

November 4, 2022

SUBMITTED ELECTRONICALLY

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

The Honorable Lily L. Batchelder  
Assistant Secretary for Tax Policy  
Department of the Treasury  
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Mr. William M. Paul  
Principal Deputy Chief Counsel and Deputy Chief  
Counsel (Technical)  
Internal Revenue Service  
1111 Constitution Ave., NW  
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**RE:** Notice 2022-50 - Request for Comments on Elective Payment of Applicable Credits and Transfer of Certain Credits

Submitted via [www.regulations.gov](http://www.regulations.gov)

To Whom It May Concern:

On behalf of Siemens Gamesa Renewable Energy, I am writing to provide comment on the Internal Revenue Service's (IRS) Notice 2022-50, Request for Comments on Elective Payment of Applicable Credits and Transfer of Certain Credits.

Siemens Gamesa is an original equipment manufacturer (OEM) operating at a global scale across the entire wind spectrum – onshore, offshore, and services – that installs and services turbines that generate over 122 gigawatts of wind power around the world.

In the United States, Siemens Gamesa onshore wind turbines represent an installed capacity of over 26 GW, with domestic facilities manufacturing onshore wind turbine generators (WTG) blades in Fort Madison, Iowa and nacelles in Hutchinson, Kansas. At full capacity, these facilities have the ability to support over 250 jobs in Iowa and Kansas between them.

For offshore wind, Siemens Gamesa is the global market leader with approximately 50% of the market share across the globe. Siemens Gamesa has committed to WTGs to four forthcoming offshore wind projects in the United States amounting to over 4.3 GW. Moreover, in

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conjunction with the supply of WTGs for the Coastal Virginia Offshore Wind project, SGRE has signed a long-term lease with the Virginia Port Authority at the Portsmouth Marine Terminal to construct a facility that will support the domestic manufacturing of SGRE's IntegralBlades. The facility – to date the only offshore wind blade facility committed to by an OEM in the United States– will create 260 long-term manufacturing jobs at the Port of Virginia.

Siemens Gamesa appreciates the opportunity to provide comments on questions posed by IRS related to the elective payment of applicable credits under § 6417 and transferability of applicable credit under § 6417 of Public Law (P.L.) 117-169. Answers are provided below to specific questions posed by IRS in Notice 2022-50:

**.01 Elective Payments of Applicable Credits (§ 6417)**

***.01(3). In determining the amount treated as making a payment against tax under § 6417(a), is guidance needed to clarify the application of any other Code provision? If so, what is the Code provision and what clarification is needed?***

Guidance is requested to clarify that direct pay elections may be made by a transferee of tax credits under § 6418. Guidance is needed to clarify whether a transferee taxpayer within the meaning of § 6418(a) includes an applicable entity as defined in § 6417(d)(1)(A). An applicable entity that receives all or a portion of an eligible credit pursuant to an election made under § 6418 should, to the extent such eligible credit is also an applicable credit as defined in § 6417(b), be entitled to make an election under § 6417 with respect to that credit.

Guidance is also requested to clarify that if direct pay is elected by taxpayer treated as an applicable entity under § 6417(d)(1)(D)(i) for any years under § 45X, transferability may be elected for the remaining years under § 6418.

***.01(5)(c). Is guidance needed to clarify the application of any Code provision other than § 6417 to an applicable entity, or a taxpayer electing to be treated as an applicable entity, that makes an election under § 6417(a)? If so, what is the Code provision and what clarification is needed?***

§ 6417(d)(1)(D)(i) allows taxpayers other than entities described in § 6417(d)(1)(A) to be treated as an applicable entity with respect to the credit established in § 6417(b)(7). § 6417(c)(1)(D)(ii) provides a limitation stipulating that any such taxpayer making an election with respect to a taxable year shall be treated as having made such election for each of the 4 succeeding taxable years ending before January 1, 2033.

With respect to the limitation under § 6417(d)(1)(D)(i), taxpayers should be able to elect to use the five-year allowance of direct pay in non-consecutive years. For instance, a taxpayer may elect in year 1 to use direct pay, elect the standard credit in year 2, and then in years 3-6 elect direct pay again. A taxpayer may also reelect an additional five-year allowance after the expiration of the first five-year allowance.

Similarly, Treasury should clarify that elections made by taxpayers treated as an applicable entity under § 6417(d)(1)(D)(i) are allowed on a *facility-by-facility basis* rather than requiring entities to make an election that would apply to each facility owned by that entity that is eligible to receive the credit. Such a clarification is required given substantially different production schedules at each eligible facility impacting the ability to make the election and the utility of doing so.

***.01(6)(b). What factors should the Treasury Department and the IRS consider in determining the time and manner for making the election?***

IRS should allow for taxpayers to make the election on a quarterly basis rather than an annual basis, thereby allowing the payment to be received by the taxpayer on a quarterly basis.

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Thank you for allowing the opportunity to provide comments. We look forward to working with the Department of the Treasury as it considers the most effective and efficient ways to implement the provisions included in the Inflation Reduction Act. Please do not hesitate to reach out with any questions.