



## Alternative & Renewable Energy Tax Newsalert

### IRS Revokes Earlier Ruling That Allowed Taxpayer to Include Facility-Specific PPAs in Wind Farms' Cost Basis

December 13, 2012

On December 7th, the Internal Revenue Service released a notice that it was revoking an earlier private letter ruling (PLR-128349-11), in which it determined that facility-specific power purchase agreements ("PPAs") for wind energy facilities need not be treated as depreciable assets separate from the facilities themselves, and thus were includable in facility cost basis. For a description of the initial ruling, see [our prior news alert](#).

The December 7th notice provides no analysis, simply stating that the PPA must be valued separately and that the prior PLR has been found not to reflect the "current views of the Service."

In the earlier PLR, the Service found that any value created by a PPA that is facility-specific and not separately transferable should be included in the adjusted depreciable basis of the facility to which it is related rather than treated as a separate intangible. Under this conclusion, upon acquisition, any value of a PPA would be part of the depreciable basis of the wind energy facility subject to that agreement.

#### **PwC observations**

The December 7th notice reverses the potentially taxpayer-favorable result in the original PLR, which generally would have led to greater eligible basis for both the section 48 investment tax credit and the Treasury section 1603 cash grant

program. However, many advisors questioned whether the prior PLR was intended to be read so broadly, and government officials quickly signalled that result would not be controlling for the Treasury grant program.

Taxpayers who may have included PPAs in cost basis should now consider how to best reconcile that position with the recent notice.

#### **For more information**

For prior alerts on alternative and renewable energy tax issues, please see our [news archive](#).

In addition to the Alternative & Renewable Energy Tax News alert, PwC also publishes a cross-disciplinary News alert providing updates on cleantech, sustainable development, and the business impacts of US climate and energy policy. For further information and to sign up for these alerts, click [here](#).

For more information about using energy tax incentives to meet your renewable energy goals, please contact a member of PwC's Sustainable Business Solutions tax team:

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