

## ONE BIG BEAUTIFUL BILL ACT: IMPACTS ON TAX CREDITS AVAILABLE FOR NUCLEAR ENERGY UNDER SECTIONS 45U AND 45Y

The One Big Beautiful Bill Act<sup>1</sup> (**OBBBA**), signed by President Trump into law on July 4, 2025, includes sweeping changes for many of the existing energy tax credits implemented or expanded under the Inflation Reduction Act. The good news for the U.S. nuclear industry is that (i) the OBBBA largely leaves intact the existing tax credits available for electricity produced by existing (non-advanced) nuclear power facilities codified in Section 45U of the Internal Revenue Code (the **Code**), and (ii) makes it easier for advanced nuclear facilities to qualify for the 10% energy community adder to the clean electricity production tax credit (the **PTC**) codified in Section 45Y of the Code (see below for a summary of these changes to Sections 45U and 45Y).

The key changes to the nuclear tax credits implemented by the OBBBA include the application of foreign entity of concern (**FEOC**) restrictions to Section 45U credits, which make taxpayers that qualify as prohibited foreign entities (**PFE**) ineligible to claim the PTC,<sup>2</sup> and the creation of a dedicated route for advanced nuclear facilities to qualify for the energy community adder to the PTC.<sup>3</sup> The addition of PFE restrictions to Section 45U may significantly shift economic incentives for existing nuclear facilities that have foreign ownership ties, while the community adder may provide further incentive to advance PTC-qualifying projects in the near-term. However, as discussed in our earlier briefing ([Reforming, Reinvigorating, Deploying: Nuclear Energy in the US](#)), although the tax incentives are a key indicator of U.S. government support for the nuclear sector and will assist in the developing and financing of nuclear projects, many obstacles remain.

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<sup>1</sup> OBBBA, H.R. 1. 119<sup>th</sup> Cong. (2025).

<sup>2</sup> OBBBA, § 70510, amending 26 U.S.C. § 45U(c).

<sup>3</sup> OBBBA, § 70512(f), amending 26 U.S.C. § 45(b)(11).

## Summary of Legislative Changes

The OBBBA introduced significant PFE restrictions that apply both to the eligibility for Section 45U credits available to existing nuclear facilities and to the PTC available to new nuclear facilities. The new PFE restrictions primarily affect ownership and control of projects and material assistance to projects. Please see our earlier briefing ([One Big Beautiful Bill Act – The impact on the clean energy production tax credit and investment tax credit](#)) for further analysis of the PFE provisions in the OBBBA and how PFE restrictions apply regarding both Section 45U, Section 45Y, and other energy tax credits.

The OBBBA also revised the 10% energy community adder to the PTC to include "advanced nuclear facilities" that are located in "nuclear energy communities." Specifically, "advanced nuclear facilities" (those which the Nuclear Regulatory Commission (**NRC**) has authorized to construct and issued a site-specific construction permit or combined license) may now qualify for the adder if they are located in certain geographic areas that have a threshold percentage of employment related to the advanced nuclear sector (including jobs related to the nuclear fuel supply chain).<sup>4</sup>

## Implications for the U.S. Nuclear Industry

While the PFE restrictions may reshape the landscape for foreign investment and participation in other U.S. renewable energy sectors, their impact on the existing U.S. nuclear energy sector should be minimal, considering that the restrictions primarily target China, Iran, North Korea, and Russia. Nevertheless, owners and developers of existing nuclear projects will want to ensure their projects are not affected by the changes. For advanced nuclear projects, the additional tax credit will be viewed as a further incentive to help kick-start project development in the short term.

For the U.S. nuclear sector, the OBBBA should be viewed as furthering the goals outlined in the Trump Administration's four Executive Orders signed on May 23, 2025, to reform and reinvigorate the U.S. nuclear energy industry. As noted in our earlier briefing ([Reforming, Reinvigorating, Deploying: Nuclear Energy in the US](#)), the U.S. nuclear industry will require long-term, committed support from the U.S. government, including financing. Importantly, in addition to maintaining the nuclear project tax credits, the OBBBA retains funding for the Department of Energy's Loan Programs Office to fund nuclear projects.<sup>5</sup> The Clifford Chance team is monitoring these developments and their impacts on nuclear projects and will continue to provide updates.

**Key takeaway:** The OBBBA preserves Section 45U tax credits for existing nuclear facilities, adds PFE restrictions that may affect foreign-owned projects, and makes advanced nuclear facilities sited in nuclear energy communities eligible for the 10% energy community adder under Section 45Y. These changes aim to grow domestic nuclear development while limiting foreign influence.

<sup>4</sup> See OBBBA, *supra* n. 3.

<sup>5</sup> OBBBA, § 50403, amending 42 U.S.C. § 16517.

## Summary of Relevant Changes to Section 45U (Zero-Emission Nuclear Power Production Credit) and Section 45Y (Clean Electricity Production Credit)

### Section 45U Changes

Section 45U provides a time-limited, inflation-adjusted tax credit for electricity produced by existing (non-advanced) nuclear power facilities, with enhanced benefits for those meeting prevailing wage standards, and with mechanisms to prevent double benefits from overlapping government programs.<sup>6</sup> Key elements of the Section 45U tax credit include the following:

1. **Credit Amount:** Provides a tax credit for each taxable year equal to 0.3 cents per kilowatt-hour of electricity produced in the U.S. by a qualified nuclear power facility and sold to an unrelated person, minus a "reduction amount" (which accounts for certain gross receipts and other credits).<sup>7</sup>
2. **"Qualified Nuclear Power Facility":** Must be owned by the taxpayer, use nuclear energy to produce electricity, not be an "advanced nuclear power facility" as defined elsewhere, and must have been placed in service before August 16, 2022.<sup>8</sup>
3. **Reduction Amount:** The credit is reduced by the lesser of:
  - (i) the calculated credit amount, or
  - (ii) 16% of the excess of gross receipts from electricity sales (including certain government zero-emission credits) over a baseline amount (2.5 cents per kWh multiplied by the electricity sold).<sup>9</sup>
4. **Inflation Adjustment:** The 0.3 cent and 2.5 cent figures noted in points 1 and 3(ii) above are adjusted annually for inflation, with rounding rules applied.<sup>10</sup>
5. **Wage Requirements:** If prevailing wage requirements are met for laborers and mechanics involved in facility alterations or repairs, the credit is multiplied by five. Penalties apply for non-compliance.<sup>11</sup>
6. **Availability Period:** The credit is available for electricity produced before January 1, 2033.<sup>12</sup>
7. **Foreign Entity Restrictions:** As noted in our first section above, the Act now restricts eligibility for the credit, excluding specified foreign entities immediately and foreign-influenced entities after a two-year transition period.<sup>13</sup>
8. **Implementing Regulations:** The Secretary of the Treasury or his delegate is authorized to issue regulations and guidance to implement and enforce these provisions.<sup>14</sup>

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<sup>6</sup> 26 U.S.C. § 45U.

<sup>7</sup> 26 U.S.C. § 45U(a).

<sup>8</sup> 26 U.S.C. § 45U(b)(1).

<sup>9</sup> 26 U.S.C. § 45U(b)(2).

<sup>10</sup> 26 U.S.C. § 45U(c).

<sup>11</sup> 26 U.S.C. § 45U(d).

<sup>12</sup> 26 U.S.C. § 45U(e).

<sup>13</sup> OBBBA, § 70510, amending 26 U.S.C. § 45U(c).

<sup>14</sup> 26 U.S.C. § 45U(d)(3).

**Key takeaway:** The OBBBA restricts certain foreign entities and foreign-influenced entities from claiming Section 45U, which is an inflation-adjusted tax credit available for existing, non-advanced nuclear facilities that meet certain standards.

## Section 45Y Changes

Section 45Y, enacted by the Inflation Reduction Act in 2022 and effective as of January 1, 2025, provides a technology-neutral, clean electricity PTC, which nuclear energy can qualify for based on its GHG emissions.<sup>15</sup> While the OBBBA accelerated the phase-out timeframe for wind and solar significantly, it did not for nuclear. PTC eligibility for nuclear projects will not begin to phase out until 2033.<sup>16</sup> However, the OBBBA did add general PFE restrictions to PTC eligibility which apply to nuclear projects seeking to claim the credit.<sup>17</sup>

The new provisions in the OBBBA relating to the energy community adder for the PTC include the following:

1. **Credit Amount:** "Advanced nuclear facilities" located in "nuclear energy communities" can now qualify for the 10% increase in the PTC amount they are eligible for.<sup>18</sup>
2. **"Nuclear Energy Communities":** A metropolitan statistical area qualifies as such if it has (or had since **January 1, 2010**) **≥0.17% direct employment** in any of the following:
  - i. Operating or constructing **advanced nuclear facilities**;
  - ii. **Research and development** in advanced nuclear power;
  - iii. Activities in the **nuclear fuel cycle** (e.g., mining, enrichment, storage, disposal, recycling); or
  - iv. **Manufacturing or assembling components** for advanced nuclear reactors.<sup>19</sup>
3. **"Advanced Nuclear Facilities":** An advanced nuclear facility includes any facility with a reactor design approved by the NRC, which the NRC has authorized to construct and issued a site-specific construction permit or combined license.<sup>20</sup>

**Key takeaway:** Nuclear projects can qualify for the technology-neutral clean electricity PTC until at least 2033, and "advanced nuclear facilities" can now obtain a 10% bonus on their PTC amount if they are sited in designated "nuclear energy communities".

Clifford Chance is closely monitoring developments and will provide updates as further guidance becomes available. If you have any questions, please contact a member of Clifford Chance's Energy & Infrastructure team.

<sup>15</sup> 26 U.S.C. § 45Y.

<sup>16</sup> OBBBA, § 70512(a), amending 26 U.S.C. § 45Y(d).

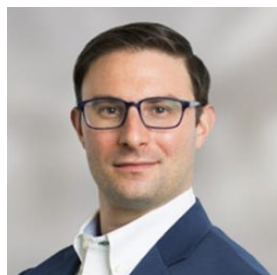
<sup>17</sup> OBBBA, § 70512(b)-(c), amending 26 U.S.C. § 45Y.

<sup>18</sup> OBBBA, § 70512(f)(1), amending 26 U.S.C. § 45(b)(11).

<sup>19</sup> OBBBA, § 70512(f)(1)(A)(iii), amending 26 U.S.C. § 45(b)(11).

<sup>20</sup> OBBBA, § 70512(f)(1)(B), amending 26 U.S.C. § 45(b)(11).

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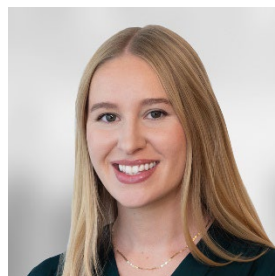
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