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## ONE BIG BEAUTIFUL BILL ACT: SECTION 45Z CLEAN FUEL PRODUCTION CREDIT EXTENDED AND MODIFIED

The Section 45Z clean fuel production credit (the "**Section 45Z credit**") is among the few clean energy incentives introduced by the Inflation Reduction Act of 2022 (the "**IRA**") that was sustained by the One Big Beautiful Bill Act (the "**OBBBA**"),<sup>1</sup> which was signed into law by President Trump on July 4, 2025. In fact, the OBBBA extended the Section 45Z credit by an additional two years to December 31, 2029,<sup>2</sup> in stark contrast to its abridgment or elimination of numerous other IRA incentives. Nevertheless, fuel producers intending to claim the Section 45Z credit should be aware that the OBBBA modified the credit in several other significant respects. This briefing outlines those modifications.

For the OBBBA's impact on other energy tax credits, please refer to Clifford Chance's other briefings on changes to the energy tax credits under the United States Internal Revenue Code of 1986, as amended (the "**Code**"): [One Big Beautiful Bill Act: Impacts on tax credits available for nuclear energy under Sections 45U and 45Y](#); [One Big Beautiful Bill Act: Updates to Section 45Q Tax Credits for CCS and Publicly Traded Partnerships for clean energy](#); [One Big Beautiful Bill Act - The impact on the clean energy production tax credit and investment tax credit](#).

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

<sup>2</sup>OBBBA, § 70521(d), amending 26 U.S.C. § 45Z(g).

# Key Issues

- 1 Extension to December 31, 2029
- 2 Elimination of Special Rate for Sustainable Aviation Fuel
- 3 Changes to Lifecycle GHG Emissions Calculations
- 4 Prohibits "Double-Dipping" on 45Z Credits
- 5 Prohibits use of Most Foreign Feedstocks
- 6 New Restrictions Relating to Prohibited Foreign Entities
- 7 Revival of Small Agri-biodiesel Credit

## Background

The Section 45Z credit was designed to incentivize the domestic production of low-carbon transportation fuels, such as ethanol, biodiesel, and sustainable aviation fuel ("SAF"). It was also intended to replace the Section 40A biodiesel tax credit (the "**Section 40A credit**") and the Section 40B SAF credit (the "**Section 40B credit**") which both expired on December 31, 2024.<sup>3</sup> Unlike the Section 40A credit and Section 40B credit, which provided incentives only for specific fuel types, the Section 45Z credit is "technology-neutral," which means that any low-carbon intensity fuel may qualify.

The Section 45Z credit may be claimed, for each taxable year, by a taxpayer for each gallon of qualified transportation fuel that is produced by the taxpayer at a qualified facility and sold to an unrelated person in the same taxable year. The amount of the Section 45Z credit is variable, depending on the lifecycle greenhouse gas emissions ("**Lifecycle GHGs**") of the transportation fuel, and whether that transportation fuel was produced at a qualified facility that complies with prevailing wage and apprenticeship requirements ("**PWA Compliant Facility**").<sup>4</sup>

Under the IRA, the Section 45Z credit took effect on January 1, 2025 and could be claimed with respect to transportation fuels produced and sold on or before December 31, 2027.

## OBBBA Modifications to the 45Z Credit

### Summary of OBBBA Changes to the 45Z Credit

Topic	IRA	OBBBA	Effective
<b>Extension of 45Z Credit</b>	Terminates after December 31, 2027.	Terminates after December 31, 2029.	Immediately.
<b>Elimination of Special Rate for SAF</b>	SAF receives a special base credit of: <ul style="list-style-type: none"><li>• \$0.35 per gallon; or</li><li>• \$1.75 per gallon (PWA Compliant Facility).</li></ul>	SAF receives the same base credit applicable to all transportation fuels: <ul style="list-style-type: none"><li>• \$0.20 per gallon; or</li><li>• \$1.00 per gallon (PWA</li></ul>	Applies to SAF produced after December 31, 2025.

<sup>3</sup>See 26 U.S.C. §§ 40A(g), 40B(h).

<sup>4</sup>26 U.S.C. § 45Z(a).

Topic	IRA	OBBBA	Effective
		Compliant Facility).	
<b>Accreditation or Certification</b>	Increased emissions resulting from indirect land use changes can be taken into account in determination of emissions rate.	Prohibits emissions from indirect land use changes from being taken into account.	Applies to all rates published by the Secretary of the Treasury after July 4, 2025.
	Generic emissions rate for animal manure feedstocks may be used.	Mandates determination distinct emissions rate for different animal manure feedstocks.	Same.
	May determine negative emissions rate for any transportation fuel.	Negative emissions rate prohibited for all transportation fuels, other than those produced from animal manures.	Same.
<b>No "Double-Dipping" on 45Z Credits</b>	Could claim Section 45Z credit for fuel produced from other fuel for which Section 45Z credit was allowable.	Cannot claim Section 45Z credit for fuel produced from other fuel for which Section 45Z credit was allowable.	Applies to all fuel sold or used after July 4, 2025.
		Directs Secretary of Treasury to provide guidance implementing prohibition.	Applies to fuel sold or used before July 4, 2024, to the extent that claims for the credit under Section 6426(k) have not been paid or allowed as of July 4, 2025.
<b>Foreign Feedstocks Prohibited</b>	No prohibition on claiming Section 45Z credit for transportation fuels produced from foreign feedstocks.	Section 45Z credit may only be claimed for transportation fuels exclusively derived from a feedstock that was grown or produced in the United States, Canada, or Mexico.	Applies to transportation fuel produced after December 31, 2025.

Topic	IRA	OBBBA	Effective
<b>Prohibited Foreign Entity Restriction</b>	No restriction.	No taxpayer that is a "specified foreign entity" may claim the Section 45Z credit.	Effective January 1, 2026.
	No restriction.	No taxpayer that is a "foreign-influenced entity" may claim the Section 45Z credit.	Effective January 1, 2028.

#### Extension to December 31, 2029

The OBBBA extended the Section 45Z credit by an additional two years to December 31, 2029. Earlier drafts of the OBBBA in the House and Senate would have extended the Section 45Z credit by an additional four years to December 31, 2031. The OBBBA as enacted includes only the two-year extension.

#### Elimination of Special Rate for Sustainable Aviation Fuel

Under the IRA, the Section 45Z credit provided a special base credit rate of \$0.35 per gallon of SAF or \$1.75 per gallon for SAF produced at a PWA Compliant Facility. This SAF base credit rate was higher than the base credit rate that is applicable to all other transportation fuels, which is \$0.20 per gallon or \$1.00 per gallon produced at a PWA Compliant Facility.

Beginning December 31, 2025, the OBBBA eliminates the special base credit rate for SAF. SAF now receives the same base credit rate as all other transportation fuels of \$0.20 per gallon or \$1.00 per gallon produced at a PWA Compliant Facility.

#### Changes to Lifecycle GHG Emissions Calculations

Under the IRA, the Secretary of the Treasury was directed to annually publish a table which sets forth the emissions rate for similar types and categories of transportation fuels based on the amount of Lifecycle GHG Emissions for those fuels. Lifecycle GHG Emissions are generally determined by reference to: (i) for non-aviation fuels, the Argonne National Laboratory "Greenhouse gases, Regulated Emissions, and Energy use in Transportation model" (the "**GREET Model**"); or (ii) for aviation fuels, the International Civil Aviation Organization "Carbon Offsetting and Reduction Scheme for International Aviation" model (the "**CORSIA Model**"). The Lifecycle GHG Emissions rate for a given transportation fuel, in turn, defines the amount of the 45Z credit for that fuel.

The OBBBA left the IRA's overall scheme for determining Lifecycle GHG Emissions intact but introduced a few noteworthy changes. First, increased emissions resulting from indirect land use changes may no longer be taken into account for determining the Lifecycle GHG Emissions of a transportation fuel.<sup>5</sup> Previously the Secretary of the Treasury could factor indirect land use changes, such as the clearing of woodland to provide farmland for corn as ethanol feedstock, into the calculation of Lifecycle GHG Emissions. This change, in effect, increases the amount of the Section 45Z credit for all transportation fuel derived from crop feedstocks.

Second, the Secretary of the Treasury is directed to publish distinct emissions rates for specific animal manure feedstocks, such as dairy manure, swine

<sup>5</sup>OBBBA, § 70521(c)(1), amending 26 U.S.C. § 45Z(b)(10)(B).

manure, or poultry manure.<sup>6</sup> Previously, the Secretary determined a generic rate for all U.S. animal manures.

Third, the OBBBA expressly prohibits the determination of a negative Lifecycle GHG Emissions rate for nearly all transportation fuels.<sup>7</sup> Under the IRA, Lifecycle GHG Emissions for a given transportation fuel could be determined to be negative, which could increase the amount of the Section 45Z credit.<sup>8</sup> Under the OBBBA, negative Lifecycle GHG Emissions rates may only be determined for transportation fuels based upon animal manure feedstock.<sup>9</sup>

These changes are effective when the Secretary of the Treasury next publishes emissions rates, which is expected to occur in early 2026. The emissions rates published by the Secretary on [January 10, 2025](#) will remain in effect until then.<sup>10</sup>

#### *Prohibits "Double-Dipping" on 45Z Credits*

The OBBBA now prohibits a taxpayer from claiming the Section 45Z credit for any transportation fuel from another fuel for which a Section 45Z credit is allowable.<sup>11</sup> The Secretary of the Treasury is also directed to issue guidance to implement this prohibition.

#### *Prohibits use of Most Foreign Feedstocks*

The OBBBA restricts eligibility for the Section 45Z credit to transportation fuels that are exclusively derived from a feedstock which was produced or grown in the United States, Mexico, or Canada.<sup>12</sup> This new restriction applies to any fuel produced after December 31, 2025.

#### *New Restrictions Relating to Prohibited Foreign Entities*

Similar to restrictions imposed on other IRA tax credits, the OBBBA introduces new restrictions on eligibility for the Section 45Z credit relating to specified foreign entities and foreign-influenced entities. Beginning in 2026, no taxpayer that is a "specified foreign entity" may claim the Section 45Z credit.<sup>13</sup> Beginning in 2028, no taxpayer that is a "foreign-influenced entity" may claim the Section 45Z credit.<sup>14</sup> The terms "specified foreign entity" and "foreign-influenced entity" are the subject of another briefing: [One Big Beautiful Bill Act - The impact on the clean energy production tax credit and investment tax credit](#).

#### *Revival of Small Agri-biodiesel Credit*

It bears noting that the OBBBA also revives the Section 40A credit for the qualified small agri-biodiesel sold or used from July 1, 2025 to December 31, 2026.<sup>15</sup> The OBBBA also increased the credit amount for agri-biodiesel from \$0.10 per gallon, as previously allowed under the Section 40A credit, to \$0.20 per gallon.<sup>16</sup> This credit may generally be claimed for up to 15,000,000 gallons per year by any producer that has a productive capacity for agri-biodiesel not in excess of 60,000,000 gallons per year.<sup>17</sup>

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<sup>6</sup>OBBBA, § 70521(c)(1), amending 26 U.S.C. § 45Z(b)(1)(B).

<sup>7</sup>OBBBA, § 70521(b), amending 26 U.S.C. § 45Z(b)(1).

<sup>8</sup>See 26 U.S.C. § 45Z(b)(1)(A).

<sup>9</sup>OBBBA, § 70521(c)(1), amending 26 U.S.C. § 45Z(b)(1)(B).

<sup>10</sup>OBBBA, § 70521(b)(2), amending 26 U.S.C. § 45Z(b)(1).

<sup>11</sup>OBBBA, § 70521(e), amending 26 U.S.C. § 45Z(d)(5).

<sup>12</sup>OBBBA, § 70521(a), amending 26 U.S.C. § 45Z(f)(1)(A).

<sup>13</sup>OBBBA, § 70521(k), amending 26 U.S.C. § 45Z(f).

<sup>14</sup>OBBBA, § 70521(k), amending 26 U.S.C. § 45Z(f).

<sup>15</sup>OBBBA, § 70521(j), amending 26 U.S.C. § 40A.

<sup>16</sup>OBBBA, § 70521(j), amending 26 U.S.C. § 40A.

<sup>17</sup>26 U.S.C. §§ 40A(b)(4)(c), 40A(e)(1).

Producers of eligible agri-biodiesel may now claim both the Section 40A credit and the Section 45Z credit for such fuel through to the end of 2026. The OBBBA also makes the agri-biodiesel credit transferable.<sup>18</sup>

### ***Key Takeaways***

While the extension of the Section 45Z credit through the end of 2029 is likely to benefit the clean fuel production industry, the OBBBA modifies the credit in significant ways of which clean fuel producers should be aware. Clean fuel producers may need to revisit their Lifecycle GHG Emissions calculations to align with these modifications. SAF producers in particular may need to revisit project economics with the reduced credit amount under the OBBBA. Producers seeking the credit will also need to ensure that their feedstocks are compliant with new prohibitions on foreign feedstocks. They will also need to ensure that their ownership structures, procurement strategies, and tax credit monetization strategies all comply with new and complex foreign entity of concern rules.

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<sup>18</sup>OBBBA, § 70521(j), amending 26 U.S.C. § 40A.



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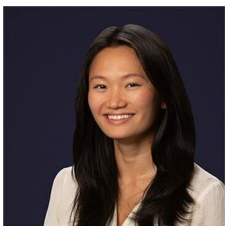
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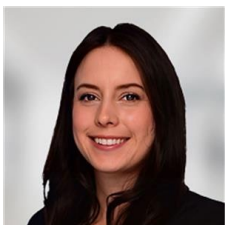
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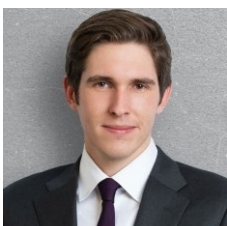
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