

What You Need to Know About Being a Business Energy Tax Credit Pass-through Partner

The Business Energy Tax Credit Program was created by the 1979 Legislature as an incentive program to encourage business owners to initiate energy projects. It provides a tax credit for business owners who invest in energy projects.

35 percent tax credit:

- Improving energy efficiency
- Recycling
- Burning less polluting transportation fuels
- Reducing employee commuting

50 percent tax credit:

- Using renewable resources
- Manufacturing renewable energy equipment

Since 1980, the Oregon Department of Energy has issued more than 12,000 Business Energy Tax Credits. Total project costs exceed \$989 million.

How the Business Energy Tax Credit Program works

A project owner applies for a Business Energy Tax Credit before the project work begins. The Oregon Department of Energy reviews the application and issues a preliminary certificate if eligible and preliminary certified cost of the project. When the project is completed, the owner completes a final certification application. The Oregon Department of Energy reviews and issues a final certificate specifying the tax credit amount. If the eligible costs of the project are more than \$20,000, the tax credit is taken over five years with 10 percent taken in the first two years and 5 percent taken the final three years (10 percent a year for 50 percent tax credits). If the eligible costs of the project are \$20,000 or less, the tax credit can be taken in one year. A tax credit recipient may carry forward a tax credit for a maximum of eight years.

Pass-through Option added to Business Energy Tax Credit Program

In 2001, the Legislature added a new feature to the program called the Pass-through Option. This option allows an entity with no Oregon tax liability (such as a non-profit organization, school, tribe, city or other public entity), to also participate in the Business Energy Tax Credit. The entity can “pass through” its tax credit eligibility for an eligible energy project to a business or individual partner with an Oregon tax liability. A non-profit organization, school or other public entity can not benefit from the Business Energy Tax Credit without the participation of a pass-through partner. For-profit businesses may also use the Pass-through Option and choose to pass their tax credit eligibility to a partner.

Upon project completion, the pass-through partner makes a lump-sum pass-through payment to the project owner. The pass-through partner then recoups their investment by claiming the tax credit against their own state tax liability. The current pass-through payment rate is 25.5 percent of eligible project costs for 35 percent tax credits and 33.5 percent for 50 percent tax credits. For tax credits with eligible costs of \$20,000 or less the current pass-through rate is 30.5 percent for 35 percent tax credits and 43.5 percent for 50 percent tax credits.

There may be tax implications in using the Pass-through Option. We advise participants to consult their tax preparer.

How does a pass-through partner benefit?

A pass-through partner can benefit in several respects. The Pass-through Option:

- Provides an opportunity to help communities, schools, non-profit organizations
- Enhances their public image and support of “green” business
- Provides a return on investment
- Promotes projects that conserve energy for all

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Are there implications of being a pass-through partner?

The Pass-through Option of the Business Energy Tax Credit Program does not make the pass-through partner liable for the success of the project technology, project costs, project completion or continuation of the project. The pass-through partner's only role is to pay the project owner the specified pass-through amount after Oregon Department of Energy's final certification. Once a final tax credit certificate is issued to the pass-through partner, the tax credit can not be revoked. The Oregon Department of Energy advises both parties to consult with their tax preparer for information regarding tax implications. Staff can not give tax advice.

What does a pass-through partner need to do?

1. A pass-through partner provides the Oregon Department of Energy with the name of a specific project owner he or she would like to partner with. If the partner doesn't know of any specific project, he or she can provide the Oregon Department of Energy with the amount of tax liability to match to completed projects. We will also need to know of any special conditions For example, a pass-through partner may only want to partner with public schools. (Please note: It is easier for us to match a pass-through partner's full tax liability if there are no restrictions.)
2. There is limited paperwork for a pass-through partner. A pass-through partner must sign an agreement that includes their name, address and federal tax identification number.
3. The Oregon Department of Energy will provide the pass-through partner with the name(s) of the project owners and the pass-through amounts. The pass-through partner writes and sends the checks directly to the project owners.
4. The Oregon Department of Energy send the pass-through partner the tax credit certificate in their name upon confirmation of the payment from the project owner.
5. The pass-through partner files their tax credit with their Oregon income tax return.

Example

1. Oregon State University (OSU) has a campus building lighting improvement project costing \$100,000 and applies for a Business Energy Tax Credit before beginning the project.
2. The Oregon Department of Energy reviews the application and issues a preliminary certificate for eligible project costs of \$100,000.
3. A business owner agrees to be a pass-through partner and completes the Pass-through Option agreement.
4. OSU completes the project and final application.
5. The Oregon Department of Energy reviews the application and sends a letter to the pass-through partner.
6. The pass-through partner sends OSU a check for the pass-through amount of \$25,500 (25.5 percent of eligible project costs).
7. OSU sends the Oregon Department of Energy confirmation of payment.
8. The Oregon Department of Energy issues the final tax credit certificate to the pass-through partner in the amount of \$35,000 (35 percent of eligible project costs).
9. The pass-through partner files the \$35,000 tax credit over a five-year period (\$10,000 for each of the first two years and \$5,000 for each of the next three years).

Result:

- OSU reduces their energy project costs by 25.5 percent (\$25,500).

