

IN-DEPTH TAX PLANNING FOR RENEWABLE ENERGY PROJECTS

*Updated to Reflect the Most
Current Policy Directions*

**July 26 – 27, 2017 Hyatt
Regency Crystal City
Washington, DC**

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for the course and 0.3
for the workshop

OVERVIEW

Maximizing the benefits of tax incentives is vital in any renewable energy transaction, and whether a project “pencils out” generally turns on the efficient use of these incentives. How soon investors can get their desired return and exit the project — how much a project developer receives, and when — depends greatly on how the tax incentives are handled.

Indeed, the relevant rules are highly technical. This often means that investors, users, developers, and even less-specialized professionals, depend on the structuring advice of experts who start with the “typical” business deal and then develop deal structures, using jargon and arcane tax references. Alternatively, some investors, off-takers, developers, and their advisers may “go it alone” and fail to attend to important aspects, leaving money on the table or putting their ventures at the risk of IRS challenges.

This course is designed to give investors, off-takers, developers, and their advisers an in-depth understanding of the tax issues involved in the development and structure of renewable energy projects. The discussion will first focus on the various incentives available for renewables, then move to an in-depth discussion of the basic and more advanced tax and accounting rules for partnerships and leasing structures. It will incorporate case studies of actual deal structures, using economic models designed specifically for renewable energy projects. And, there will be a discussion as to how the tax incentives for renewables investments have been influenced by the recent “begun construction” rules, as well as Trump administration and current Congress. Throughout, the content will embed definitions, references to the terms employed, and transaction-specific examples. The program will culminate with a roundtable discussion of experienced renewable developers, lenders and investors.



“This was easily the best tax seminar I have ever attended. Panelists were clearly experts who work daily on the problems our company faces with respect to renewable taxation.”

SVP, Project Funding and General Counsel, SCS Renewables

LEARNING OUTCOMES

- Review the existing incentives for renewable energy
- Discuss how the tax incentives for renewables investment has been influenced by the Trump administration and current Congress
- Discuss in depth the various rules for partnerships and leasing structures
- Address important hot topics, such as “begun construction”, projects for tax-exempt and government entities, and the role of IRS and tax code Safe Harbors
- Explain how to optimize the financial accounting aspects of renewables
- Describe the use of new markets tax credits
- Review case studies using detailed financial analysis
- Discuss with experienced developers, lenders and investors the issues they confront in their projects
- Examine how to present a project to achieve the greatest “bankability”

WHO SHOULD ATTEND

- Solar, wind and other renewable energy project developers
- Merchant and independent power producers
- Tax and consulting firms associated with renewable energy development
- Lenders and related financial groups associated with in renewable projects
- Investors in renewable energy projects
- Legal professionals associated with renewable energy development
- Risk professionals associated with renewable energy development
- Project managers associated with renewable energy development

AGENDA

WEDNESDAY, JULY 26, 2017

- 7:30 – 8:00 am** **Registration and Continental Breakfast**
- 8:00 – 10:00 am** **Overview of Tax Incentives for Renewable Energy**
- Refresher on the basics – credits, grants, and depreciation
 - The Production Tax Credit (PTC) – Section 45 / sales of electricity to third parties
 - The Investment Tax Credit (ITC) – Section 48 / based on cost of the facility
 - Recent extension of PTC and ITC, with relevant changes
 - MACRS and bonus depreciation
- 10:00 – 10:15 am** **Morning Break**
- 10:15 am – 12:00 pm** **Wind Financial Models Review**
- Detailed review of a typical PTC financial model
 - Detailed review of a typical ITC financial model
- 12:00 – 1:00 pm** **Group Luncheon**
- 1:00 – 2:45 pm** **Tax Basics**
Partnerships and LLCs
- Why are partnerships and LLCs used for renewable projects?
 - Basic partnership/LLC tax issues
 - o Comparing allocations with distributions
 - o Can you “sell” tax benefits?
 - o Development fees and other items that go into basis
 - o Tax allocations and what is important to know about capital accounts
 - o Cash investors
 - o Lease vs. loan vs. service contract
 - Determining ownership for tax purposes
 - Section 7701
 - Equipment leasing safe harbors: Rec Proc 2001-28
 - More complex partnership issues
 - o Treasury’s rules about “substantial economic effect”
 - o Historic Boardwalk Hall
 - o Safe Harbors: Rev. Proc. 2014-12 and Rev Proc 2007-65
 - o Economic substance and profit motive
- 2:45 – 3:00 pm** **Afternoon Break**
- 3:00 – 4:15 pm** **Tax Basics (Continued)**
- Solar Flip Model
- 4:15 – 5:00 pm** **Developer and Financing Participant Panel**
- Discussing Day 1 Items
 - Future of tax incentives for renewables and the current thinking in Washington
- 5:00 pm** **Program Adjourns for Day**

AGENDA

THURSDAY, JULY 27, 2017

7:30 – 8:00 am

Continental Breakfast

8:00 – 9:15 am

Transaction Structures

Leasing Structures

- Basic concepts
 - o What is a “lease”?
- More specialized leasing arrangements
 - o Sale-leaseback
 - o Lease pass-through (“inverted lease”) structure

9:15 – 10:00 am

Complex Tax Issues

- Tax-exempt participants
- Pre-payment of electricity and Section 467 tax analysis relating thereto
- “Flip” structures
- Exit strategies
 - o Recapture of tax credits and grants
 - o “Flips”
 - o Purchase options
 - o Puts and calls
- Limits on an investor’s ability to deduct losses
 - o Computing basis
 - o The role of non-recourse debt and minimum gain (Section 752)
- General debt vs. equity considerations
- Allocations of depreciation and net losses
- Economic substance and profit motive

10:00 – 10:15 am

Morning Break

10:15 – 11:00 am

Complex Tax Issues (Continued)

- Specialized tax issues for renewables
 - o Allocations of tax credits
 - o Modeling issues
 - o Pre-payment for energy
 - o IRS safe harbor for “flip” structure transactions
 - o Commencement of construction for PTC purposes
 - o Section 50(d) income/loss allowance
 - o Differences between credits and grants when using leases
 - o Accounting issues
- Leasing to tax-exempt and governmental entities
 - o “Tax-exempt use”
 - o “Disqualified leases”
 - o Role of REITs
- Individual Investors
- At-risk rules
 - o Depreciation rules
 - o Tax credit rules
 - o Lease pass-through rules
- Passive loss rules
- Securities disclosure of tax items for individual investors

AGENDA

11:00 am – 12:00 pm	Detailed Review of Typical Lease Pass-Through Financial Model
12:00 – 1:00 pm	Group Luncheon
1:00 – 2:00 pm	GAAP, HLBV, Consolidation & Accounting for Tax Credits <ul style="list-style-type: none">• Accounting for renewable energy investments (GAAP)
2:00 – 2:15 pm	New Markets Tax Credits <ul style="list-style-type: none">• Requirements• Basic structures• Leveraged loan model• Use with lease pass-through structure• Combining with PTCs, ITCs, and other incentives
2:15 – 3:30 pm	Advanced Tax Considerations <ul style="list-style-type: none">• Tax ramifications of power purchase agreements (PPAs)• IRC Section 467• Options to buy• Sharing of REC and SREC Revenues• Sharing benefits with a project host• 80% of useful life Issues and appraisals• Selling permitted development rights or early stage projects• Commencement of construction• What about Yieldcos and other alternative mechanisms?• Step ups• Year 6 tax issues
3:30 – 3:45 pm	Afternoon Break
3:45 – 5:00 pm	Developer and Industry Participant Roundtable Discussion <p>The roundtable-format panel will focus on the practical problems confronted by developers and other industry participants in maximizing the efficiency of monetizing tax incentives in structuring and financing renewable energy projects. It will also discuss aspects of how to assemble a team of deal experts.</p>
5:00 pm	Program Adjourns



“This was a great learning experience for me as CEO of an energy developer. The info I learned has a huge \$ value for our business model.”

CEO, Paradise Energy Solutions

INSTRUCTORS

James F. Duffy is a partner at Nixon Peabody LLP. His practice concentrates on structuring and closing transactions involving federal income tax credits and other significant federal and state income tax incentives, including production tax credits for wind and other forms of renewable energy, energy investment tax credits for solar and certain other forms of renewable energy and new markets tax credits. He has represented numerous developers, investors, syndicators, and lenders in structuring and closing such transactions. Mr. Duffy has represented parties in many high-profile renewable energy transactions.

Richard Cogen is a partner at Nixon Peabody LLP, and past Chair of the firm's Energy and Environment Practice Group. Over his 30-year career, he has worked extensively on the development of major energy, renewable energy, and electric transmission facilities. His practice currently focuses on the development of wind, solar, biomass and fossil fuel-fired generating facilities, and independent transmission projects. Mr. Cogen has represented developers, buyers, and sellers of, and investors in, utility and commercial scale solar energy generating facilities. He earned a J.D. from Cornell Law School, and a B.A. from the University of Rochester.

Tony Grappone is a partner in the Boston, Mass., office of Novogradac & Company LLP, where he specializes in providing accounting, tax, and consulting services to developers, syndicators, and investors of projects that qualify for the low-income housing tax credit, historic tax credit, new markets tax credit, and renewable energy tax credit. He serves as a technical editor of the firm's Renewable Energy Tax Credit Handbook. Prior to joining Novogradac & Company LLP, Mr. Grappone worked at Ernst & Young LLP, specializing in partnership taxation within the affordable housing industry, servicing many of the nation's largest tax credit syndicators and investors. In addition, he served several leading venture capital firms as well as commercial real estate developers and investors. Mr. Grappone serves as a member on the Northeastern University Undergraduate Accounting Group Advisory Board. He received a bachelor's degree from Northeastern University in Boston, Mass., and is licensed in Massachusetts and New Hampshire as a certified public accountant.

Forrest David Milder is a partner in the Boston office of Nixon Peabody LLP. He has more than 30 years' experience in the tax aspects of project finance, particularly renewable energy (including solar, wind, geothermal, and biofuels), housing, historic rehabilitations, and new markets, as well as many other related fields, including partnerships and limited liability companies; tax-exempt organizations and unrelated business income; business formation, operation, and disposition; executive compensation; and tax-exempt bonds and other structured financial products.

Courtney Mooney is an associate in the Boston office of Nixon Peabody LLP. As a member of the Tax Credit Finance & Syndication Group, she handles transactions utilizing renewable energy tax credits. She assists developers and equity investors in financing the construction and development of solar and wind facilities across the country. Prior to joining Nixon Peabody, Ms. Mooney worked at Ernst & Young LLP in its National Tax practice. Her practice concentrated on advising tax equity investors and project developers on the business and tax implications arising from tax credit transactions. She assisted clients in structuring renewable energy deals that involved the investment tax credit and production tax credit. In her role at Ernst & Young LLP, she reviewed and built financial models, provided tax advisory services, and performed financial and transactional due diligence.

Brian Morrissey is a Managing Director of Solar Development at Citizens Energy Corporation. He founded Citizens' solar business in 2010 and is responsible for all solar related activities, including project origination, development, construction management, financing, and asset management. Citizens Energy Corporation is a national developer and owner/operator of distributed generation and small utility scale solar projects. The company finances all its projects with typical project finance structures and provides all sponsor equity for each portfolio. Prior to joining Citizens Energy Corporation, Mr. Morrissey was on the Global Power team at Cambridge Energy Research Associates (CERA), a leading energy consulting and research firm to international energy companies, governments, financial institutions, and technology providers. Before his tenure at CERA, Mr. Morrissey worked in GE Energy's central marketing and strategy group, and was an officer in the U.S. Army.

Joe Ritter is a Senior Vice President at Seminole Financial Services, LLC, a full-service national investment management and financial services organization. Since 2009, Seminole has directly funded construction and permanent financing for over 300 MW worth of solar and wind projects, totaling over \$700 million of its own managed capital. In addition to the debt capital deployed, Seminole has also closed over \$100 million worth of investment tax credit equity for solar projects. Mr. Ritter has been with Seminole since the company's formation and has personally originated, underwritten and managed over \$350 million in construction and permanent financing for renewable energy projects (plus an additional \$224 million in commercial real estate debt and equity financing). He holds a Bachelor's Degree in Finance from the University of Central Florida.

INSTRUCTIONAL METHODS

PowerPoint presentations and case studies will be used in program.

REQUIREMENTS FOR SUCCESSFUL COMPLETION

Participants must sign in/out each day and be in attendance for a minimum of four hours to be eligible for any continuing education credit.

IACET CREDITS



EUCI has been accredited as an Authorized Provider by the International Association for Continuing Education and Training (IACET). In obtaining this accreditation, EUCI has demonstrated that it complies with the ANSI/IACET Standard which is recognized internationally as a standard of good practice. As a result of their Authorized Provider status, EUCI is authorized to offer IACET CEUs for its programs that qualify under the ANSI/IACET Standard.

EUCI is authorized by IACET to offer 1.5 CEUs for the course and 0.3 for the workshop.

REGISTER 3, SEND THE 4TH FREE

Any organization wishing to send multiple attendees to this course may send 1 FREE for every 3 delegates registered. Please note that all registrations must be made at the same time to qualify.

EVENT LOCATION

A room block has been reserved at the Hyatt Regency Crystal City, 2799 Jefferson Davis Hwy, Arlington, VA 22202, for the nights of July 25 - 27, 2017. Room rates are \$169 USD, plus applicable tax. Call **703-418-1234** for reservations and mention the EUCI event to get the group rate. The cutoff date to receive the group rate is July 6, 2017 but as there are a limited number of rooms available at this rate, the room block may close sooner. ***Please make your reservations early.***



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PLEASE REGISTER

IN-DEPTH TAX PLANNING FOR RENEWABLE ENERGY PROJECTS:

July 26, 2017 | Washington, DC: US \$1495,
Early bird on or before July 7, 2017: US \$1295



How did you hear about this event? (direct e-mail, colleague, speaker(s), etc.)

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What name do you prefer on your name badge?

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CREDIT CARD INFORMATION

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Account Number Billing City Billing State

Exp. Date Security Code (last 3 digits on the back of Visa and MC or 4 digits on front of AmEx) Billing Zip Code/Postal Code

OR Enclosed is a check for \$ _____ to cover _____ registrations.

Substitutions & Cancellations

Your registration may be transferred to a member of your organization up to 24 hours in advance of the event. Cancellations must be received on or before June 23, 2017 in order to be refunded and will be subject to a US \$195.00 processing fee per registrant. No refunds will be made after this date. Cancellations received after this date will create a credit of the tuition (less processing fee) good toward any other EUCI event. This credit will be good for six months from the cancellation date. In the event of non-attendance, all registration fees will be forfeited. In case of course cancellation, EUCI's liability is limited to refund of the event registration fee only. For more information regarding administrative policies, such as complaints and refunds, please contact our offices at (201) 871-0474.