

# CFWG

## Community Call

*May 14, 2024*

# Agenda

- Panel Discussion – IRA Tax Credit Transferability
  - Matt Aks, Vice President of Research, Evercore ISI
  - Mike Dow, Partner, Womble Bond Dickinson
  - Jeff Elliott, President, Huntington Equipment Finance
  - Drew Goldman, Vice President of Investments, Foss & Company

Topics to be covered include:

- Overview – what is transferability
- Renewable trends – oriented towards the pace of growth, dynamics of tax equity and why it is important to renewable growth, and importantly, why it can make renewables attractive for equipment finance players
- Recent transferability example highlighting how it facilitates and simplifies renewable transactions
- Priorities for 2024, Education, Networking, Best Practices

# **Inflation Reduction Act Energy Tax Credit Transfers: Overview and Market Outlook**

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**May 14, 2024**

EVERCORE ISI

## IRA Energy Tax Provisions – Overview

Area	Section	Provision	Transferable?	Labor Req's?	Status of Rulemaking
Clean Electricity	45/45Y	Clean Electricity PTC	x	x	None for PPIS after 2025
	48/48E	Clean Electricity ITC	x	x	None for PPIS after 2025
	45U	Nuclear PTC	x	wage only	None
Alt. Fuels & CCUS	40B	Sustainable Aviation Fuel Blenders Tax Credit			Sub-regulatory guidance
	45Q	Carbon Capture and Utilization/Storage PTC	x	x	Final rule (pre-dates IRA)
	45V	Clean Hydrogen PTC	x	x	Proposed rule pending
	45Z	Clean Fuels PTC	x	x	None
Clean Vehicles	25E	Pre-Owned Clean Vehicle Credit			Final rule
	30C	Alternative Fuel Vehicle Refueling / Charging ITC	x	x	Sub-regulatory guidance
	30D	Clean Vehicle Credit			Final rule
	45W	Commercial Clean Vehicle Credit			Sub-regulatory guidance
Mfg.	45X	Advanced Manufacturing PTC	x		Proposed rule pending
	48C	Advanced Energy Project Credit ITC	x	x	Sub-regulatory guidance
Resi. & Efficiency	25C	Energy Efficient Home Improvement Credit			Sub-regulatory guidance
	25D	Household Clean Energy Credit			Sub-regulatory guidance
	45L	Home Builders' Energy Efficient Home Credit		wage only	Sub-regulatory guidance
	179D	Commercial Buildings Energy Efficiency Deduction		x	Sub-regulatory guidance

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Adders / Bonuses	-	Prevailing Wage & Apprenticeship	Applies to many (see above)		Proposed rule pending
	-	Domestic Content Bonus	Can apply to 45/45Y, 48/48E		Sub-regulatory guidance
	-	Energy Communities Bonus	Can apply to 45/45Y, 48/48E		Sub-regulatory guidance
	-	Low-Income Communities Bonus	Can apply to 48/48E		Final rule

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Mon-etize	6417	Direct Pay	See Note		Final rule
	6418	Transfer	Applies to many (see above)		Final rule

## Executive Summary

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**1 U.S. clean energy investment has boomed since passage of the IRA, underpinned by long-term tax incentives as well as new ways to monetize tax credits**

- ▶ Pre-IRA: Tax equity adds cost and complexity to the process; limited volume
- ▶ Post-IRA: Transferability and direct pay streamline process and increase volume

**2 We estimate that companies will generate \$47 billion in *potentially transferable* tax credits 2024, rising to more than \$100 billion per year in 2030**

- ▶ Not all these tax credits will end up being sold
- ▶ The market for transferable energy tax credits should easily reach tens of billions dollars annually

**3 The transfer market is now poised to scale with Treasury's publication of final transfer regulations on April 25**

- ▶ Market had begun to develop based on draft rules released last year, and final rules were little changed
- ▶ Clarity and certainty of final regulations opens the door to more long-term credit transfer deals

**4 IRA tax credit transferability creates attractive opportunities for buyers and sellers**

- ▶ For Credit Sellers: Receive up-front cash at good terms with relative speed and simplicity
- ▶ For Credit Buyers: Reduce taxes while furthering clean energy commitments

## IRA Introduced Major Changes to Energy Tax Finance

**Tax credit transferability will ensure tax financing can scale to support growing clean energy investment**

	Pre-IRA	Post-IRA	
		Transfer	Direct Pay
<b>Tax Credit Monetization Approach</b>	<ul style="list-style-type: none"> <li>Monetize tax credits via tax equity investor</li> <li>Was a relatively stable market of ~\$20B annually</li> </ul>	<ul style="list-style-type: none"> <li>Monetize tax credits through direct sale to third party</li> </ul>	<ul style="list-style-type: none"> <li>Receive tax credit as refundable payment from IRS</li> </ul>
<b>Advantages</b>	<ul style="list-style-type: none"> <li>Monetize depreciation and tax credits simultaneously</li> <li>Longstanding know-how and best practices</li> </ul>	<ul style="list-style-type: none"> <li>Less complex transactions (no longer need equity investor)</li> <li>Faster time to close</li> <li>Any corporate can buy credits</li> </ul>	<ul style="list-style-type: none"> <li>Receive 100 cents on the dollar for tax credits</li> <li>Part of overall process of filing tax returns</li> </ul>
<b>Drawbacks</b>	<ul style="list-style-type: none"> <li>Limited pool of potential tax equity partners</li> <li>Complex transactions</li> <li>Long time to close</li> <li>Seller receives discount on value of credits</li> </ul>	<ul style="list-style-type: none"> <li>Monetize tax credit only (can't monetize depreciation)</li> <li>Buyer liable if tax credits improperly claimed</li> <li>Seller receives discount on value of credits</li> <li>Market and best practices still developing</li> </ul>	<ul style="list-style-type: none"> <li>Limited to three tax credits for companies (45V, 45Q, 45X)</li> <li>Limited to five-year period elected by taxpayer</li> <li>Funds not received until after filing prior year's tax return</li> </ul>

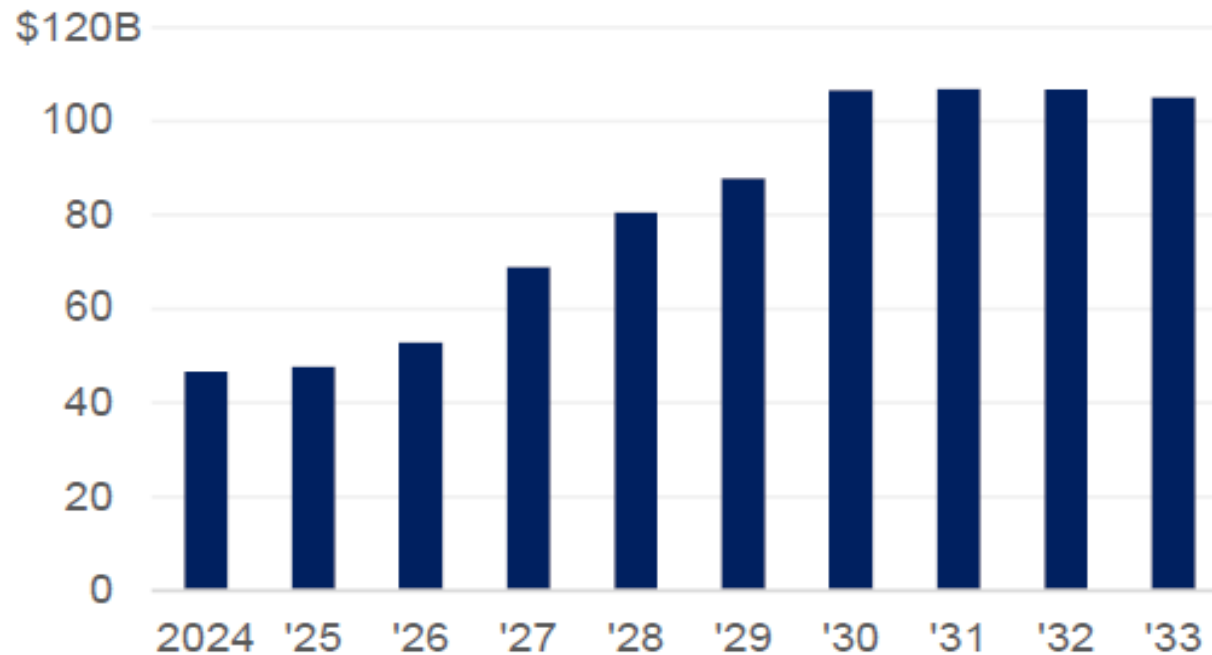
*Figures on project registrations released by the U.S. Treasury suggest that even in cases where the seller would have the option for "direct pay," the vast majority are still opting for transfer.*



## **\$47B in Potentially Transferable Tax Credits in 2024, Rising to Over \$100B in 2030**

Not all credits will be transferred, but transfer market should easily reach tens of billions per year

**Figure 1: Volume of Potentially Transferable IRA Energy Tax Credits (\$ billions)**

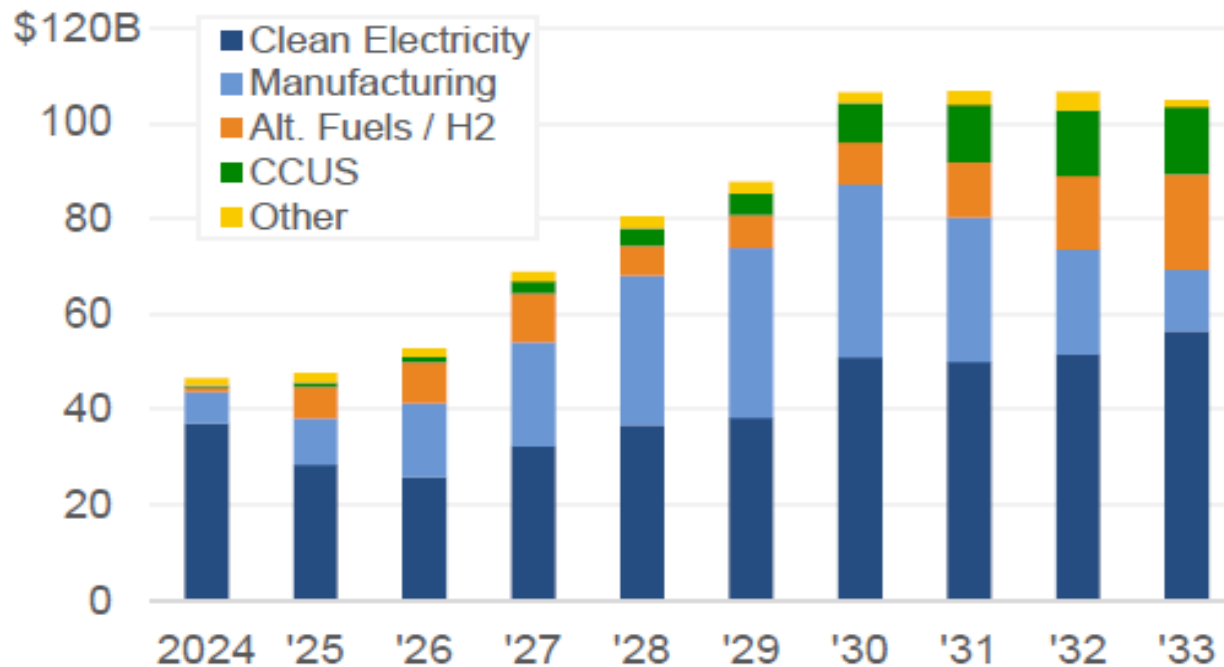


*Source: Evercore ISI analysis of U.S. Treasury data*

## Range of Credit Types Can Potentially be Transferred

Largest transferable credits are for clean electricity and manufacturing, followed by hydrogen and CCUS

**Figure 2: Volume of Potentially Transferable IRA Energy Tax Credits, by Activity Type (\$ billions)**

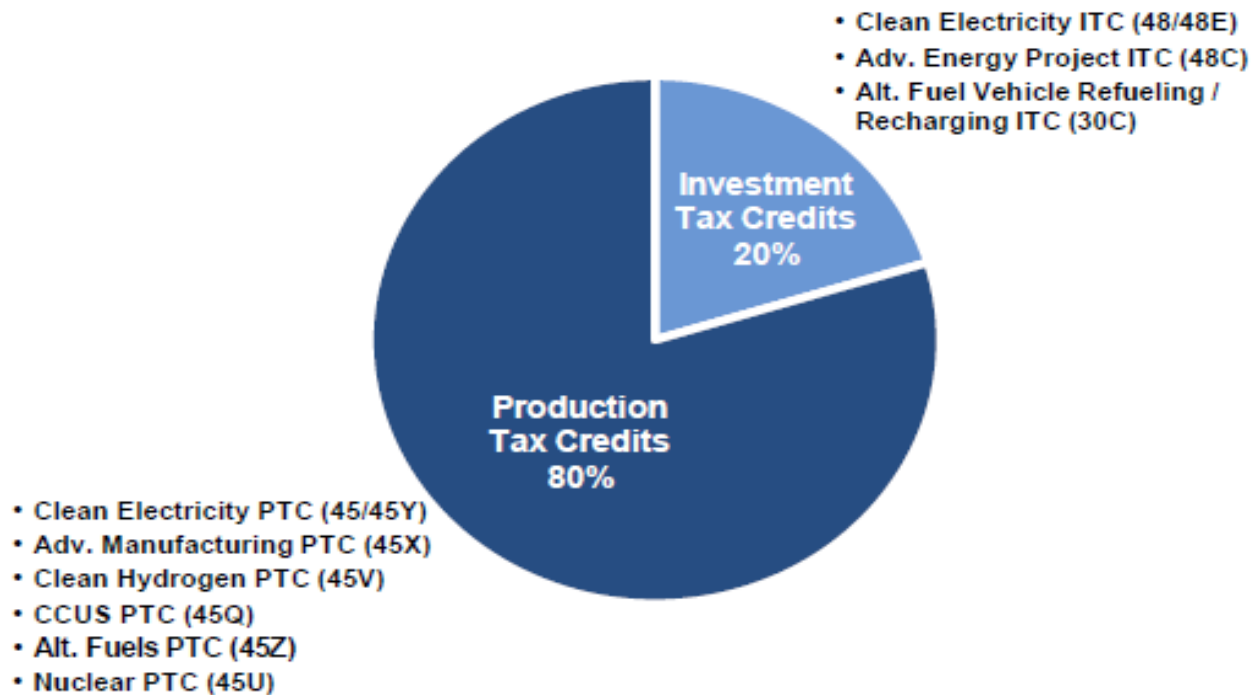


Source: Evercore ISI analysis of U.S. Treasury data

## Production Tax Credits are 80% of the Volume of Potentially Transferable Credits

Deal structure and diligence process will differ for production vs. investment tax credits

**Figure 3: Share of Potentially Transferable IRA Energy Tax Credits by ITC/PTC (based on cumulative volume, 2024-33)**



Source: Evercore ISI analysis of U.S. Treasury data

## Key Transferability Rules for Corporate Financial Decisionmakers

Rules finalized April 25 were relatively little changed from June 2023 proposal

Area	Description	Key Implication
<b>Timing of Payment</b>	Buyers can pay sellers cash for tax credits no earlier than the first day of the taxable year in which the credit is expected to be earned	Sellers looking to monetize future year credits must finance against forward credit purchase commitments
<b>Quarterly Estimated Tax Payments</b>	Buyers may account for transferred tax credits when calculating quarterly estimated tax payments, provided they do so no earlier than the seller otherwise would have	For current-year deals, timing of transaction is key and fiscal year tax filers may try to pair up
<b>No Second Transfer</b>	A credit may not be re-transferred after it has been transferred once	Unlikely to see secondary market
<b>Credit Slicing</b>	Sellers may transfer part of a tax credit and may have multiple buyers, but base and bonus credits may not be transferred separately	Buyers will need to get comfortable diligencing bonus credits
<b>Can't Transfer Depreciation Tax Benefit</b>	IRA credit transfer mechanism can only be used to transfer the specified tax credits	Continued role for tax equity market and hybrid tax equity/transfer transactions
<b>Buyer Liability</b>	Buyer is liable for potential "recapture" event or "excessive" credit transfer	Insurance/indemnities playing a key role; particular focus on determining basis of ITCs

# TRANSFERABLE TAX CREDIT PRIMER

FOSS & COMPANY  
TAX CREDIT SPECIALISTS  
Since 1983

Transferable tax credits enacted through the IRA allow taxpayers to reduce their federal tax liabilities while supporting renewable energy and sustainable technologies.

## TYPICAL BUYER

- Corporations with \$10mm+ of tax liability.

## BENEFITS

- Reduction in tax liability on a dollar-for-dollar basis (vs. a deduction, which reduces taxable income).
- Credits can be rolled back 3 years or carried forward 22 years.

## PRICING

- Foss & Co. focuses on institutional quality credits, typically priced at \$0.92 to \$0.97 per \$1.00 of tax credit.

## ACQUISITION PROCESS

- Credits must be purchased for cash and paid for prior to tax filing.
- Credits must be registered with the IRS prior to tax filing.
- Upfront diligence and ongoing management is necessary, as credits can be recaptured or disallowed in certain situations.

## WHY FOSS & COMPANY?

- 40-year history of excellence in the tax credit industry.
- Over \$8 billion of tax credits with \$0 of recapture or disallowance.
- Dozens of recurring Fortune 500 corporate clients.

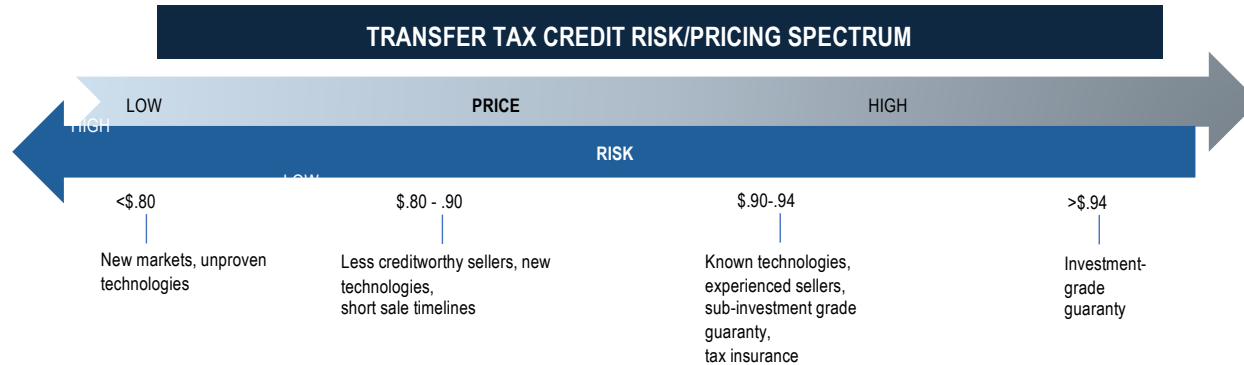
## RISKS

- **Recapture:** Certain events may lead to recapture of tax credits. For example, foreclosure of project-level debt within the 5-year compliance period of an investment tax credit could lead to recapture.
- **Delay in Credit Delivery:** Project construction delays may lead to tax credits being delivered in a later tax year.
- **Disallowance:** A portion of tax credits may be disallowed. For example, a project may not have qualified for an “adder” it claimed.

## MITIGANTS

- **Screening and Diligence:** Foss & Company provides institutional quality underwriting, helping to mitigate risk.
- **Seller Guarantees:** Sellers provide guarantees against recapture and disallowance risks. In addition, sellers often owe penalties for late delivery of tax credits.
- **Tax Credit Insurance:** Tax credit insurance policies can be utilized to further mitigate recapture and disallowance risk when necessary.

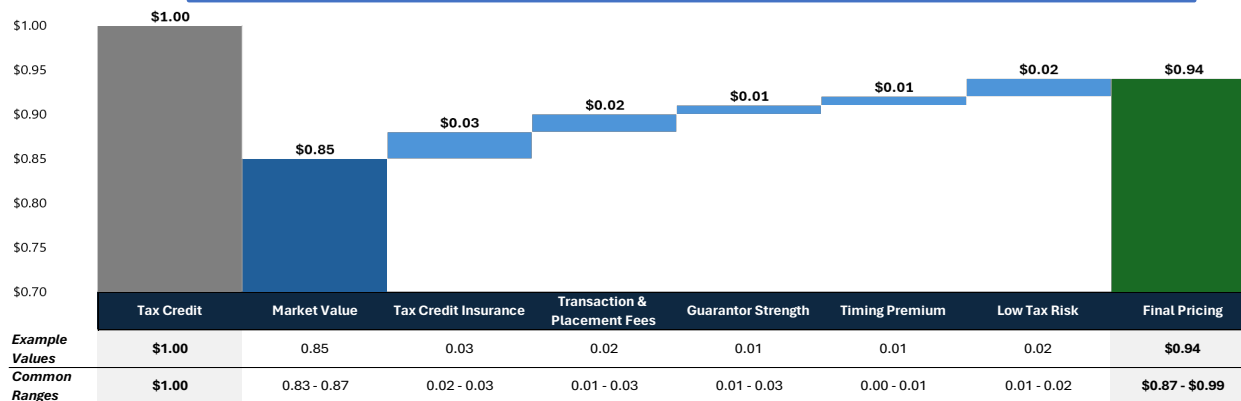
# TRANSFER TAX CREDIT PRICING PRIMER



## CREDIT PRICING FACTORS

a)	Low-Risk Credit Price	Technology risk, tax credit type, prior developer experience
b)	Tax Credit Insurance	Strong insurer(s) with significant balance sheets to allay financial effects of recapture scenarios
c)	Transaction & Placement Fees	Partially deductible syndication fee paid to market-maker for facilitating transaction
d)	Guarantor Strength	Creditworthiness of guarantor ( <i>note: investment grade guarantors often warrant premium \$0.94-0.97 pricings</i> )
e)	Timing Premium	Premium for credits sold late in the calendar year
f)	Low Tax Risk	Minimal probability of IRS scrutiny

### Example Transaction Pricing



## **Sale/Cash Payment**

### **Timing**

- Simultaneous Close and Fund
  - ITC projects placed in service
  - PTC projects post-generation
- Close and Fund Later
  - ITC projects prior to placed in service
  - PTC forward purchases



## **Purchase and Sale Agreement**

- Price/Timing
- Conditions Precedent
- Reps/Warranties
- Seller Covenants
- Indemnification
  - Credit qualification, recapture (ITC), transfer, excessive transfer
- Post-closing obligations





## **Guaranty**

- Creditworthy sponsor
- Wraps Seller indemnity

## **Tax Insurance**

- More or less than indemnity





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