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President Signs Tax Legislation That Includes Cash-Grant Extension

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 by Keith Martin on Thursday 16 December 2010



President Obama has signed comprehensive tax legislation that includes a one-year extension of the American Recovery and Reinvestment Act's Section 1603 cash-grant program - an incentive suite that many say has kept wind power financing alive for the past several months.

The new law also allows a 100% depreciation bonus on new equipment placed in service after Sept. 8, 2010, through the end of next year. However, the bonus can be claimed only if the taxpayer was not committed on or before 2008 under a binding contract to invest in the project.

The bonus is a timing benefit. Instead of depreciating a project over the normal depreciation period, the entire cost can be deducted in the year the project goes into service. However, the deadlines to complete construction have not changed. They remain the end of 2012 for wind farms, 2016 for solar and fuel-cell projects and 2013 for other renewables.

The 100% depreciation bonus is equivalent to an additional 5.2% investment tax credit on a wind farm or solar project - if a developer can use it. Many developers are expected to have a hard time converting the bonus into cash in the tax-equity market. Some developers are also concerned that the bonus could reduce overall tax capacity in the market.

A number of other provisions in the law will affect the project finance market, including the following:

- Projects on Native American reservations will qualify for faster depreciation (e.g., three-year instead of five-year depreciation for wind farms and solar projects), provided they are completed by December 2011;
- The law authorizes another \$3.5 billion in additional "new markets tax credits" in 2010 and 2011, each as an inducement to make loans or equity investments in projects in census tracts with lower-than-average family incomes or with poverty rates of at least 20%; and
- The law gives utilities more time, through December 2011, to shed transmission assets to independent transmission companies or regional transmission organizations and spread the tax on any gain over eight years.

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