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Renewable Energy Services

Using Tax Incentives To Finance Renewable Energy Projects

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Federal Tax Incentives

- Tax Credits
- Income Tax Exclusions
- Deductions
    - Energy Efficient Commercial Buildings Deduction
    - Accelerated deductions
    - Bonus Depreciation

The Basics:
Tax Deductions v. Credits

- **<u>Tax deductions</u>** are a reduction of a taxpayer’s total income that decreases the taxable income used in calculating the actual tax to be paid.

  What is a deduction worth?

  $1 Deduction = $1 x tax rate

  - assume 35% tax rate
  - $1 x 0.35 = **0.35¢ of after tax value**

- **<u>Tax credits</u>** reduce dollar for dollar the amount of tax actually owed and payable to IRS.

  What is a tax credit worth?

  $1 tax credit = **$1 of after tax value**

Federal Energy Efficient Commercial Buildings Deduction

- This is a DEDUCTION, not a tax credit.
- Up to $1.80 per square foot (or 60 cents reduced)
- Federal Tax Code allows a deduction for part or all the cost of energy efficient commercial building property that the taxpayer places in service until **December 31, 2013**.

What Does This Deduction Apply To?

- Interior lighting systems
- Heating
- Cooling
- Ventilation
- Hot water systems
- Building envelope

- LIHTC Properties – must be a certain number of stories above grade

Available To Owners Or Lessees

- This deduction is available to either an **owner OR lessee** or a commercial building and installs property as part of the commercial building's:
  - interior lighting systems, heating, cooling, ventilation, and hot water systems, or building envelope to obtain a certification that the property satisfies the energy efficiency requirements.

Transfer of Tax Deduction for Public Property

- In the case of a federal, state, or local government building, the **person who *designs*** the energy efficient commercial building property may claim the deduction because the government can't take the deduction and can assign it.

- This can provide many business opportunities for firms designing ***government*** buildings.

Tax-Exempts and Churches

- Although some tax exempt or religious buildings are in ASHRAE 90.1 and don’t pay taxes, they are not ***government*** buildings, therefore, tax exempts **DO NOT** qualify.

- Only Government buildings qualify.

IRC § 45 – Electricity Produced from Certain Renewable Resources





Wind

Closed-loop biomass

Open-loop biomass

Geothermal energy

Landfill gas

Municipal Solid Waste

Marine and Hydrokinetic

Small irrigation power

Hydropower

Refined coal

Indian coal

Trash combustion

Solar (expired)

Election of §48 Investment Tax Credit In Lieu of Production Tax Credit

- IRS Notice 2009-52 (form of election)

- For facilities placed in service after Dec. 31, 2008, the Act now allows taxpayers to make an ***election*** to have qualified property of certain qualified facilities treated as "energy property" eligible for a 30% investment credit under § 48.

- Applies to all PTC facilities, ***except*** Indian coal, refined coal, and solar facilities.

Federal Investment Tax Credit (ITC): Energy Credit





Fuel Cells

Microturbines

Solar

Geothermal

Combined Heat & Power

Small Wind Property

§ 48 – Energy Credit

Solar Photo-Voltaic (PV) /Electric– 30% Tax Credit

- Applies for periods ending ***before*** ***January 1, 2017***

Solar Thermal – Heating Water or Concentrated Solar – 30% Tax Credit

- Applies for periods ending ***before*** ***January 1, 2017***

Geothermal – 10% Tax Credit

- Applies indefinitely

Combined Heat and Power – 10% Tax Credit

- Applies for periods ending ***before*** ***January 1, 2017***
- ***Special Rules for Biomass CHP -***

Small Wind Property – 30% Tax Credit

- Applies for periods ending ***on or before*** ***December 31, 2016***

Renewable Energy Property "Used" by a Gov't. or Tax Exempt

- Certain renewable energy property **"used"** by the United States, any state (including the District of Columbia) or political subdivision … any international organization … or any agency or instrumentality … does **not** qualify as property eligible for the federal investment tax credit.

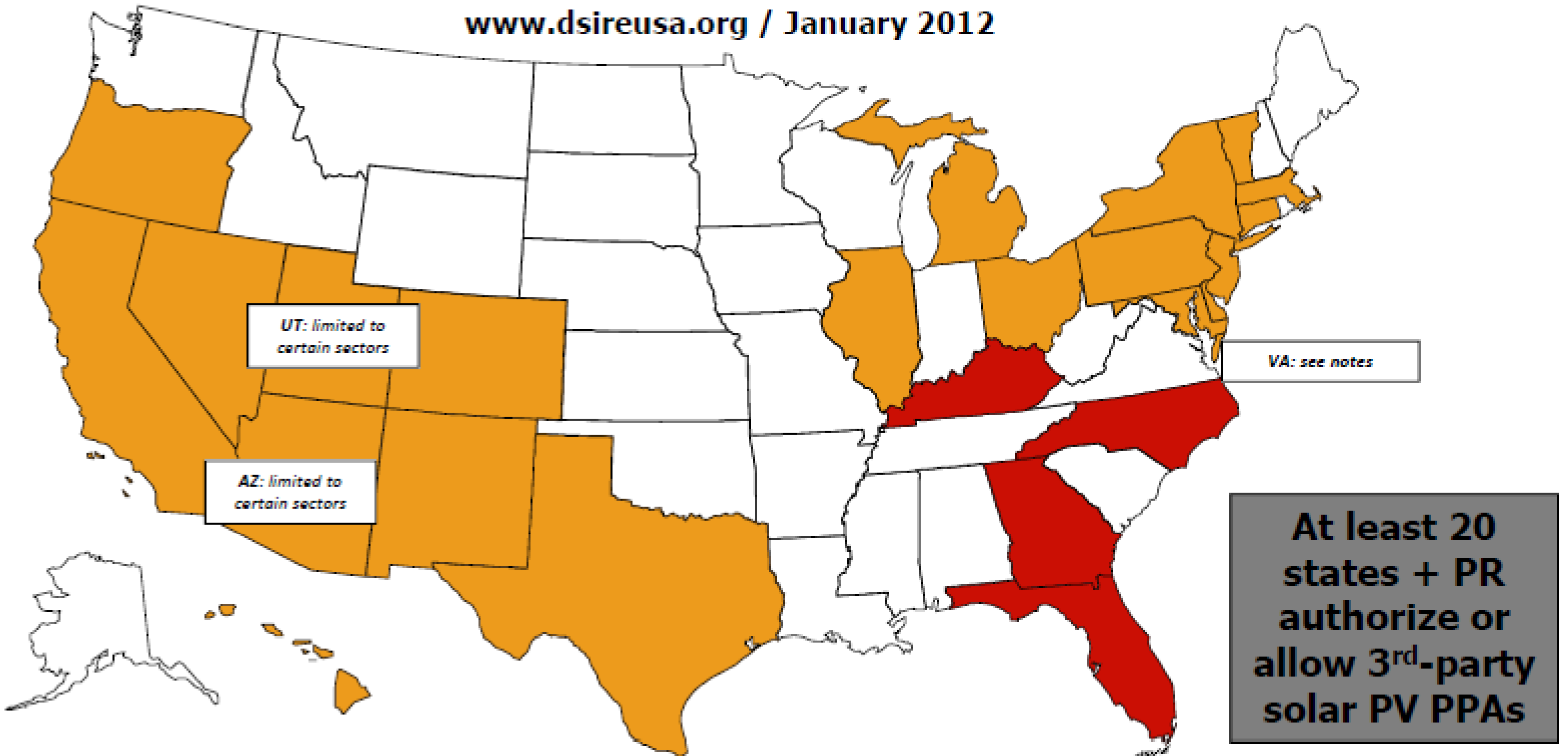
- Property "used" by such an entity generally means:
  - Property **owned by** any such governmental unit or tax exempt entity, or
  - Property **leased to** any such governmental unit or tax exempt entity.

- Many energy projects involving governmental or tax exempt entities will not qualify for federal tax credit benefits under these rules.

Warning:

- Some states make PPA’s ILLEGAL unless with public utility.
- Vet your clients through their lawyers FIRST.
- State law can thwart federal renewable energy policy

3rd-Party Solar PV Power Purchase Agreements (PPAs)



Authorized by state or otherwise currently in use, at least in certain jurisdictions within in the state

Apparently disallowed by state or otherwise restricted by legal barriers

Status unclear or unknown

Note: This map is intended to serve as an unofficial guide; it does not constitute legal advice. Seek qualified legal expertise before making binding financial decisions related to a 3rd-party PPA. See following slides for additional important information and authority references.

Section 1603 Treasury Grant

- Cash grants of up to **30%** of eligible basis as if the property were eligible for § 48.

- The Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 **extends** the Secretary’s authority to provide cash grants in lieu of federal energy investment tax credits for **one year**.

- To be eligible, a property must be placed in service in 2009, 2010, or 2011 or placed in service after 2011 but only if construction of the property began during 2009, 2010 or 2011.

- Applications must be submitted before October 1, 2012.

Section 1603 Rules - Placed In Service

- Only for Property placed in service in 2009, 2010, or 2011

OR ….

- **Began construction** in either 2009, 2010, or 2011

AND…

– Must be completed *prior* to:
  - 2013 for wind
  - 2014 for certain other Section 45 qualified facilities
  - 2017 for Section 48 Property

DOE Grants In Lieu of ITC

- **Many states tax this otherwise federally tax-exempt money.**
- http://www.reznickgroup.com/sites/reznickgroup.com/files/papers/rg1078_section1603_state_matrix.pdf
- Governments and tax-exempts **NOT** allowed ANY ownership. Blockers required.

New Markets Tax Credit

- Enacted on December 21, 2000 as part of the Community Renewal Tax Relief Act of 2000.
- Creates a federal tax credit for equity investments in Community Development Entities (CDEs).
- Credit equals 39% of amount of original investment into the CDE.

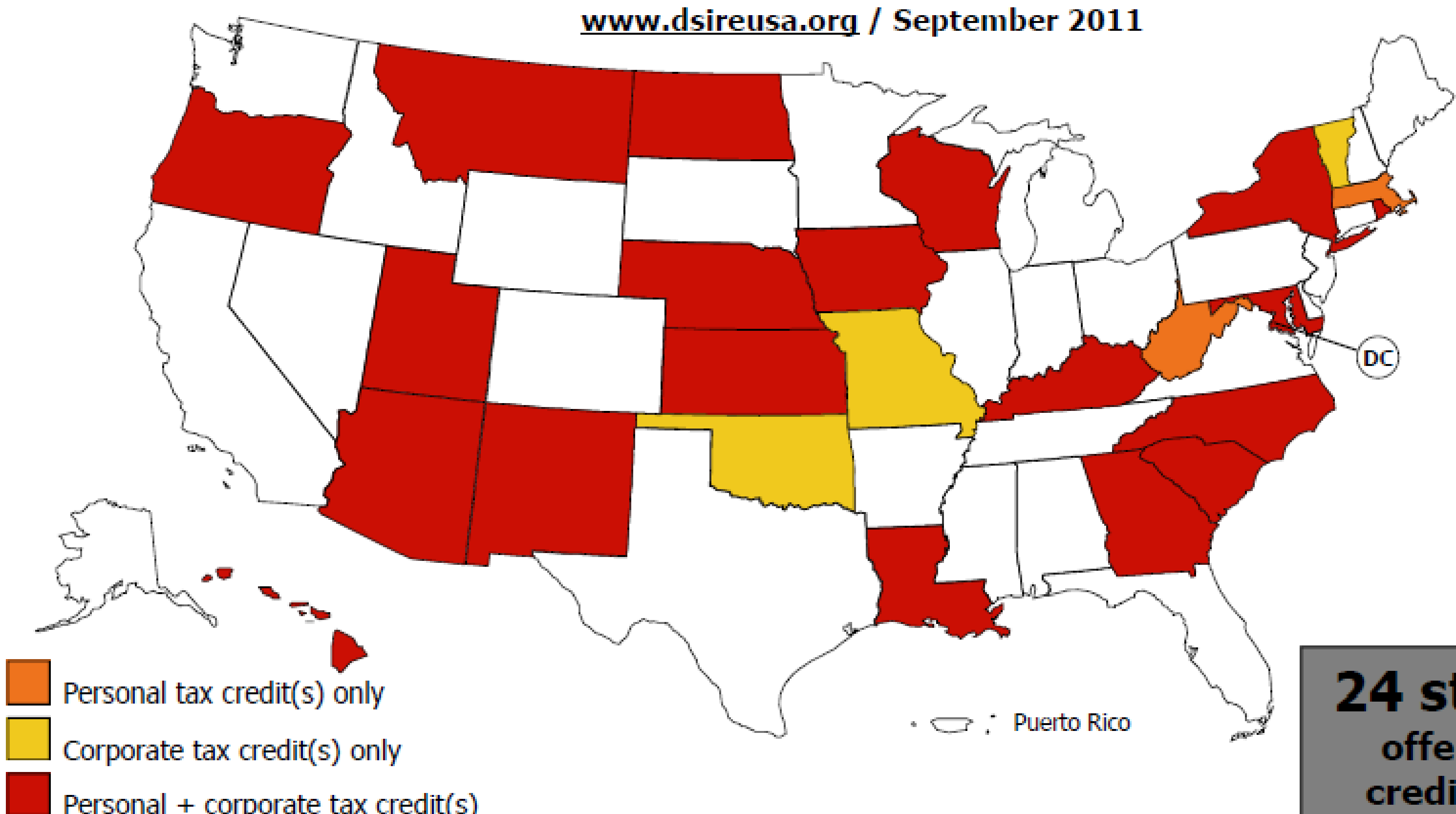
Bonds

- Clean Renewable Energy Bonds
- New Clean Renewable Energy Bonds
- Qualified Energy Conservation Bonds
- Build American Bonds

Combining Energy Incentives With LIHTC

- Combining federal low income housing tax credits and energy tax incentives in the same LIHTC project can result in a clash of corresponding tax rules.
- Can produce disastrous results without proper tax planning.
- Various issues to look out for.
- LIHTC sensitive to grants
- Credit reductions
- Solutions – separate legal entity?

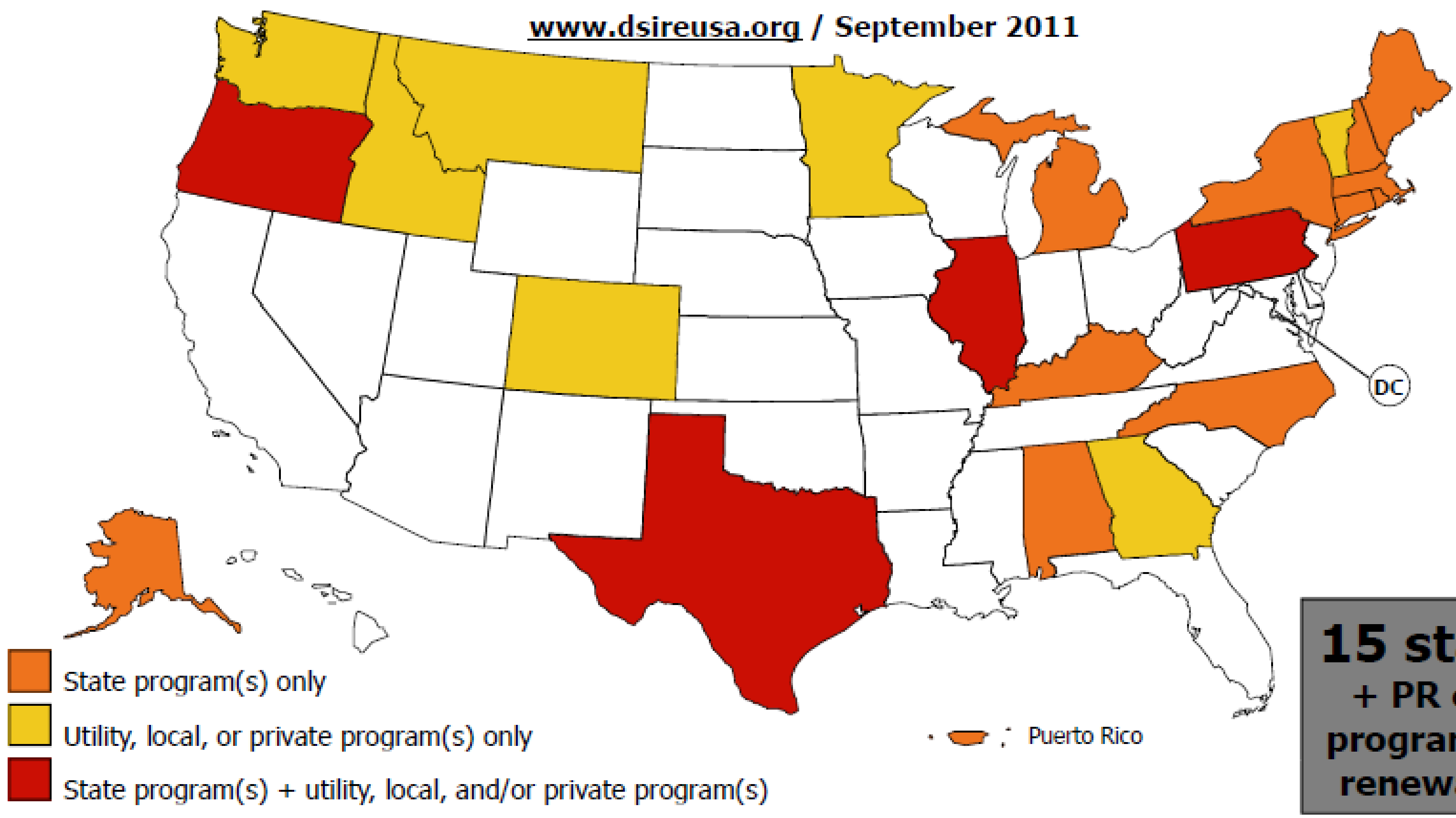
Tax Credits for Renewables



Notes: This map does not include corporate or personal tax deductions or exemptions; or tax incentives for geothermal heat pumps.

24 states offer tax credits for renewables

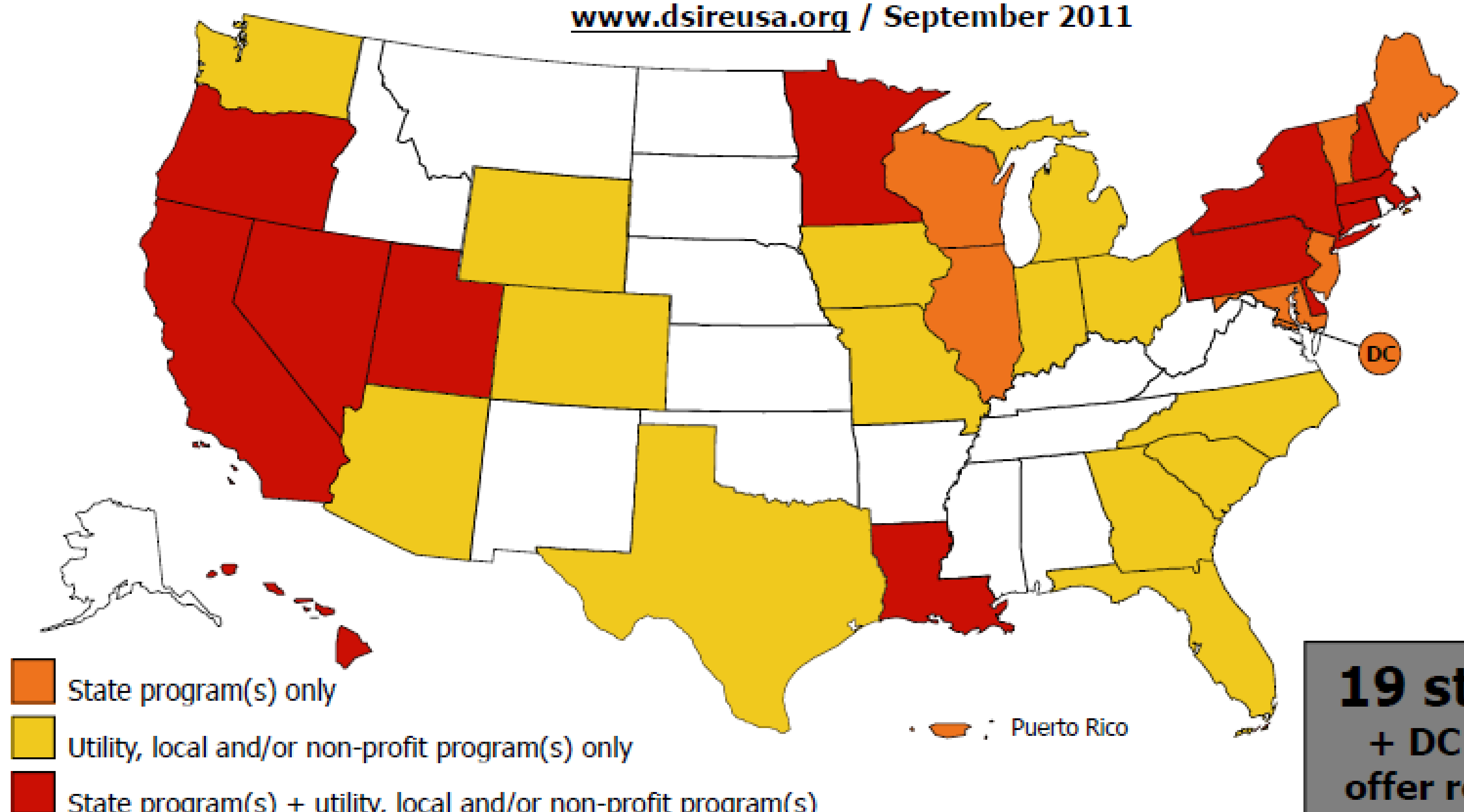
Grant Programs for Renewables



15 states + PR offer programs for renewables

Notes: This map only addresses grant programs for end-users. It does not address grants programs that support R&D, nor does it include grants for geothermal heat pumps or other efficiency technologies. The Virgin Islands also offers a grant program for certain renewable energy projects.

Rebate Programs for Renewables



Notes: This map does not include rebates for geothermal heat pumps , daylighting or other energy efficiency technologies. The Virgin Islands also offers rebates for certain renewable energy technologies.

19 states + DC & PR offer rebates for renewables

Energy Conservation Subsidies Provided By Public Utilities

- BEWARE of these respecting **DWELLING UNITS**.
- The amount of the qualified subsidy, often a “rebate” is **EXCLUDED** from federal gross income.
- May be provided directly or indirectly by the utility.
- Must be for the purchase or installation of any energy conservation measure
- Double benefits denied: no deduction or credit is allowed for any subsidy.
- These can kill your credit and force deprecation deductions down.

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