

**Chapter One**  
**SHOW ME THE MONEY!**  
**—Wind Industry—**

The American Recovery and Reinvestment Act of 2009 (“ARRA”), a \$787 billion economic stimulus package, contains numerous tax provisions related to wind and other renewable energy projects, and presents significant new opportunities for developers of, and investors in, wind energy projects and technologies.

**I. Tax Incentives.**

**A. Extension of PTC Sunset Date.** ARRA extends the production tax credit (“PTC”) for wind energy projects from December 31, 2009 through December 31, 2012. To qualify for the PTC under the Act, a wind energy project must be “placed in service” on or before that date. ARRA did not change the basic operation or calculation of the PTC for wind energy projects. Thus, any qualifying project that meets the placed-in-service requirement will qualify for a credit (indexed for inflation) per kilowatt hour of electricity generated and sold to an unrelated person during each year of the 10-year period beginning on the date the project is originally placed in service. The amount of the credit is 2.1¢ per kilowatt hour for 2009.

**B. Election to Claim ITC Rather Than PTC.** ARRA allows a taxpayer that is eligible to claim the PTC for a wind energy project to claim an investment-based tax credit (“ITC”) in lieu of the PTC. This election can apply to wind energy facilities that are placed in service from January 1, 2009 to January 1, 2012. The entire amount of the ITC is available for the year in which a qualifying facility is placed in service. The credit equals 30% and applies to most of the cost of the facility. Any unused portion of the credit can be carried back one tax year and carried forward up to 20 tax years. The owner of a qualifying facility can elect to claim either the ITC or the PTC, but not both. The tax basis of the facility must be reduced by one-half of the credit claimed.

ARRA also eliminates the reduction of a project’s tax basis (for the purposes of calculating the ITC) if it was financed through subsidies or tax-exempt bonds.

**C. Grant in Lieu of ITC.** To help monetize the ITC, ARRA enables taxpayers (that are otherwise eligible to claim the ITC) to elect to receive a cash grant from the U.S. Treasury Department instead of claiming the ITC. To qualify, the project must be placed in service during 2009 or 2010 or, if construction began in 2009 or 2010, before January 1, 2013. The grant is not available to any governmental agency, tax-exempt entity, or rural electric cooperative. Applications must be submitted before October 1, 2011.

These grants generally function the same way as the ITC. The amount of the grant generally is 30% of most of the cost of the facility. A grant is not included in the taxable income of the recipient, but the tax basis of the facility is reduced by one-half of the amount of the grant. The Treasury Department must pay the grant by 60 days after the later of: (a) the date of the application or (b) the date the facility is placed in service. ARRA contains a specific provision appropriating “such sums as necessary” to make sure that funds will be available to pay grants on all qualifying projects.

**D. Small Wind Investment Tax Credit.** ARRA repeals the dollar caps on the small wind ITC established by the Emergency Economic Stabilization Act of 2008, enabling eligible homeowners and businesses to claim a full 30% ITC for a qualifying small wind energy property.

**E. Extension of Bonus Depreciation to 2009.** ARRA extends first-year bonus depreciation for qualifying equipment placed in service in 2009, allowing the project owner to recover the costs of capital expenditures faster than the regular depreciation schedule. Under the bonus depreciation rule, an owner of qualifying property can write off 50% of the adjusted basis of the assets (such as turbines, towers, etc.) placed in service in 2009. The remaining 50% of the adjusted basis of the property is depreciated over the regular tax depreciation schedule applicable to the property.

**F. Advanced Energy Facilities Investment Credit.** ARRA creates a new 30% tax credit for investment in property used in a “qualified advanced energy manufacturing project,” *i.e.*, a project which establishes, re-equips, or expands a manufacturing facility that produces products used in the production of energy from renewable sources, including wind. The total amount value of credits available under the program is \$2.3 billion. Projects will be selected based on a reasonable expectation of commercial viability, innovation, job stimulation, and environmental benefits. To receive the credit, projects must be certified by the Treasury Secretary in consultation with the Energy Secretary. Credits will be awarded through an application process. Treasury must announce requirements for the application by August 16. Applicants have three years from the date of the award to place the project in service.

**G. Clean Renewable Energy Bonds.** Under the Clean Renewable Energy Bonds (“CREBs”) program, facilities that generate electricity from eligible renewable energy facilities, including wind energy, can take advantage of project-specific bonds issued by state, local, or tribal governments and electricity cooperatives. ARRA increases the existing CREBs limitation, authorizing an additional \$1.6 billion of new bonds. Existing rules on how funds should be allocated under the CREBs program remain unchanged.

**H. Qualified Energy Conservation Bonds.** The Qualified Energy Conservation Bond limitation has been increased to \$3.2 billion from the \$800 million authorized in the Emergency Economic Stabilization Act of 2008. These bonds may be used by state, local, and tribal governments to finance certain types of energy projects through loans, grants, and other repayment mechanisms that implement green community programs. Energy Conservation Bonds may be used for capital expenditures to reduce energy use in public buildings by at least 20% and implement green community programs.

**II. Federal Loan Guarantees.** ARRA amends the Energy Policy Act of 2005 (“EPAAct”) to provide \$6 billion in federal loan guarantees to cover up to 80% of the costs for wind energy projects and facilities that manufacture related components. These projects will not be required to meet the “innovative technology” or other requirements of section 1703 of EPAAct. Eligible projects must commence construction by September 30, 2011. Projects must also pay wages that are in line with the wages paid locally for similar work. The program is administered by the Department of Energy (“DOE”). The \$6 billion appropriated for the program is expected to support as much as \$60 billion in loans.

### **III. Federal Grant Programs.**

**A. R & D, Demonstration and Deployment Projects.** The DOE’s Office of Energy Efficiency and Renewable Energy has announced that it anticipates allocating \$2.5 billion to support its applied research, development and deployment activities. Those funds can be used for renewable energy projects including wind projects.

**B. Advanced Research Projects Agency – Energy.** ARRA also provides the Advanced Research Projects Agency – Energy (“ARPA-E”) with \$400 million to support innovative energy research which could include wind technologies. The first funding opportunity (“FOA”) announced under ARPA-E is for a total of \$150 million and individual awards of between \$500,000 and \$20 million are available to fund transformational energy research and development projects. This FOA is aimed at projects that have a well-formed R&D plan and that can make a significant contribution towards enhancing the economic and energy security of the United States by reducing imported energy, reducing energy-related gases, including GHG, and improving energy efficiency.

**IV. State Energy Program.** ARRA provides \$3.1 billion for the State Energy Program, a flexible federal-state partnership implemented by state energy offices to provide additional funds that do not need to be matched by state funds, allowing the states to leverage federal funds to match state, local, and private efforts for funding energy efficiency, renewable energy, and a wide variety of energy measures. Previously, the federal appropriation for this program was approximately \$50 million; ARRA funding multiplies that appropriation by 60 and waives the state/local matching fund requirement. The states are awarded the funds pro rata on the basis of their share of total electric consumption so that larger states or states with high energy consumption receive a larger portion of the funds. However, the ARRA funds will only be available to states that intend to adopt strict building energy codes and incentivize the utilities to adopt energy efficiency measures.

Given the amount of the available funding, states are scrambling to establish programs that can utilize the monies. Many states will roll out their programs during May 2009.

**V. Job Training.** To assist states in adopting strict building energy codes and incentivizing the utilities to adopt energy efficiency measures, ARRA allocates \$500 million to the Department of Labor to prepare a work force with an understanding of renewable energy and energy efficiency.