OFFICE OF CLIMATE CHANGE, SUSTAINABILITY AND RESILIENCY

CITY AND COUNTY OF HONOLULU

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November 4, 2022

Internal Revenue Service
CC:PA:LPD:PR (Notice 2022-50)
Room 5203
P.O Box 7604, Ben Franklin Station
Washington, D.C. 20044

To Whom It May Concern,

Thank you for the opportunity to comment on the implementation of the Inflation Reduction Act (“IRA”), a landmark piece of legislation for the United States. The City and County of Honolulu Office of Climate Change, Resiliency and Sustainability (“Resilience Office”) was established by the voters in the City Charter in 2016. Since then, the Resilience Office has worked on tracking climate change, preparing for impacts of climate hazards, and ensuring the island of O‘ahu is on track to meet our 100 percent renewable energy and net-negative carbon emission goals by no later than 2045. Through this work, the Resilience Office has had many recent successes: adopting the City’s first Climate Action Plan in 2021, establishing a Buildings Benchmarking Program earlier this year to increase efficiency and resiliency of our built environment, continuing to work with community to design and develop the City’s climate adaptation strategy, and much more.

Honolulu is also the nation’s leader in adoption of solar photovoltaic (PV) per capita, an accomplishment significantly advanced by the availability of tax credits, and additionally motivated by our predominate historical dependence on price-volatile oil for electricity generation. We are excited that many tax provisions included in the IRA can be utilized by tax exempt entities under section § 6417. However, despite this expanded use, challenges remain in ensuring that tax credits by themselves do not further inequities in the clean energy transition nor leave people behind. In the State of Hawai‘i in 2019, those making $60,000 or less represented only 35.5 percent of the number of State Renewable Energy Tax Credits, despite comprising 65.9 percent of the State’s population. We share this experience to urge and support all continued efforts to ensure low- and moderate-income communities, nonprofits, tax-exempt entities, and other community-based organizations can equitably access the tax credits provided in the IRA. Hawai‘i continues to advance big, bold climate goals, but there needs to be timely and urgent support to advance the clean energy transition in way that is accessible and equitable.

With this in mind, we would like to provide comments on both Notice 2022-50 and Notice 2022-51:

Notice 2022-50:

.01 Elective Payment of Applicable Credits (§ 6417).

(7) With respect to the timing of elections and (8) to the timing and manner of payments:

- Timing is a key factor for local governments in planning for projects and submitting budgets. It would be ideal for tax exempt entities to be able to submit elections for direct payments throughout the year so that payments can be distributed as soon as possible rather than during a predetermined window. Payments from the Treasury Department should aim to be as timely as possible. For community-based organizations and projects targeting low- and moderate-income communities this is especially important as access to funds are often a barrier to clean energy project development and implementation.

(13) With respect to any other topics that may require guidance:

- There is need for clarity on, in the case of third party partnerships with tax exempt organizations, which party is eligible for the benefit of the credit. For example, if a project is financed, designed and/or constructed on behalf of a tax exempt organization, is the third party organization or the tax exempt entity eligible to claim the credit? Clear guidelines need to be established that account for circumstances where multiple parties are involved in both ownership and project development and what, if any, documentation needs to be provided that identifies the sole eligible party as such. The Treasury should also explore a mechanism that allows for a credit to be split between two applicable entities.

- More generally, tax exempt entities would benefit from clear guidance that outlines exactly how direct pay percentages are calculated now and over time, including how domestic content, apprenticeship and labor, energy community bonuses, and low-income adder bonus and/or requirements inform election amounts. Dedicated technical assistance for tax exempt entities and under-resourced communities looking to take advantage of direct pay provisions would also be welcome.

Notice 2022-51:

.04 Energy Community Requirement

(7) With respect to any other topics that may require guidance:

On September 1, 2022 the AES Hawai‘i Power Plant, a medium-sized, coal-fired electrical power station closed as part of a State goal to reduce greenhouse gas emissions. This closure falls under § 45(b)(11)(B)(iii), and as a result, census tract 9803 and its adjacent tracts, 85.02 and 86.20, can each be defined as an “energy community.” O‘ahu’s (i.e., the City and County of Honolulu’s) electrical grid is especially unique because it is contained entirely on island, with no inter-jurisdictional connections. As a result, the closure of the AES Hawai‘i Power Plant that was previously producing one-fifth of the island’s electricity has impacted electricity prices for residents island-wide. The limited definition of “energy community,” as defined by census tract under §45(b)(11)(B)(iii), ignores O‘ahu’s unique grid and position as an island community. As such, we would support an expanded definition of “energy community” under §45(b)(11)(B)(iii) that employs larger geographic bounds such as at the county level and/or some recognition for the unique circumstances of islands’ isolated, stand-alone grids. Additionally, many sources do not include the AES Hawai‘i Power Plant closure in their data because of how recently it was decommissioned. Because of this, we encourage the Treasury Department to allow communities across the United States who may not seem to meet the definition of “energy community” an opportunity to apply for “energy community” status given the most updated and accurate data available.

We look forward to the provision of more guidance and the opportunity for increased communication and collaboration throughout the implementation of the IRA.

Sincerely,

Matthew J. Gonser

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