

## CLIENT ALERT

### IRS Guidance Helps Small Wind Projects Claiming the Investment Tax Credit

July 16, 2015

At the urging of the wind industry, the IRS recently issued Notice 2015-51 giving certain small wind projects additional time to meet eligibility requirements for the 30 percent investment tax credit (ITC). Small wind energy property is eligible if it uses a wind turbine with a capacity of not more than 100 kilowatts. Thus, this extension primarily affects financing of the small wind turbines frequently installed by businesses, schools, and farms.

In January, the IRS issued Notice 2015-4, which sets forth certain requirements that must be met for small wind energy equipment to qualify for the ITC. Specifically, the Notice provided that small wind turbines must meet certain performance and quality standards as in effect at the time of acquisition or at the time the wind turbine is placed in service (if constructed, reconstructed, or erected by the taxpayer). The Notice further provided that manufacturers could provide a certification that the requirements were met. Manufacturers were generally unable to provide the certifications quickly, and without the certifications in place, tax equity investors were hesitant to commit funds to these projects.

The new Notice 2015-51 delays the effective date of the January Notice for certain wind turbines. Specifically, if the property uses a wind turbine with a rotor sweep area of more than 200 square meters, the January Notice requirements will only apply to property acquired or placed in service (if constructed, reconstructed, or erected by the taxpayer) after December 31, 2015. The original Notice 2015-4 effective date (February 2, 2015) continues to apply to property using a wind turbine with a rotor sweep area of 200 square meters or less. Notice 2015-51 also provides additional information on the quality standards that must be met by wind turbines depending on their rotor sweep area.

The ITC for small wind energy property will expire at the end of 2016 unless expanded by Congress. Whether the ITC will be expanded, and for how long, remains uncertain. A bill has recently been introduced in the House that would extend the ITC for construction on small wind energy property that begins before 2022, but discussions are ongoing in both the Senate and the House on an array of clean energy tax and other financial incentives.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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