertaining to material assistance from a PFE. Restrictions on taxpayers classified as PFEs will also begin in 2026, including limits on payments made to Specified Foreign Entities (SFEs) in this and future years.

- **Low-Income Communities Bonus Credit (LICB).** The future of the LICB program remains uncertain. Its continuation on a predictable and reliable timeline is not guaranteed. Property owners should plan and prepare early if they intend to

apply, should additional rounds open. The application window for the 2025 program is now closed. Application windows are predetermined and were established during the implementation of the IRA, prior to the OBBBA changes. Property owners should follow the predetermined dates listed on the IRS resources page linked in the Resources section.

## Important Deadlines and Thresholds to Hit

### 1. “Begin Construction” (BOC) and “Placed in Service” (PIS)

- Two ways to qualify:
  - BOC by July 4, 2026
  - PIS by December 31, 2027 (if BOC by July 4, 2026 is not met).
- BOC:
  - Physical Work Test: Actual construction that must be significant in nature, and once started, must maintain continuous progress toward completion.
  - 5% Safe Harbor: Incurring 5% of project costs. Industry standard methodology. Recommendation is to be conservative and target at least 7.5% of costs.
- Both the Physical Work Test and the 5% Safe Harbor require a project to maintain a continuous program of construction (Continuity Requirement). Generally, this is a flexible, subjective analysis.
- There is a Continuity Safe Harbor: The Continuity Requirement is deemed satisfied if the project is PIS by the end of the calendar year that is no more than four calendar years after the calendar year when construction began. For example, a project with a BOC of January 15, 2026 must be PIS prior to January 1, 2031.

### 2. Foreign Entities of Concern (FEOC) – What Property Owners Must Plan For

- **By the 2026 tax year (filing in 2027)**, taxpayers cannot be PFEs.
- **Beginning January 1, 2026**, taxpayers cannot exceed specific project-level thresholds for material assistance from PFEs.
  - Qualified projects must have a cost ratio less than specified threshold percentages. The cost ratio is a percentage comparing the total costs of the non-PFE manufactured products and the total costs of all manufactured products. The focus is not on where the manufactured product was made, but rather on who produced the manufactured product. For example, a battery storage manufacturing site located in Russia but owned by United States owners would not be a PFE.

- Cost ratio thresholds:

Calendar Year BOC	Threshold Percentages
2026	40%
2027	45%
2028	50%
2029	55%
After 2029	60%

- BOC prior to 2026 avoids the material assistance rules. However, United States Treasury guidance is due by December 31, 2026, at which time additional thresholds could be established in following years.
- **Scope.** FEOC restrictions apply to taxpayers, investors, contractual counterparties (e.g. suppliers), encompassing everything from the equipment to the components.
- **Practical impact.** A project may be disqualified from receiving the ITC if it:
  - Uses solar panels procured from a Chinese government-linked firm, which is a PFE.
  - Uses batteries with key materials procured from a PFE.
  - Receives investment or tech support from a PFE, including IP licensing.

### 3. Low-Income Communities Bonus Credit (LICB) – Recent Status

- **2025:** Beginning January 2025, an application window opened with an initial 30-day equal-priority window with rolling application review through August 1, 2025. Annual capacity is set at 1.8 GW, per round, and the capacity will be reset if and when the next annual window opens.
- **2026:** The application window for the 2026 program is scheduled to open February 2, 2026 with an initial 30-day equal-priority window closing March 3, 2026 with rolling application review through August 7, 2026.
- Though the timeline for continuation of the bonus credit program is uncertain, property owners can preemptively prepare. This includes focus on early planning, eligibility confirmation, and application readiness since the bonus is competitive, capped, and allocated annually.
  - Categories 1 and 2: Qualifying for the +10% bonus is location based. Property owners can map properties against IRS eligibility tools (e.g., low-income communities census tract maps, tribal land databases).

- Categories 3 and 4: Qualifying for the +20% bonus requires a massive lift to plan, calculate, and track tenant benefits. Property owners should not rely on receiving this bonus.
- Always best to work with solar contractors and tax professionals if there is interest in applying for the LICB.

## Practical Playbook for Property Owners (Next 3–9 Months)

### 1. Pick the appropriate path and lock in BOC

- If your array is less than 1.5 MW (kW AC), then stick with the 5% Safe Harbor (incur  $\geq$ 5% of total costs with a binding contract + reasonable expectations for the solar contractor to complete).
  - If greater than 1.5 MW, then plan for Physical Work Test, e.g., start racking/foundation fabrication under binding contracts; document site mobilization and significant physical work.
- Target BOC by July 4, 2026, to qualify for tax credits plus the 4-year continuity safe harbor; the earlier the better to account for likely delays.
- If missing the July 4, 2026 BOC deadline, then solar projects must PIS by December 31, 2027.

### 2. Prepare for FEOC compliance

- Property owners should start assessing now. Begin evaluating requirements early that relate to the work and ownership structure with the solar installation. Work closely with the solar contractor to collect documentation, like agreements, supplier certifications, purchase orders, and chain-of-custody records (anything related to the solar project). These types of records will be essential. Ensure the contractor is conducting FEOC diligence where possible. Professional assessments and guidance are recommended.
- Pre-assess solar contractors and project proposals with certified tax advisors; retain certifications and other documentation (entity ownership, manufacturing locations, etc.). Include FEOC covenants into contract/procurement agreements; maintain a document file for tax equity/financing diligence.

### 3. Align with the LICB calendar

- For properties serving low-income residents, prep for the next window:
  - Sign up for IRS updates.
  - Monitor the annual application window.
  - Prepare application materials early, including interconnection documents.

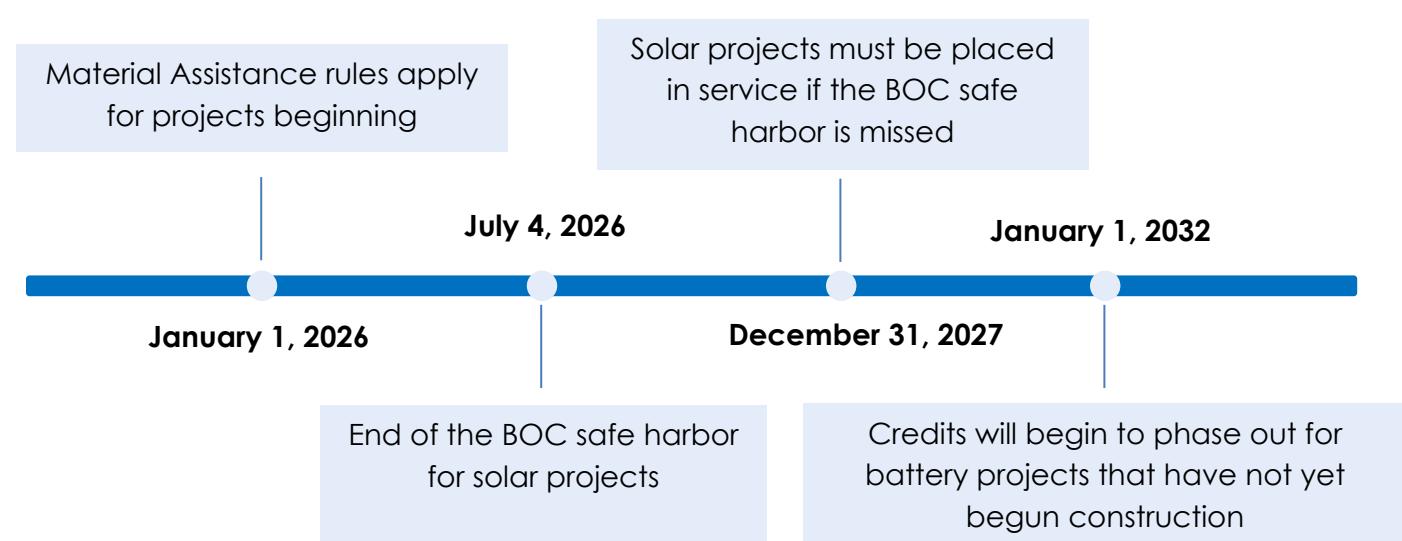
#### 4. Budget (money and time) for changes/modified diligence

- Costs could go up and project timeframes expand as all stages of the project pipeline, from financers to solar contractors, manufacturers and construction, are impacted.
- Expect more emphasis on professional opinions and due diligence in contract agreements and transactions (investors and underwriters reacting to OBBBA, FEOC, BOC, etc. changes).

#### 5. Mind other familiar IRA rules still in play

- Prevailing wage/apprenticeship, domestic content, and energy community adders still matter for the ITC; coordinate these with LICB where applicable.
- The new BOC and PIS deadlines do not apply to energy storage, but the FEOC restrictions do apply. For energy storage to be eligible, whether stand alone or integrated with solar, the technologies:
  - Must not share components.
  - May be under the same lease and owner.
  - Taxpayers must properly allocate costs to each system, either solar or energy storage, and only claim credit with respect to the costs allocated for the individual systems.

### Relevant Dates in Chronological Order



## Resources

- [IRS Notice 2025-42](#) (includes the updated BOC guidance)
- [LICB website](#)
  - [Applicant User Guide](#)
  - [Applicant Checklist](#)
- [IRS LICB resources page](#)
- [IRS OBBBA news and resources page](#)

*If you are looking for a directory for tax professionals who have expertise in the multifamily space specific to the ITC, please connect with the SOMAH Technical Assistance (TA) team at [TechAssist@CalSOMAH.org](mailto:TechAssist@CalSOMAH.org) or submit a TA request form at [CalSOMAH.org/TA-Request](http://CalSOMAH.org/TA-Request).*