

Client Alert

March 2013

Treasury Announces Sequestration Information for Section 1603 Award Payments

Pursuant to the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, payments issued under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 ("Section 1603") for specified energy property in lieu of Section 48 investment tax credits and Section 45 production tax credits are subject to sequestration.

Section 1603 payments are available for qualifying energy property that is placed in service after September 30, 2012, and for which construction began in 2009, 2010 or 2011. A Begun Construction Application must have been submitted before October 1, 2012.

Sequestration of Section 1603 Award Payments

Treasury has announced that all "awards" made to Section 1603 applicants on or after March 1, 2013, through September 30, 2013, will be reduced by 8.7 percent, irrespective of when the application was received by Treasury. "Award," in this context, means the final decision by Treasury to pay a claim, as evidenced by the Section 1603 Award Letter, and effective the date of the letter. The following is a link to Treasury's announcement:

<http://www.treasury.gov/initiatives/recovery/Documents/Message%20on%20Sequestration%201603%20Program.pdf>

In the announcement, Treasury reminds applicants that Section 1603 claims must be calculated in accordance with the Guidance and the tax laws and that the applicant may not "adjust claims to account for the impact of sequestration."

Converting Begun Construction Applications

Pursuant to Section 1603 and the Program Guidance, an applicant must convert a Begun Construction Application to a Placed-in-Service Application within 90 days of the date the project is placed in service (or in the case of a sale-leaseback transaction, within 90 days of the closing of the sale-leaseback). Accordingly, applicants should continue to convert their Begun Construction Applications to Placed-in-Service Applications before the expiration of the 90-day period.

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