

CLIENT ALERT

Congress Extends Section 45Q Beginning of Construction Date by Two Years in COVID-Relief Bill

Dec.29.2020

As part of the H.R. 133, The Consolidated Appropriations Act, 2021, passed by Congress on December 21, 2020, and signed by the President on December 27, 2020, Congress included an extension to the beginning of construction date for carbon capture projects under Section 45Q. Section 45Q provides tax credits for the capture and sequestration of carbon dioxide and other carbon oxides from industrial sources that, absent capture and utilization or sequestration, would be vented to the atmosphere. Section 45Q, as amended by the Bipartisan Budget Act of 2018, required that a qualified facility's construction must begin by the end of 2023 to be eligible for the Section 45Q tax credit. The new law, extends the deadline to start construction for two years, so that projects will have until the end of 2025 to demonstrate that construction has begun, as required to qualify for the tax credit.

Under the previous January 1, 2024 deadline, investors may have struggled to meet the requirements for beginning of construction in time. Carbon capture projects require significant planning and investments in capture equipment and infrastructure. Absent Section 45Q credits, it is often not economic for taxpayers to capture and sequester CO₂ or other carbon oxides. Moreover, sequestration of CO₂, other than through EOR or other industrial uses, may have no associated revenue stream. Permitting emitters and EOR operators to partner with investors that are willing to invest as a result of the Section 45Q credit may encourage owners of capital to fund significant carbon capture projects that would otherwise be non-economic. The extension of the beginning of construction deadline in the COVID-relief bill will be welcomed by the industry and investors.

Earlier this year, the IRS issued Notice 2020-12, which included guidance and safe harbors on the beginning of construction under Section 45Q. More coverage on that guidance and other Section 45Q developments is available here:

- [Crowell & Moring Alert: IRS Issues Welcomed Guidance on Carbon Capture Tax Credit](#)
- [Tax Notes Article: A Primer on the Tax Credit for Carbon Oxide Sequestration](#)
- [Bloomberg Law Article: INSIGHT: Impact Of Proposed IRS Regulations Under Section 45Q For Carbon Capture Credit](#)

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

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