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Energy Law ALERT

JANUARY 2013

American Taxpayer Relief Act of 2012 Extends Certain Energy Tax Credits

The American Taxpayer Relief Act of 2012 (the "Act"), passed by Congress on January 1, 2013, and expected to be quickly signed into law by the President, includes important extensions and changes to certain energy tax credit provisions. The major business-related changes are discussed below.

Under current law, the production tax credit (the "PTC") provides taxpayers with a 2.2¢ per kilowatt hour tax credit for wind electricity produced for a 10 year period from a wind facility placed in service by the end of 2012, and from certain other qualified renewable energy facilities placed in service by the end of 2013. The Act extends the PTC to such facilities as long as construction of the facility begins before January 1, 2014.

The Act extends the ability of new wind and certain other new renewable energy facilities that qualify for the PTC to elect a 30% investment tax credit in lieu of the PTC where construction began before January 1, 2014.

The provisions allowing 50% bonus depreciation for purchases of qualifying property in the year it is placed in service are extended for one year through 2013 (2014 for certain longer-lived assets). This includes the provisions allowing facilities producing qualified cellulosic biofuel to depreciate 50% of their eligible capital costs in the first year for facilities placed in service before January 1, 2014. The Act also expands the definition of qualified cellulosic biofuel plant property to include algae-based fuel.

The Act extends through the end of 2013 the provision allowing gain on a sale of transmission property by a vertically integrated electric utility to a FERC-approved independent transmission company to be spread ratably over eight years.

If you have any questions, please contact [Alan J. Tarr](mailto:atarr@loeb.com) at atarr@loeb.com or 212.407.4900.

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