

Demystifying the Elective Pay Filing Process



Government Finance
Officers Association



LAWYERS FOR
GOOD
GOVERNMENT



- 1. Step 1: Filing Timelines**
- 2. Step 2: Pre-Filing Reg Portal**
- 3. Step 3: Tax Forms Are Fun!**
 - a. Form 990-T
 - b. Form 3800 General Business Credit
 - c. Form 8936 EV Vehicles + Schedule A
 - d. Form 3468 Investment Credit (ITC)
 - e. Form 8911 EV Infrastructure
- 4. Building Internal Power - Finance/Atty**
- 5. Resources to Help**

Agenda



This Is Not Legal or Accounting Advice Tailored to Any Individual or Entity



Today's discussion provides a high-level legal overview only and should not be considered tailored legal advice to any one applicable entity.

Please consult your in-house attorney and your finance officer with questions about your specific matter.

Legal Disclaimer: The information provided on this presentation does not, and is not intended to, constitute legal advice; instead, all information, content, and materials provided are for general guidance purposes only.



Step 1: When Do I File? May 15th? Nov 15th?



General Rule: 4.5 months after the end of the tax year your project was completed, or 10.5 months IF you use the extension.

Example #1: Calendar Year = Jan 2023-Dec 2023

- Project completed Aug 30, 2023
- First filing deadline = May 15, 2024; extension until Nov 15, 2024

Example #2: Fiscal/Tax Year = July 2023-June 2024

- Project completed Aug 30, 2023
- First filing deadline = Nov 15, 2024; extension until May 15, 2025



Step 1B: Six-Month Extension; Paperless vs. Request



- **Everyone** can get a 6-month extension to filing deadline
- **Paperless for most:** Government entities filing *for the first time for 2023 projects* get a *paperless extension* without having to filing the extension form.
- **Not Paperless:** If your entity filed tax forms previously, you will need to use **Form 8868** by your first deadline (**May 15 for many**) to request extension
- **Most gov entities are typically first-time filers. If you're unsure:**
 - Ask your finance officer!
 - If they don't know, have them call TEGE Customer Account Services (877-829-5500) to confirm what forms have been filed by the entity.
 - If that doesn't work, email:
`irs.elective.payment.or.transfer.of.credit@irs.gov`



Step 1C: Fiscal Period Analysis; Calendar vs. Fiscal Year



10 EVs
placed into service
(March 2023)

Solar Project
placed into service
(August 2023)

*graphic is for illustrative purposes only and should not be used for direct legal advice

2023												2024						
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	July

Filing Option 1: Calendar Year

- All 2023 projects covered
- Initial deadline for calendar year filing: **May 15, 2024**
- Six-month extended deadline: **Nov. 15, 2024**

*****Can change back to a non-calendar fiscal year in future years**

Filing Option 2: Fiscal Year (July-June)

- Only solar project PIS in August is eligible
- The 10 EVs are excluded
- Initial deadline for this fiscal year filing: **Nov. 15, 2024**
- Six-month extended deadline: **May 15, 2025**



Build a Timeline: Roadmap for Nov. 15 Filing



Entity generally leads on effort to complete each step.

We can answers questions as they arise:
reach out to L4GG at cleanenergy@L4GG.org



Collecting All the Info You Need



Qualified Commercial Clean Vehicles Credit - Section 45W - Eligibility Analysis Tool (December 11, 2023)

DISCLAIMER: This tool was prepared for state agency representatives for purposes of utilizing elective pay ("direct pay") to reduce the cost of deploying clean energy projects. This tool is primarily designed to help capture aspects of the credit, such as which items of property are eligible. Other requirements may apply. This spreadsheet does not provide legal or tax advice. Please consult an accountant or tax counsel as needed for accounting purposes.



Alternative Fuel Vehicle Fuel Property Credit - Section 30C - Eligibility Analysis Tool (December 11, 2023)

DISCLAIMER: This tool was prepared for state agency representatives for purposes of utilizing elective pay ("direct pay") to reduce the cost of deploying clean energy projects. This tool is primarily designed to help capture aspects of the credit, such as which items of property are eligible. Other requirements may apply. This spreadsheet does not provide legal or tax advice. Please consult an accountant or tax counsel as needed for accounting purposes.



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2
3
4
5

Location
1 [Street]
2 [Street]
3 [Street]
4 [Street]
5 [Street]
6 [Street]
7 [Street]
8 [Street]
9 [Street]
10 [Street]

Elective Pay ITC/PTC Worksheet

DISCLAIMER: This tool was prepared for state agency representatives for purposes of utilizing elective pay ("direct pay") to reduce the cost of deploying clean energy projects. This tool is primarily designed to help capture aspects of the credit, such as which items of property are eligible. Other requirements may apply. This spreadsheet does not provide legal or tax advice. Please consult an accountant or tax counsel as needed for accounting purposes.

#	Project Name	Project Type - ITC/PTC (Solar, wind, storage, geothermal, other)	Energy Generation - Size of project (KW or MW)	Funding For the Project (Municipal bond, Grant, operational budget, CIP, etc.)	Over 1 MW? (Y/N)	Ownership Structure (Owned by the city, owned by developer, mixed ownership)	EIN of Owning/Filing Entity (Each registered project may only be claimed by one entity)	D
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Step 2: Complete Pre-Filing Registration Portal

Register to receive a unique ID for all of your eligible 2023 projects!

[IRS Pre-Filing Registration Portal](#)

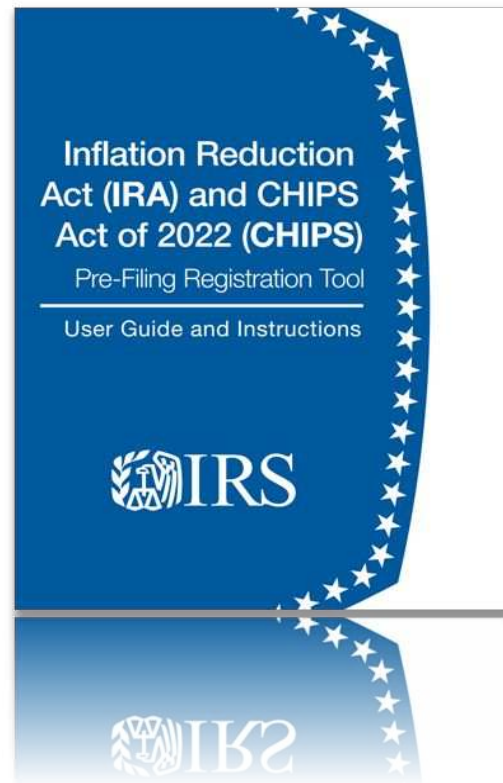
PRE-FILING REGISTRATION RESOURCES

- [IRS video walk-through of Pre-Filing Registration Portal](#)
- [IRS Publication 5884](#) - “Pre-Filing Registration Tool User Guide”
(with screenshots)
- [IRS Publication 5902](#) - User ID and ID.me info
- [NEW: IRS-Hosted Office Hours: 5/1, 5/8, 5/15](#)



Relevant Pre-Filing Registration Info

1. You may already have an ID.me account!
2. Things to have handy
 - a. Login credentials (see [ID.me Help Center](#))
 - b. Placed into service date
 - c. EIN and tax filing period
 - d. Banking information
 - e. “Ownership” verification
 - f. Facilit(ies) information
 - g. [Census tract information](#)
3. Who was a part of the process?
4. Understanding the attestation
5. Considerations for tax year/fiscal year





Tips: Register in Portal AS SOON AS POSSIBLE



Strictly financial internal controls

- Purchase orders and “placed in service” (...when was your project completed?)
- ERP or financial systems tracking of relevant transactions
- Tracking Unique Entity Identifiers (SAM.gov) of vendors ... and your own organization
- Financing and the capital stack including (...how did you pay for your project?)
 - Tax-exempt opinions
 - Ongoing continuing disclosures to investors
- Preparation and reconciliation of all information required for filing new tax forms
- Accounting for receipt of elective payment



Step 3: Tax Forms are Fun!

**May 15, 2024 or
November 15, 2024
(for most entities)**

Rules to Remember:

- Complete tax forms by Filing Deadline
- **You will get used to these forms!**
- File **all** eligible properties (projects) completed within same tax year on **same** filing with IRS
- **Every** eligible property needs a unique ID (if you don't have one, go back to Step #2)
- No one tax form cocktail fits all
- Will prepare a combo of tax forms based on which credit(s) you're using
- 990-T and 3800 almost always required if you've never filed before

Part III **Current Year General Business Credit**
lines 4a through 4z, enter the number

(a) Current year credits from:		(b) Elective payment or transfer registration number
1a	Form 3468, Part II	
b	Form 7207	
c	Form 6765	
d	Form 3468, Part III	
e	Form 8826	
f	Form 8835, Part II	
g	Form 7210	
h	Form 8820	
i	Form 8874	
j	Form 8881, Part I	
k	Form 8882	
l	Form 8864 (diesel)	
m	Form 8896	
n	Form 8906	
o	Form 3468, Part IV	
p	Form 8908	
q	Reserved (45Z)	
r	Form 8910	
s	Form 8911, Part II	
t	Form 8830	
u	Form 7213, Part II	
v	Form 3468, Part V	
w	Form 8932	
x	Form 8933	
y	Form 8936, Part II	
z	Reserved	
aa	Form 8936, Part V	
bb	Form 8904	
cc	Form 7213, Part I	
dd	Form 8881, Part II	
ee	Form 8881, Part III	
ff	Form 8864, line 8	
gg	Reserved (1gg)	
hh	Reserved (1hh)	
ii	Reserved (1ii)	
jj	Reserved (1jj)	
zz	Other credits	
2	Add lines 1a through 1zz	

Department of the Treasury
Internal Revenue Service
Name(s) shown on return

Attach to your tax
Go to www.irs.gov/Form8936 for instructions.

Notes: • Complete a separate Schedule A (Form 8936) for each clean vehicle.
• Individuals completing Parts II, III, or IV, must also complete Part I.

Part I **Modified Adjusted Gross Income Amount**

- 1a Enter the amount from line 11 of your 2023 Form 1040, 1040-SR,
b Enter any income from Puerto Rico you excluded
c Enter any amount from Form 2555, line 45
d Enter any amount from Form 2555, line 50
e Enter any amount from Form 4563, line 15
- 2 Add lines 1a through 1e
- 3a Enter the amount from line 11 of your 2022 Form 1040, 1040-SR,
b Enter any income from Puerto Rico you excluded
c Enter any amount from Form 2555, line 45
d Enter any amount from Form 2555, line 50
e Enter any amount from Form 4563, line 15
- 4 Add lines 3a through 3e
- 5 Enter the **smaller** of line 2 or line 4

Part II Credit for Business/Investment Use Part of New Cl

Note: Individuals can't claim a credit on line 6 if Part I, line 1 is a qualifying surviving spouse; \$225,000 if head of household).

6 Enter the total credit amount figured in Part II of Schedule(s) A (Form 990-E) for the year ended 12/31/2007.
7 New clean vehicle credit from partnerships and S corporations (see instructions).
8 **Business/investment use part of credit.** Add lines 6 and 7. Partnerships and S corporations report this amount on Schedule K. All others, report this amount on Schedule E.

Part III Credit for Personal Use Part of New Clean Vehicles

Note: You can't claim the Part III credit if Part I, line 5, is a qualifying surviving spouse; \$225,000 if head of household).

9 Enter the total credit amount figured in Part III of Schedule(s) A (Form 1040), line 18.
10 Enter the amount from Form 1040, 1040-SR, or 1040-NR, line 18.
11 Personal credits from Form 1040, 1040-SR, or 1040-NR (see instructions).
12 Subtract line 11 from line 10. If zero or less, enter -0- and stop here.
13 **Personal use part of credit.** Enter the smaller of line 9 or line 12.
1040), line 6f. If line 12 is smaller than line 9, see instructions.

Part IV Credit for Previously Owned Clean Vehicles

Note: You can't claim the Part IV credit if Part I, line 5, qualifying surviving spouse; \$112,500 if head of household).

14 Enter the total credit amount figured in Part IV of Schedule(s) A (F
15 Enter the amount from Form 1040, 1040-SR, or 1040-NR, line 18
16 Personal credits from Form 1040, 1040-SR, or 1040-NR (see instructions)
17 Subtract line 16 from line 15. If zero or less, enter -0- and stop here
18 Enter the **smaller** of line 14 or line 17 here and on Schedule 1
smaller than line 14, see instructions

Part V Credit for Qualified Commercial Clean Vehicles

19 Enter the total credit amount figured in Part V of Schedule(s) A (Form 990-E) for the tax year.
20 Qualified commercial clean vehicle credit from partnerships and S corporations.
21 Add lines 19 and 20. Partnerships and S corporations, stop here. If you are an individual, K, All others, report this amount on Form 3800, Part III, line 1aa.

For Paperwork Reduction Act Notice, see separate instructions.

Department of the Treasury
Internal Revenue Service
Name(s) shown on return

Attach to your tax return.
Go to www.irs.gov/Form8936 for instructions and the latest information.

Identifying number

Part I Vehicle Details

1a Year
b Make
c Model

2 Vehicle identification number (VIN) (see instructions)
3 Enter date vehicle was placed in service (MM/DD/YYYY)

4 Was the vehicle used primarily outside the United States? Answer "No" if it was but an exception applies. See instructions.
☐ **Yes. Stop here.** You can't claim a credit amount for a vehicle used primarily outside the United States.
☐ **No.**

5 Does the VIN entered on line 2 belong to a **new clean vehicle** placed in service during the tax year? See instructions for definitions.
☐ **Yes.** Go to Part II.
☐ **No.** Go to line 6.

6 Does the VIN entered on line 2 belong to a **previously owned clean vehicle** acquired after 2022 and placed in service during the tax year? See instructions for definitions.
☐ **Yes.** Go to Part IV.
☐ **No.** Go to line 7.

7 Does the VIN entered on line 2 belong to a **qualified commercial clean vehicle** acquired after 2022 and placed in service during the tax year? See instructions for definitions.
☐ **Yes.** Go to Part V.
☐ **No. Stop here.** You can't use this schedule to figure a credit amount for a vehicle not described on line 5, 6, or 7.

Part II	Credit Amount for Business/Investment Use Part of New Clean Vehicle
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8 Did you acquire the vehicle for use or to lease to others, and not for resale? Answer "No" if you are leasing the vehicle from another person. ☐ Yes. ☐ No. Stop here. You can't claim a credit amount for a vehicle you didn't acquire for use or to lease to others, or acquired for resale.	
9 Tentative credit amount (see instructions)	9
10 Business/investment use percentage (see instructions)	10 %
11 Multiply line 9 by line 10. Include this credit amount on line 6 in Part II of Form 8936. If you entered 100% on line 10, stop here. Otherwise, go to Part III below	11

Part III Credit Amount for Personal Use Part of New Clean Vehicle

12	Subtract line 11 from line 9 in Part II. Stop here and include this credit amount on line 9 in Part III of Form 8936	12
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For Paperwork Reduction Act Notice, see the Form 8936 instructions.

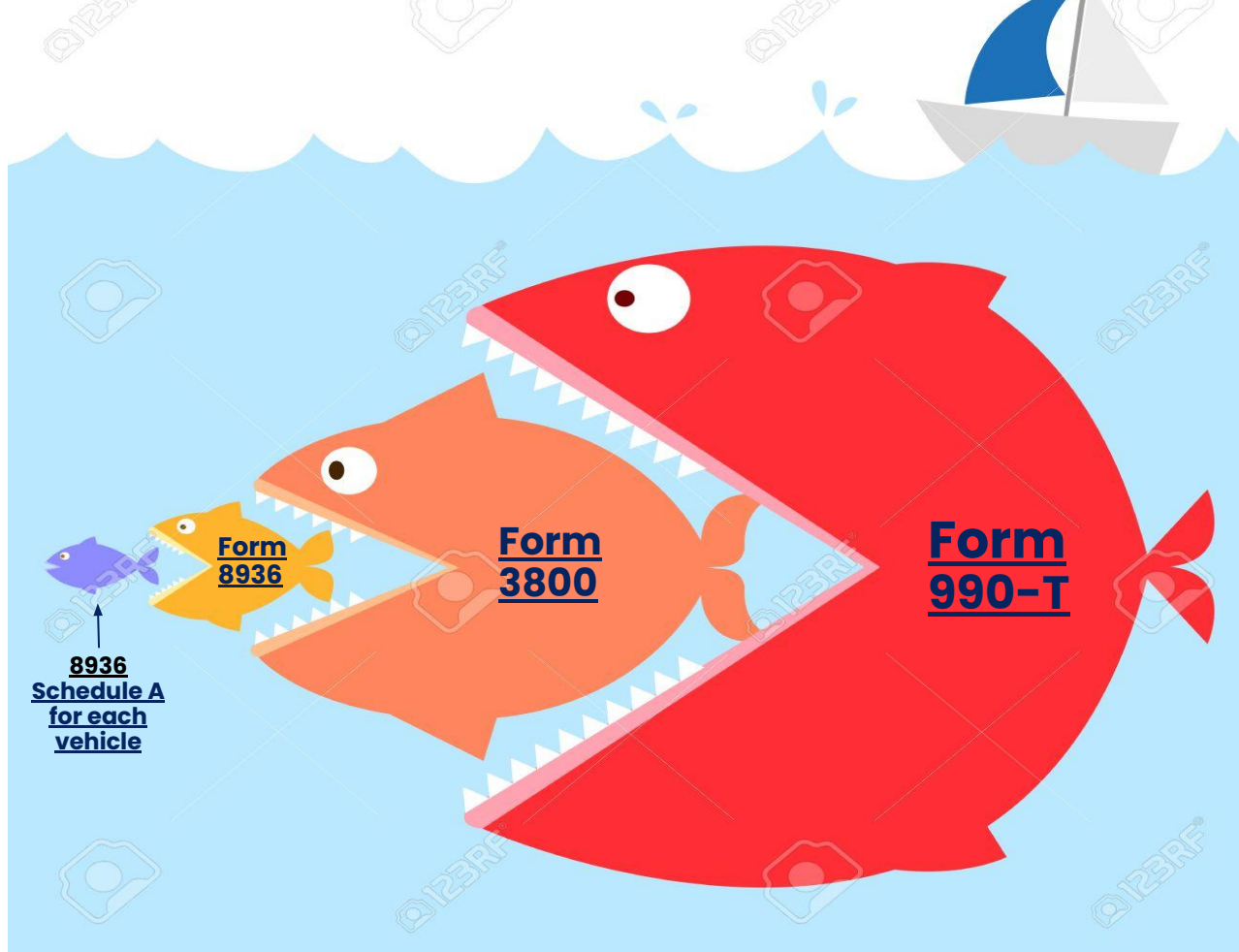
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Schedule A (Form 9936) 2023



Forms Feed into Each Other

EV Example:





2023 Form 990-T

Think of 990-T as a summary form that you complete once you fill out all of the specific eligible property forms (e.g. EV Vehicles, ITC, EV Infrastructure, etc.)

Form 990-T (2023)

Page 2

Part III Tax and Payments (continued)

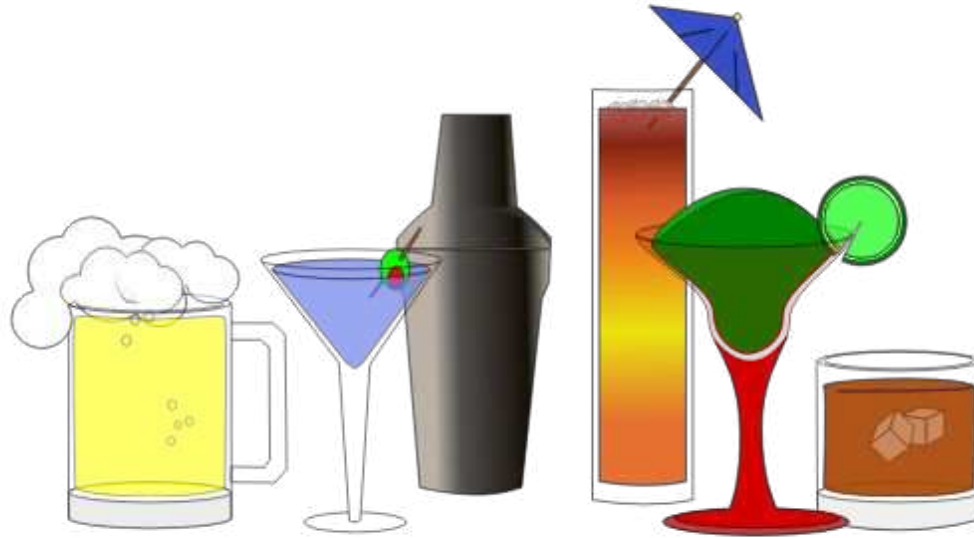
Part IV Statements Regarding Certain Activities and Other Information (see instructions)

Part V Supplemental Information

Provide any additional information. See instructions.



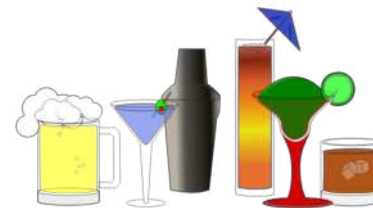
Each Credit Will Involve a Cocktail of Tax Forms



Every credit cocktail will include Forms 990-T and 3800



Each Credit Will Involve a Cocktail of Tax Forms



EV Purchases (Section 45W)

- [Form 990-T](#): Exempt Organization Business Income Tax Return, or other applicable income tax return
- [Form 3800](#): General Business Credit
- [Form 8936](#): Clean Vehicle Credit, plus
 - [Schedule A](#) for each vehicle

Energy ITC Section (Section 48)

- [Form 990-T](#): Exempt Organization Business Income Tax Return, or other applicable income tax return
- [Form 3800](#): General Business Credit
- [Form 3468](#): Investment Credit

EV Charging Infrastructure (Section 30C)

- [Form 990-T](#): Exempt Organization Business Income Tax Return, or other applicable income tax return
- [Form 3800](#): General Business Credit
- [Form 8911](#): Alternative Fuel Vehicle Refueling Property Credit

Every credit cocktail will include Forms 990-T and 3800



General Rules to Remember



- **Portal:** Complete pre-filing registration early (after project is placed in service) to allow time to fix mistakes
 - E.g. Plan to complete pre-filing in July/Aug for November 15, 2024 filing deadline
- **ID.me:** Must have ID.me account and authorization to attest on behalf of city
- **Documentation:** Work with finance and legal teams to collect all forms
- **Tax Forms: Pick all the right cocktails and file everything together for that tax year (just like personal returns)**
- Legal Questions? Ask L4GG's experts [here](#)
- Portal Questions? Ask GFOA's experts here: www.gfoa.org/ira-implementation-resources

Learn it once, and you have it for the next decade!



Building Your Internal & External Team

Internal Trio: Sustainability Director, Finance Officer, City Attorney

For more Complicated Projects (Solar > 5MW):

External Advisors, which may include:

- **Independent Engineer** – to design/build
- **Energy Market Advisor** – for complicated projects
- **Municipal Bond Tax Counsel**
- **Compliance Officer**
- **Outside tax counsel**
- **Accountant**
- **Cost segregation analysis**

Talking Points for In-House Attorneys

- This process will be around for a long time - currently slated until 2032, so we need to learn this sooner or later - the sooner, the more \$\$ city can get back from projects
- This NOT a competitive process- every eligible project WILL receive money; 30-70% of project costs back
- There is extensive technical assistance resources & attorneys available to get you up to speed
- It's our obligation to the public trust and our constituents to get every dollar back that we can for these projects
- The tax credits at issue here have been successfully received by private industry for over 20 years





Talking Points for Finance Officers

- IRS/Treasury Pre-filing Registration Tool is nothing to be afraid of, think SLFRF reporting
- Uncertainty about the program is no different than uncertainty for any federal program/funding
- Win/win if your jurisdiction was already thinking about/planning these types of clean energy investments
- While the heavy lift is on the front-end, elective pay is not like traditional federal grants (e.g. competitive, reporting requirements, etc.)
- We're all learning this together, resources and assistance is out there including from the IRS



Resources: Available Now and Coming Soon....

Available Now:

- Extensive curated resources on [L4GG's webpage](#):
 - [Sign up](#) for resource updates & [Free Federal Funding Resources](#)
 - [Worksheets & fact sheets](#) to aid collection of pre-filing info
 - L4GG's searchable [Elective Pay FAQ database](#) and ["Ask a Legal Question" form](#)
- Fact Sheets & Worksheets for identifying eligible projects & collecting info:
 - [ITC-Eligible Renewable Energy Generation Projects](#); [ITC/PTC Eligibility Worksheet](#)
 - [EV Purchases Worksheet](#); [EV Infrastructure Worksheet](#)
 - [Low-Income Communities Bonus \(LICB\) Fact Sheet](#)
- [Bonus Mapper](#) tool from WRI
- GFOA's [IRA Implementation Resources Page](#)
- Annotated Tax Forms for [EV \(45W\)](#) & [EVSE \(30C\)](#) from Electrification Coalition
- [Final Regulations on Elective Payment](#) (March 5, 2024)
 - Further detail at [Elective Pay Overview & FAQ](#); [IRS e-News Subscriptions](#) for updates

Even More Resources Coming Soon

- More Annotated Tax Forms coming soon...990-T, 3800, and 3468 (for ITC)
- Fact Sheet on Prevailing Wage and Apprenticeship Requirements (PWA for EVSE and ITC)
- **L4GG's Clean Energy Clinic - late June/July**
 - Subscribe [here](#) to receive notification when it launches



Q & A

