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REV2026 CONFERENCE · SESSION A1

Bringing Renewables Online Under OBBBA

Financing renewable energy projects in the new federal landscape

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Sponsored by Freepoint Solar and Green Mountain Solar

Bringing Renewables Online Under OBBBA

A primer on federal solar tax law in 2026

Dave Gurtman

REV2026 · Renewable Energy Vermont Conference

www.dinse.com

Where we're going

1

Before

How the IRA credits worked

2

What changed

OBBBA, July 4, 2025

3

Today

Where projects stand, Oct. 2026

4

Vermont

What it means here

Federal solar support runs through the tax code

30%

Investment tax credit on eligible project cost

+

Fast depreciation

Write off equipment cost quickly

Together, they can cut after-tax project cost by substantially more than 30%

Two ways to claim the credit: ITC or PTC

Section 48E · ITC

30%

of eligible cost, claimed once

Most Vermont projects

Section 45Y · PTC

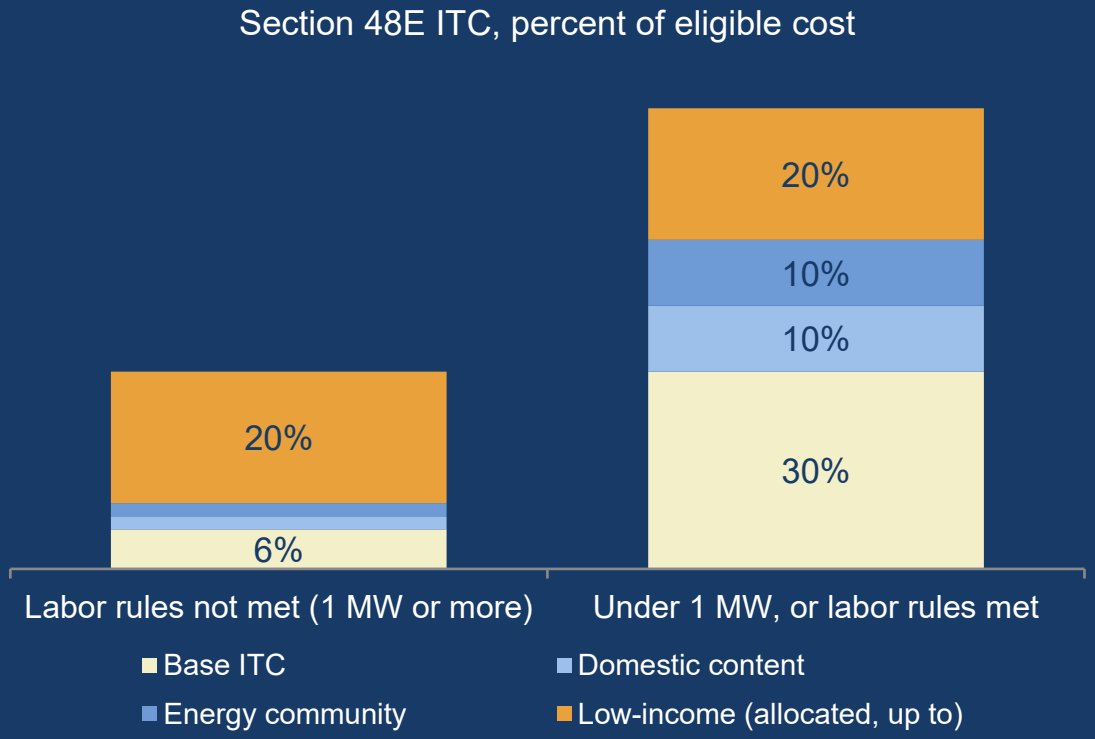
¢/kWh

inflation-adjusted, per kWh, 10 years

Large, high-output projects

Base 6% → **30%** if maximum net output is less than 1 MW, or if prevailing-wage and apprenticeship requirements are met

The IRA credit stack: base rate plus bonus adders



Up to 70%

subject to allocation

for a low-income project that also earns both bonus adders

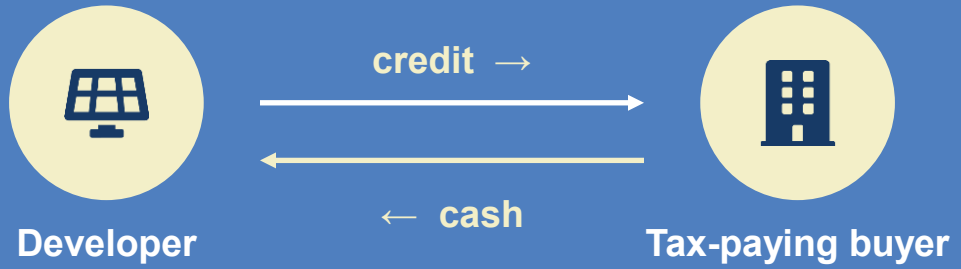
30–50%

the more typical range

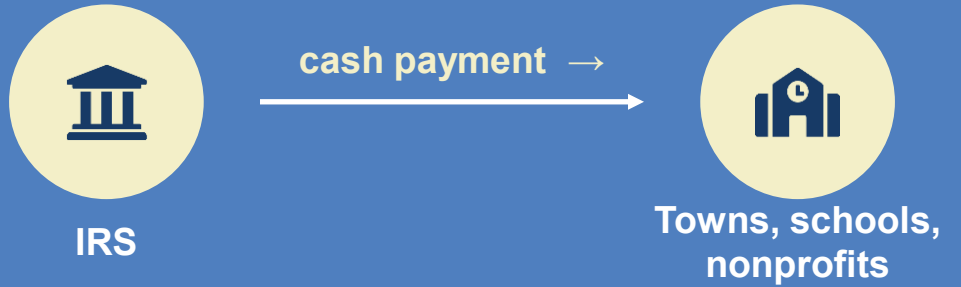
Source: SEIA, Summary of the Inflation Reduction Act; IRC §48E. Low-income bonus is a competitive allocation for projects under 5 MW.

Turning credits into cash

Transferability



Direct (elective) pay



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July 4, 2025

The One Big Beautiful Bill Act is signed

Not a repeal: an early end date for wind and solar, plus new conditions

1	2	3	4	5
Homeowner credit	**The cliff**	**Start of construction**	**PFE (FEOC) rules**	**What survived**

Change 1: The homeowner credit is gone

Homeowner credit

$0 §25D

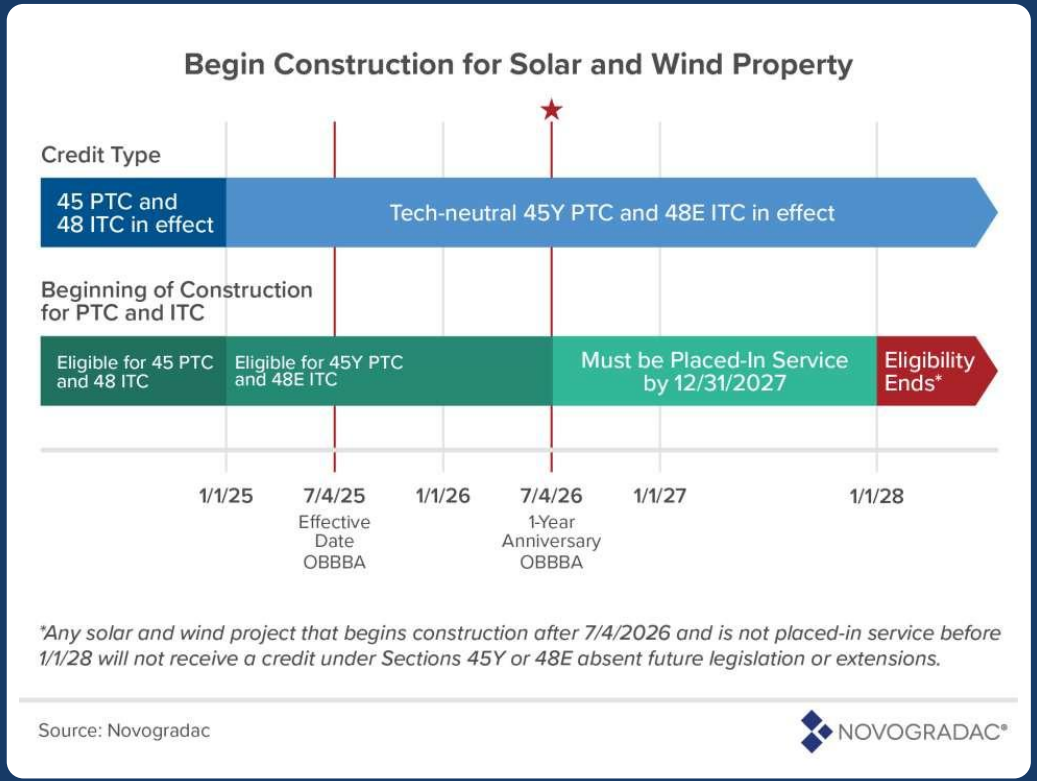
for homeowner expenditures on systems completed after Dec. 31, 2025

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
Credit Prior to IRA	26%	22%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Credit Under IRA	30%	30%	30%	30%	30%								22%	0%

OBBBA: 0% for expenditures after 2025

Photo and table: Dinse 2025 REV deck; table credit SEIA Inflation Reduction Act summary

Change 2: The cliff for commercial solar



Started construction by July 4, 2026

Continuity safe harbor

Generally through 2029 for a 2025 start, or 2030 for a 2026 start

Started after July 4, 2026

Online by Dec. 31, 2027

Placed in service, or no credit

Graphic: Novogradac. Projects outside the continuity safe harbor may seek to establish continuity under facts and circumstances.

Change 3: What counted as beginning construction

Physical work test

Physical work of a significant nature, on site or off site

Continuous construction required

5% safe harbor

At least 5% of total facility cost paid or incurred

Continuous efforts required

Aug. 15, 2025 — IRS issues Notice 2025-42

June 6, 2026 — Court vacates the notice

July 4, 2026 — Statutory deadline

The court restored the 5% safe harbor, but projects relying on it may draw extra investor and credit-buyer scrutiny

Oregon Environmental Council v. IRS

June 6, 2026

U.S. District Court for the District of Columbia

Civil Action No. 25-4400

Brought by renewable-energy, environmental and consumer plaintiffs

Arbitrary and capricious under the APA

- No reasoned explanation for dropping a safe harbor relied on for over a decade
- Ignored reliance interests and narrower anti-abuse alternatives
- IRS did not adequately explain its disparate treatment of wind and solar

Vacated in full | **Applies to all taxpayers** | **Remanded to the IRS**

Sources: No. 1:25-cv-04400 (D.D.C. June 6, 2026); Gibson Dunn; PwC; Clifford Chance (Sept. 4, 2026)

Change 4: Prohibited foreign entity (PFE) rules

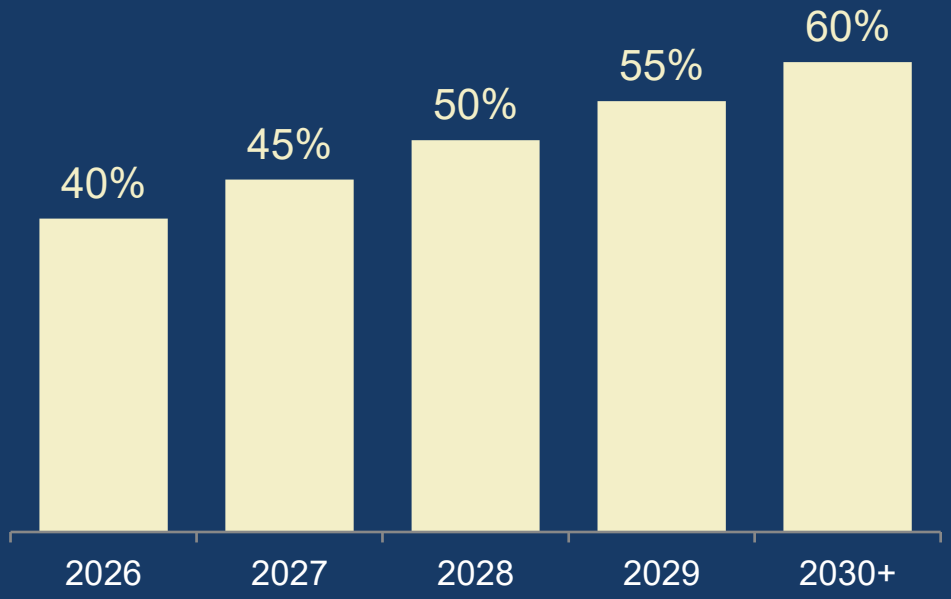
Ownership & control

No credit if the taxpayer is a specified foreign entity or foreign-influenced entity

Material assistance

For construction beginning after 2025, the project fails if its material-assistance cost ratio falls below the threshold

Minimum material-assistance cost ratio for solar facilities, by construction-start year



Sources: OBBBA; IRS Notice 2026-15 (Feb. 12, 2026). Treasury safe-harbor tables due by Dec. 31, 2026.

Change 5: What survived

Transferability

Credits can still be sold (not to specified foreign entities)

Direct pay

Towns, schools and nonprofits

Bonus adders

For qualifying projects

Storage credit

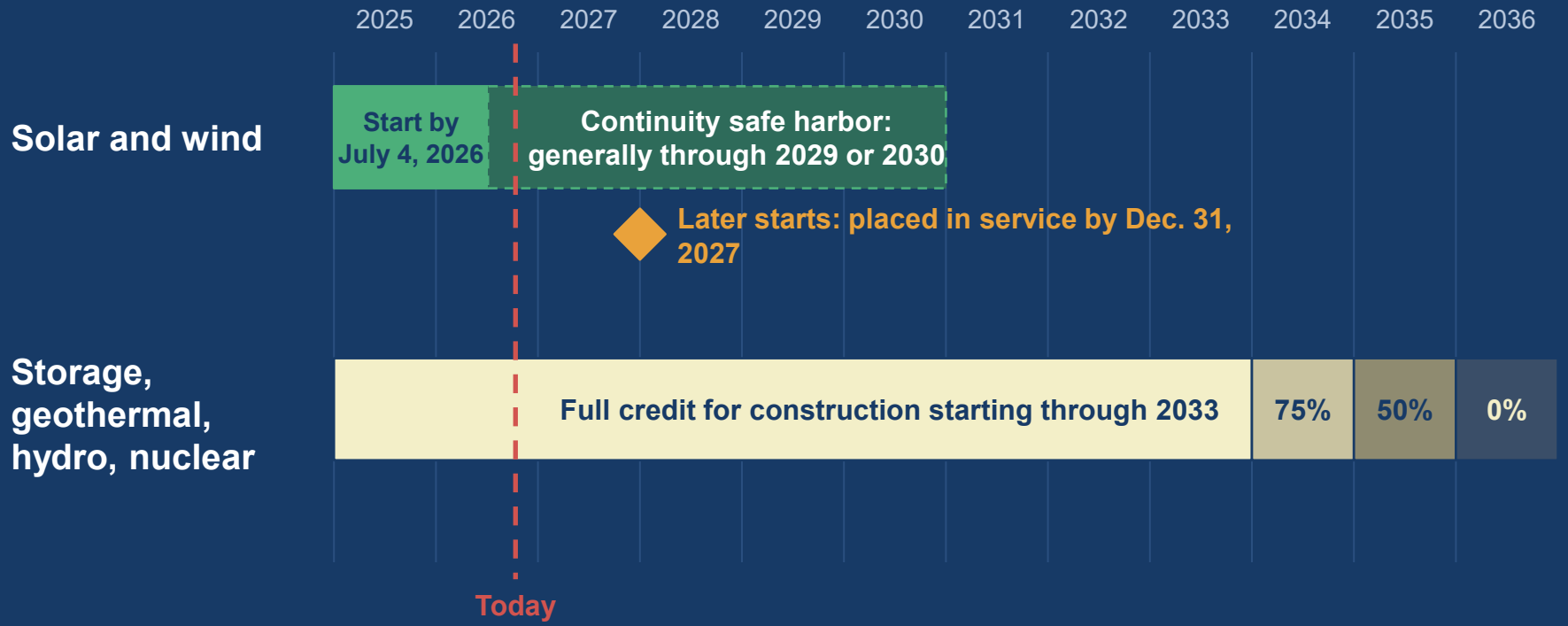
Longer runway, into the 2030s

100% bonus depreciation

Permanent, for property acquired after Jan. 19, 2025

The credit didn't vanish. The window narrowed, and the rules got harder.

The full picture: solar vs. storage timelines



Sources: OBBBA; Clean Energy States Alliance phase-out summary. Storage percentages apply by construction-start year.

Where we stand: three buckets of projects

1

Began by Dec. 31, 2025

- Physical work or 5% safe harbor
- No material-assistance test
- Continuity safe harbor depends on start year; generally through 2029 for a 2025 start

2

Jan. 1 – July 4, 2026

- Physical work or 5% safe harbor
- Material-assistance test applies
- Generally through 2030 under continuity safe harbor

3

Began after July 4, 2026

- Placed in service by Dec. 31, 2027
- Material-assistance test applies
- Otherwise no §45Y or §48E credit for the solar or wind facility

What this means for developers now

From "how do I start construction?" to "can I prove it?"

Documentation

Document the chosen start test and the applicable continuity requirement

PFE diligence

Trace module, inverter, racking and battery supply chains; get supplier certifications

Investor scrutiny

More diligence, insurance and tougher terms

What the credit market is telling us

91.3¢

Average price per $1 of 2026 ITCs, below historical ranges

Crux, H1 2026

85–92¢

Typical range for C&I, residential and small distributed-generation credits

Novogradac, Sept. 2026

#1

PFE exposure is now the top pricing factor, ahead of deal size and seller credit

Crux, H1 2026

Insurance gap: PFE-specific tax insurance is largely unavailable, so buyers rely on indemnities, reps and price (Crux)

Sources: Crux, 2026 Mid-Year Market Intelligence Report and "FEOC and PFE rules" (Sept. 3, 2026); Novogradac, Tax Credit Tuesday podcast (Sept. 29, 2026). Industry estimates.

Vermont: a small-project state

Small projects may have practical advantages

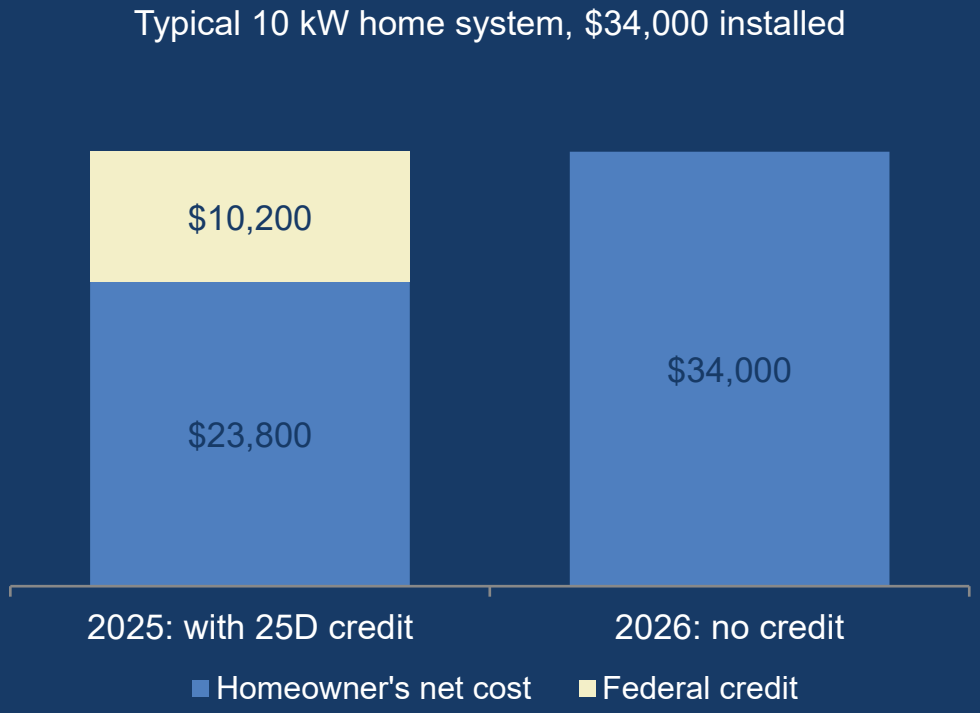
- Shorter construction periods
- Maximum net output below 1 MW: exception from prevailing-wage and apprenticeship rules
- Better odds of meeting the Dec. 31, 2027 deadline

But tax-compliance costs do not scale down

- PFE sourcing analysis
- Credit-transfer diligence
- Start-of-construction documentation

Much of Vermont's pipeline consists of smaller projects, but size alone no longer determines access to the 5% safe harbor

The residential hit, in dollars



$10,200

in federal credit on a typical Vermont home system, now gone

Source: SunCommon testimony to VT House Energy & Digital Infrastructure Committee, Feb. 12, 2026

Three takeaways

Dates

Began by July 4, 2026: continuity safe harbor generally to 2029 or 2030. Later: in service by Dec. 31, 2027.

Proof

The court restored the 5% safe harbor, but you need a defensible cost calculation, proof of incurrence and continuous efforts.

Sourcing

PFE rules apply to 2026 and later starts. Treasury safe-harbor tables due by Dec. 31, 2026.

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With the federal credits narrowing, how do Vermont projects close the gap?

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General information only; not legal or tax advice for any specific project.

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