

ACORE Summary and Analysis

IRS Notice 2026-15

Guidance to Apply Interim Safe Harbors for Purposes of Determining a Taxpayer’s Material Assistance from a Prohibited Foreign Entity; Other Prohibited Foreign Entity Guidance

Issued February 12, 2026

Overview of IRS Notice 2026-15

[Notice 2026-15](#) is the first substantial guidance that has been released to implement the One Big Beautiful Bill Act’s (OBBBA; [Public Law 119-21](#)) new prohibited foreign entity (PFE) restrictions. This interim guidance principally covers the restrictions on material assistance from a PFE in the statute. It does not address in much detail “taxpayer-level” issues related to PFE diligence and related issues (e.g., clarifications on debt issuance, primary taxpayer, etc.).

The notice provides interim guidance that taxpayers can rely on for clean energy facilities (QFs) and energy storage technologies (ESTs) that began construction after December 31, 2025, as well as for eligible components sold during taxable years beginning after July 4, 2025. This interim guidance generally will be applicable until 60 days after new rules and tables are published, or until new safe harbor tables are published.¹ It also initiates a 45-day comment period (through March 30, 2026) seeking public feedback on implementing the law. The docket for comments is live and available [here](#).

The notice is made up of ten total sections (see attached Section-by-Section Appendix), with the most significant substantive sections being sections 3 and 4.

Guidance on Identifying, Tracking, and Calculating Clean Energy/Eligible Component Material Assistance Cost Ratios (MACR)

Section 3 of the notice contains provisions that the Treasury Department and the IRS intend to propose in forthcoming regulations. This section provides guidance on how taxpayers should calculate the MACR for QFs and ESTs that claim either the 45Y Clean Electricity Production Credits or 48E Clean Electricity Investment Credits

¹ The guidance regarding the use of Interim Safe Harbors to calculate the material assistance cost ratio for purposes of eligible components under § 45X may only be relied on until the date that safe harbor tables and other guidance are published, with no 60-day grace period.

(referred to in the notice as the “Clean Electricity MACR”), and how taxpayers should calculate the MACR for eligible components produced using the 45X Advanced Manufacturing Production Credit (referred to in the notice as the “Eligible Component MACR”). This includes methods for identifying and tracking manufactured products (MPs) and manufactured product components (MPCs) that must be accounted for in the Clean Electricity MACR calculations, as well as for identifying and tracking “Constituent Materials” that must be accounted for in the Eligible Component MACR. The notice also outlines certain interim safe harbors that provide taxpayers with options for calculating their MACR.

Interim Safe Harbors and Applicability

Section 4 outlines the methods by which taxpayers may rely on the previously issued domestic content safe harbor tables, as permitted by the OBBBA, through the “Identification Safe Harbor” and the “Cost Percentage Safe Harbor.” Generally, the guidance clarifies how to use the tables and guidance contained in the “2023-2025 Safe Harbors” (which refer, collectively, to: [Notice 2023-38](#), [Notice 2024-41](#), and [Notice 2025-08](#)) to comply with the new material assistance requirements. Section 4 also outlines the use of the new “Certification Safe Harbor.”

Across Sections 3 and 4, the notice provides clarification on MACR calculations for projects subject to the 80/20 rule for retrofitted QFs; provides for a 10 percent de minimis allocation; confirms that steel and iron items are not relevant for determining MACRs; explains the relationship between QFs and interconnection property and methods of calculating MACRs for interconnection property; and clarifies that taxpayers electing to use the Identification Safe Harbor or Cost Percentage Safe Harbor must consider the items listed in the domestic content safe harbor tables to be the “exclusive and exhaustive list” of items used in their projects.

Other OBBBA Implementation Issues

Section 5 of the notice describes additional rules that the Treasury Department and the IRS intend to propose, which relate to: 1) foreign-influenced entities (FIEs), and 2) rules related to evasion, circumvention, or abuse of the application of PFE restrictions.

This section includes a brief description of how the Treasury Department and the IRS are likely to approach effective control payments, which taxpayers may rely on for purposes of calculating their Clean Electricity or Eligible Component MACRs until the date that is 60 days after the forthcoming rules are published.

Specifically, the notice states that effective control is determined independently under each of the thirteen criteria laid out in OBBBA and that triggering any of the provisions will be considered sufficient to grant effective control. The notice includes an example of how the statute is expected to be applied. This example states that if a taxpayer makes a payment to a specified foreign entity (SFE) under a licensing agreement for the provision of intellectual property (with respect to a QF pursuant to an agreement entered into or modified on or after July 4, 2025), that payment would constitute effective control by the SFE, and the taxpayer would be considered an FIE.

ACORE Analysis of IRS Notice 2026-15

In November 2025, ACORE provided [recommendations](#) and a [letter](#) to the Treasury Department and the IRS on a range of taxpayer-level, as well as material assistance matters. The issues covered by the February 12th notice are generally limited to material assistance. Questions related to taxpayer-level restrictions are not addressed in this guidance. The notice indicates that forthcoming guidance and regulations will be released to address PFE issues.

ACORE's material assistance comments focused on four particular matters, which the interim guidance makes progress in addressing. This analysis is based on review of the interim rule, and ACORE looks forward to working with members to assess the workability of the interim guidance as it works to develop comments.

The table below provides a brief overview of the more detailed recommendations made in ACORE's letter with the outcomes from the February 12th guidance.

ACORE-Identified Component Level Issues for Guidance

Issue	ACORE Proposals	Notice 2026-15
Clarify MACR Calculations	Clarify how taxpayers can use existing safe harbor tables and whether safe harbor tables represent exhaustive lists of items for MACR calculation	Sections 3 and 4 provide guidance on how taxpayers may use 2023-2025 Safe Harbor Tables for identifying, tracking, and calculating MACRs for QFs/ESTs/45X eligible components, circumstances in which tables serve as "exclusive and exhaustive" lists for MACR calculation purposes, and other guidance. Section 4 outlines Identification, Cost Percentage, and Supplier Certification Safe Harbors.
	Make clear that taxpayers need not get certification of components beyond Applicable Project Components (APCs)/Manufactured Product Components (MPCs) listed in existing safe harbor tables for purposes of calculating MACRs for Sections 45Y and 48E.	New "Identification Safe Harbor" (ISH) allows taxpayers to treat MPs/MPCs identified in 2023-2025 Safe Harbor Tables as the "exclusive and exhaustive list." Unlisted items are disregarded for purposes of the MACR calculation. (NOTE: Technologies not included in existing tables cannot use ISH).
	Allow taxpayers to opt to rely on 1) safe harbor tables or 2) supplier certifications independently.	Example 3 in Section 4.04 clarifies that a taxpayer may rely on the Certification Safe Harbor, even if they do not qualify for reliance on the Identification or Cost Percentage Safe Harbors.
	Allow manufacturers to use safe harbor table percentages as substitute for actual costs.	Projects that qualify for use of the ISH may use the Cost Percentage Safe Harbor and substitute safe harbor table percentages for actual costs.
Clarify PFE Analysis Timing for Suppliers	Clarify a date certain when PFE status should be measured for suppliers, such as the date when a supply agreement is entered into.	Section 3.01(5)(c) clarifies that for QFs and ESTs that "year of determination" for when an MP or MPC is PFE-produced depends on the PFE status of the relevant entities as of the taxable year during which the taxpayer paid or incurred Direct Costs attributable to such MP or MPC under the taxpayer's method of accounting. Similar guidance for 45X eligible components is contained in Section 3.02 (5)(c).
Clarify 45X Component Level	Confirm that for 45X credit, material assistance cost ratio (MACR) calculation is made at the eligible component level.	Section 3.02(1) clarifies that a separate MACR must be calculated for each eligible component sold during a taxable year.
Clarify that only Direct Suppliers are Counted	Confirm that taxpayers must only account for their direct suppliers of subcomponents that are used to produce 45X eligible components for purposes of the MACR calculation.	Under Section 3.02(1)(b), taxpayers must determine whether Constituent Materials are PFE sourced by determining the PFE status of their direct supplier, provided the direct supplier is not "merely a reseller."

Additional Background on OBBBA Clean Energy Tax Credit Changes:

The OBBBA made changes to several federal tax credits for clean energy generation and manufacturing. These changes included phasing out the eligibility of solar and wind technologies to claim federal tax credits if they begin construction after July 4, 2026, or are placed in service after 2027.

The law also applied new prohibited foreign entity provisions at the taxpayer-level, and prohibitions on “material assistance” by PFEs in excess of certain thresholds for QFs, ESTs, or eligible components (i.e., certain manufactured items). These restrictions apply to Internal Revenue Sections 45Y (Clean Electricity Production Credit), 48E (Clean Electricity Investment Credit), and 45X (Advanced Manufacturing Production Credit) as well as 45Q (Carbon Oxide Sequestration), 45U (Advanced Nuclear), and 45Z (Clean Fuels). (NOTE: Material assistance provisions are not applicable to 45Q, U, and Z).

Taxpayer-level restrictions are generally applicable for tax years beginning after enactment (for calendar-year taxpayers, beginning in 2026), and material assistance restrictions are applicable to projects that begin construction after December 31, 2025, or to eligible components sold in taxable years beginning after July 4, 2025.

The taxpayer-level restrictions disallow taxpayers that are PFEs from claiming federal clean energy tax credits. PFE is an umbrella term that encompasses: Specified foreign entities (SFEs), foreign-controlled entities (FCEs), and foreign-influenced entities (FIEs). Taxpayers must assess whether PFEs meet certain thresholds for ownership (equity, etc.) or debt ownership, whether PFEs have the ability to appoint directors, and whether agreements are in place or applicable payments are made that confer “effective control” to a PFE. Triggering these thresholds can lead to disqualification of tax credits and render a taxpayer a PFE.

The “material assistance” restrictions limit the amount of equipment produced by PFEs that can be used in QFs or ESTs, for purposes of Sections 45Y or 48E, or eligible components, for purposes of Section 45X, with required thresholds increasing annually depending on the technology. In order to comply with the law, taxpayers must calculate a “material assistance cost ratio” that is derived by determining the total direct costs to the taxpayer attributable to manufactured products (including components), subtracting the total direct costs attributable to all manufactured products (including components) mined, produced, or manufactured by a PFE, and dividing that by total direct costs attributable to all manufactured products upon completion of construction. A similar analysis is conducted for eligible components under Section 45X using direct material costs, rather than direct costs. Taxpayers that miscalculate or otherwise fail to meet the thresholds may be subject to penalties.

Threshold Percentages for Qualified Facilities, Energy Storage Technologies, And Eligible Components								
	CY 2026	CY 2027	CY 2028	CY 2029	After CY 2029 (CY 2030 for Critical Minerals)	CY 2031	CY 2032	After CY 2032
Qualified Facilities	40%	45%	50%	55%	60%	60%	60%	60%
Energy Storage Technology	55%	60%	65%	70%	75%	75%	75%	75%
Eligible Components								
Solar	50%	60%	70%	80%	85%			
Wind	85%	90%	n/a	n/a	n/a	n/a	n/a	n/a
Inverter	50%	55%	60%	65%	70%	70%	70%	70%
Battery Component	60%	65%	70%	80%	85%	85%	85%	85%
Critical Minerals*	0	0	0	0	25%	30%	40%	50%

*Percentages subject to change pursuant to subsequent Treasury Guidance**

Rules and guidance to implement this new regime were included in the IRS’s [Priority Guidance Plan](#) that was released in September 2025. The law also directs the Treasury Department to issue rules on certain aspects of the law by the end of 2026 and also provides certain “catch all” authorities for implementation.

Next Steps

Notice 2026-15 states that the Treasury Department and the IRS intend to issue additional guidance and rulemakings in the future that will address additional matters. ACORE will be working with members to assess the workability of the guidance contained in the notice, identify additional issues for clarification, and develop additional comments for the Treasury Department and the IRS in response to the 45-day comment deadline (March 30).

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