

## 26% Energy Credit Safe Harbor

With just 4 months left until year end the dreaded reduction of the energy credit looms larger. According to IRS 2018-59:

A solar system qualifies for a 26% energy credit if:

- 1) Construction begins in 2020 **and**
- 2) The system is placed in service by 12/31/2023

If construction begins after 2020, the credit is reduced. Establishing when construction has begun is the key to ensuring that a system sold in 2020 qualifies for the 26% credit.

There are two methods for establishing the beginning of construction. Either may be used:

- 1) Physical Work Test
- 2) 5% Safe Harbor

Both methods require continuous progress on the project after the beginning of construction.

While the law is somewhat open to interpretation, Belvedere Solar Finance has established a policy that defines the requirements for satisfying these tests. If the system is being financed via a true lease, this policy must be followed – the bank, as taxpayer, bears the consequences of a mistaken interpretation that results in recapture of the credit. Customers using debt financing may follow their own interpretation, but we encourage them to use ours.

The requirements for each method are on page 2.

## **Physical Work Test:**

The determination of work having started seems straightforward, but can become complex; for example, custom components for the project in the process of being manufactured might qualify. We take the conservative position that commencement of physical work means just that:

- The EPC contract and the financing or lease contract have been executed before the work begins.
- Installation of the system has started.
- A clearly identifiable segment of work has been completed.
  - Most often, this will be completed installation of racking at a minimum.
- Work continues on the project after the “commencement of work” activity is complete.
  - In other words, no fake starts

## **5% Safe Harbor**

5% of the total cost of the system must be incurred by 12/31/20. This is not as simple as it may sound – simply writing a check for something having to do with the project is not sufficient. To fully satisfy this method, Belvedere requires the following:

- The EPC contract and the financing or lease contract must have been executed before the equipment is delivered.
- The amount spent must be at least 6% of contract price. This ensures that the payment will be at least 5% of the final project cost including capitalized interest on progress payments and minor change orders.
- The material purchased must be delivered to the project site or a warehouse and payment received by the material provider by 12/31/20.
- If shipped to a warehouse, the following requirements apply:
  - Serial numbers of the items must be identified on or attached to the invoice that includes the part #, description, quantity and price of the items
  - The material must be segregated in the warehouse and clearly marked as being allocated to the project in question; this must be substantiated with photographs
  - The customer must have insurance covering the material while it is in the warehouse or at the construction site. If they have purchased builders risk insurance, that will satisfy the requirement.
  - When the material is delivered to the project site, the serial numbers must be checked and verified to be the same as the ones identified in the safe harbor purchase.

Continuity can be established by a variety of activities including pursuing permits, ordering other materials and starting the installation.