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Tax Group Client Alert: Potential Two Year PTC Extension

On December 7, the House Ways and Means Committee Chair, Kevin Brady, circulated draft legislation that would extend the Internal Revenue Code Section 45 tax credit for electricity produced by certain renewable sources (“PTCs”) for two years, making projects for which construction commenced prior to 2017 eligible for PTCs. As under current law, owners of such qualifying projects may elect a thirty percent investment tax credit in lieu of PTCs. The amendment does not extend the investment tax credit under Internal Revenue Code Section 48 for solar facilities. That credit, which is currently a thirty percent credit, becomes a ten percent credit for solar facilities placed in service after December 31, 2016.

This two year PTC extension is included as part of a much broader package extending expired or expiring tax provisions. The draft legislation is a fallback position for Congressional Republicans who have publicly expressed an intention to make permanent some tax extenders – specifically focusing on the research and expenditures credit. That longer term extenders package was rumored to include provisions for tapering off PTCs over a 4 or 5 year period. However, because Republican Congressional leaders are unsure that they can garner sufficient bipartisan support to pass the permanent extenders bill, they have indicated a willingness to consider this shorter-term package that includes, among other things, a two year extension of PTCs and a one year extension of bonus first year depreciation. Speaker of the House, Paul Ryan, indicated support for the two-year extenders package if the permanent extenders bill cannot be passed.

TAX GROUP

Please feel free to discuss any aspects of this Client Alert with your regular Milbank contacts or any of the members of our Tax Group.

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