Comment from Sustainable Westchester

Dear Department of the Treasury Staff,

Please find Sustainable Westchester's comments attached in response to Notice 2022-50.

Thank you,

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Sustainable Westchester
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To: The Department of the Treasury
Fr: Sustainable Westchester
Re: Inflation Reduction Act - Notice 2022-50
Date: November 4, 2022

Credit Monetization - Notice 2022-50

Sustainable Westchester is a non-profit organization whose members are 44 municipalities and Westchester County, representing over one million residents, that offers sustainability solutions designed to make a measurable impact at scale. Since 2016 Sustainable Westchester has provided residents and small businesses with clean energy programs that provide access to renewable electricity, support the development of renewable energy assets such as solar and energy storage installations, enable participation in electricity demand response initiatives, building decarbonization, and encourage the adoption of electric vehicles among other clean transportation solutions. Sustainable Westchester is also deeply committed to the idea that a sustainable future is an equitable future. We invest in underfunded and environmentally burdened communities by providing resources that address inequities and foster climate resilience. We submit the following comments based on our experience and expertise working with communities to advance toward an equitable, resilient, clean energy future.

Direct Pay, Transfer of Certain Credits

Tax Exempt entities should be able to attract developers of energy properties based on assurances that a credit monetization will be available at the time of the execution. A process should be in place where a Private Letter may be issued to that tax exempt entity in the project planning phase that gives assurances that the credit will be applicable if the project goes forward. That would lower the perceived risk to the third parties investors that the tax exempt party will not be in position to repay them (based on the credits).

The same applies to the potential transfers. If a third party (e.g., the developer) agrees with the tax exempt entity to acquire the producing assets after the tax exempt entity has, e.g., cashed in the ITC to further benefit from their depreciation.

Other transfer issues would be related to the five year limitation election for the PTC and the type of depreciation schedule that would be acceptable to the IRS.