

# REAL ESTATE & CONSTRUCTION Alert

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## Cash Payments Instead of Tax Credits Are Now Available for Renewable Energy Projects

As a part of the fiscal stimulus legislation enacted earlier this year, the U.S. Treasury Department is now making available new cash grants for renewable energy property (the "Grants"). The Grants can be obtained in lieu of the existing tax credit program for renewable energy property.

The Grants will generally equal 10% or 30% of the basis of the renewable energy property, depending on the type of property. The Grants will be paid within 60 days after the renewable energy property is placed in service. The objective is to provide developers with a faster, more convenient payment program for renewable energy property than the existing tax credit program.

Eligible renewable energy property includes solar power and geothermal heat pumps added to structures. It also includes solar and wind farms, biomass, geothermal, hydropower, marine/hydrokinetic, landfill gas, and fuel cell resources, among others.

To be eligible for the Grants, the renewable energy property must either be placed in service before the end of 2010, or construction must begin before the end of 2010 and must be completed by a certain date specified by the Treasury Department depending on the type of renewable energy property. The Grants are only available for property used in a trade or business or held for the production of income. Residential improvements incorporating renewable energy property are not eligible for this program.

Grant applicants must be the owner or lessee of the property and must have originally placed the property in service. Governmental and tax-exempt entities, and certain pass-through entities with direct or indirect ownership by a governmental or tax-exempt entity are not eligible to receive the Grants.

The renewable energy generated from these projects are eligible for renewable energy certificates ("RECs") which can then be sold for up to \$400 per megawatt generated.

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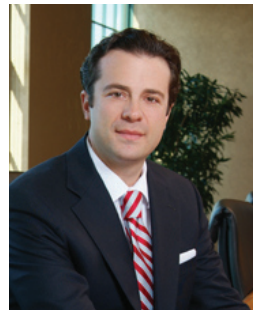
*The reader should consult legal counsel to determine how laws apply to specific facts and situations.*

RECs represent the attributes of electricity generated from renewable energy sources. These attributes are unbundled from the physical electricity, and the two products—the attributes embodied in the certificates and the commodity electricity—may be sold or traded separately. RECs are quickly becoming the currency of renewable energy markets because of their flexibility and the fact that they are not subject to the geographic and physical limitations of commodity electricity. RECs are currently used by utilities and marketers to supply renewable energy products to end-use customers as well as to demonstrate compliance with regulatory requirements, such as renewable energy mandates.

The U.S. Treasury Department began accepting applications for the Grants on August 1, 2009. Applications may be submitted online at <http://www.treasury.gov/recovery>. All applications must be received before October 1, 2011. For more information about the eligibility and qualification requirements for the Grants, please contact Jeff Geiger, Seth Ginther, or Marshall Jones.



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