

Tribal Infrastructure Development Program



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Elective Pay and Tribal Entities: Tax Credit Opportunities in the Inflation Reduction Act

What is Elective Pay?

For the first time ever, the Inflation Reduction Act (IRA) allows tax-exempt and governmental entities (including Tribal Nations, 501(c)(3) organizations, and others) to take advantage of tax credits for qualifying projects. With elective pay, Tribal entities can receive a direct payment equal to the full value of tax credits for qualifying infrastructure projects, with emphasis on clean energy projects. Unlike competitive grant and loan programs, in which applicants may not receive project funding, elective pay allows eligible entities to receive a cash payment from the Internal Revenue Service if they meet the requirements and follow the process for both the underlying tax credit and elective pay. Elective pay offers a novel mechanism for Tribal entities to access vital federal funds for clean energy projects, but like many funding opportunities, Tribal Nations must determine whether this makes sense for our communities and current capacity.

What is considered a qualifying project?

There are [12 applicable tax credits](#) available for elective pay. You will need to know what credit you intend to earn and use elective pay for. Projects that may qualify fall under three general categories: (1) renewable energy projects, such as fuel cells and energy storage; (2) projects drawing from renewable energy sources, such as wind, solar, biomass, and geothermal energy; and (3) clean vehicles, such as purchasing commercial clean vehicles or installing alternative fuel vehicle refueling or charging properties in low-income or non-urban areas.

Example: A federally recognized Tribal Nation plans a solar panel installation project to generate clean energy for the community center or Tribal housing developments. Through elective pay, the Tribal Nation can receive up to 30% of the capital cost under the Investment Tax Credit. A Tribal Nation may qualify for an additional 10% or 20% off the capital cost through the [Low-Income Communities Bonus Credit](#).

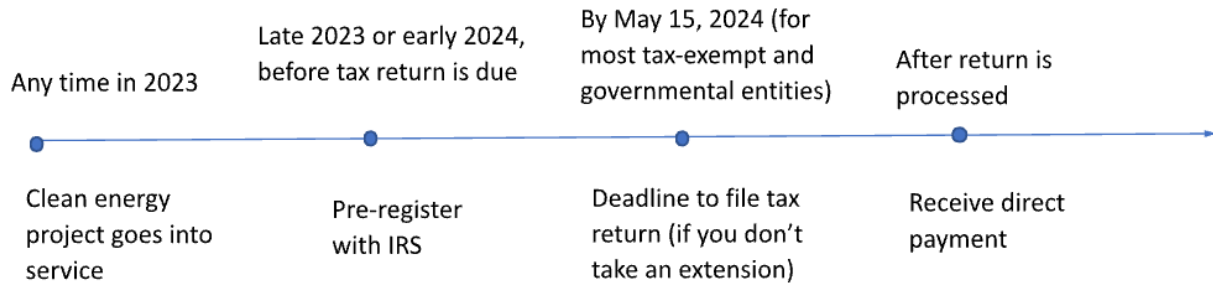
How to apply for Elective Pay

Most simply put, a Tribal Nation that wants to access an elective pay-eligible credit will (1) identify a qualifying project; (2) complete the project; (3) identify the tax year for which the tax credit will apply; (4) register the project with the IRS by completing the pre-filing registration process at least 120 days prior to the filing deadline; and (5) make an elective pay election by filing the tax return Form 990-T by the filing deadline. The Tribal Nation will receive payment from the IRS within approximately 45 days of the filing deadline.

The elective pay process can be challenging for a Tribal Nation that has little experience with tax filing or clean energy projects to navigate. There are resources available for technical support specific to Tribal

Nations and other tax-exempt entities. The IRS is providing [office hours](#) to answer questions about the pre-filing registration process. All Tribal Nations seeking to take advantage of elective pay are encouraged to seek individual guidance from accounting, tax, and legal professionals.

Timeline Example for a Project Eligible for Elective Pay



Pre-filing Registration Support

In order to be eligible to make the election for elective pay on your tax return, you must register with the IRS at least 120 days before filing. Pre-filing registration must be completed via the [online tool available on the IRS website](#). Once an applicant completes pre-filing registration, the IRS will assign a nine-digit Tax Identification Number (TIN) to the project. The TIN must be used on the tax return for your project. If you are filing for more than one project, you will need a unique TIN for each project and thus will need to complete pre-filing registration for each project. There is a [step-by-step pre-filing registration resource](#) available. Please reach out to us for resources and assistance.

Why should Tribal Nations and Entities apply for Elective Pay?

We know that Tribal governments have the wisdom to self-govern in a way that is best for citizens of their Nations. Elective pay presents an opportunity for funding clean energy, power and transportation projects that benefit the community. Taking advantage of tax credits via elective pay and investing the dollars received from the federal government back into the community is a first-of-its-kind financial opportunity that can transform Tribal infrastructure while boosting economic development.

To find funding opportunities available under the IRA, access advocacy, education, outreach, training, and resource materials – and to view a calendar of events including relevant congressional hearings, testimony, webinars, and consultations – visit us at www.usetinc.org/infrastructure. With questions, please contact Melanie Plucinski, Tribal Infrastructure Development Policy Analyst at mplucinski@usetinc.org