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Internal Revenue Service
CC:PA:LPD:PR (Notice 2022-50)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC. 20044

Re: Covanta; Kent County Michigan Department of Public Works; Miami-Dade County, Florida; Islip Resource Recovery Agency, New York; Pasco County, Florida; Solid Waste Authority of Palm Beach County, Florida and the Florida Waste-to-Energy Coalition, Inc. comments in response to Notice 2022-50 (filed electronically via the Federal eRulemaking Portal at www.regulations.gov).

Covanta and the co-signing local governments appreciate having the opportunity to comment on the Department of Treasury (Treasury) and Internal Revenue Service (IRS) plan to implement the *Inflation Reduction Act (IRA)*(P.L. 117-169).

What follows are Covanta's comments on Notice 2022-50 regarding IRA's §6417 elective payment and §6418 credit transfer provisions.

About Covanta:

Covanta operates 38 waste-to-energy (WTE) facilities in North America in public-private partnerships with local governments. WTE technology converts municipal solid waste (MSW) that would otherwise be put in a landfill into renewable electricity via a controlled combustion process. WTE facilities are subject to stringent federal, state, and local air emissions and environmental requirements.

Covanta supports recycling and actively promotes programs that encourage communities to recycle. Studies have shown that communities with a WTE facility typically enjoy higher recycling rates than the national average. In addition, processing MSW at WTE facilities for electricity offsets, on average, one ton of greenhouse gas (GHG) emissions for every ton of waste processed. This occurs by displacing fossil fuels, avoiding methane produced by decomposing trash at landfills, and recovering metals for recycling.

As a result, Covanta’s North American facilities annually reduce GHG emissions by 21 million tons; produce enough renewable energy to power one million homes; and recycle 600,000 tons of metal.

§6417 Elective Payment Provision:

IRA allows “applicable entities” to treat certain credits¹ as a direct payment of tax instead of a credit against federal income tax liability. Applicable entities are treated as making a payment against federal income tax liability in an amount equal to credits that can in turn be claimed as elective payments under §6417. Applicable entities² include any State or political subdivision thereof. Taxpayers claiming the §45Q credit carbon oxide sequestration, §45X advanced manufacturing production credit, and the §45V clean hydrogen production credit are treated as applicable entities for purposes of §6417 and can claim elective payments in lieu of the underlying credits for 5-years.

Covanta owns and operates WTE facilities in partnership with local governments. In some instances, municipalities are the owner of the facility. Allowing State and municipalities to utilize IRA’s §6417 elective payment provisions will put these facilities on an even footing with other qualifying clean energy technologies, and in the process, help support the sustainable management of waste in localities across the country.

Guidance Regarding §6417 and Qualified Progress Expenditures for Elective Payments for State and Local Governments:

Current law allows taxpayers to utilize qualified progress expenditure rules similar to those in place under subsections (c)(4) and (d) of §46 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990) for purposes of the §48 Energy Credit (§48 ITC).³ The progress expenditure provisions are also incorporated in the §48E Clean Electricity Investment Credit (§48E ITC)⁴ enacted as part of IRA. In general, the qualified progress expenditures are applicable for energy property that will take at least 2 years to construct and is expected to have a useful life that will be 7 years or more.

There are significant costs incurred during construction and prior to the time a WTE facility is ultimately placed in service. The ability to help defray these costs consistent with progress expenditure rules prior to a facility being placed in service combined with the ability of State and local governments to utilize the §6417 elective payment provision will help remove upfront financial barriers to deploying WTE technology to sustainably manage waste and reduce harmful greenhouse gas (GHG) emissions.

Accordingly, Covanta and the co-signing local governments ask Treasury and IRS to issue guidance confirming that progress expenditure rules provided under the §48 ITC and the §48E ITC are

¹ §6417(b)

² §6417(d)(1)(A)

³ §48(b)

⁴ §48E(d)(1)

applicable for State and local governments who opt to utilize the elective payment provision provided under §6417.

Conclusion:

Covanta and the co-signing local governments sincerely appreciate having the opportunity to comment on Notice 2022-50 regarding the Treasury and IRS plan to implement IRA's provisions relating to the §6417 elective payment and §6418 credit transfer provisions. We look forward to working with both Treasury and IRS to implement these important provisions that will allow for the use of WTE technology to sustainably manage waste and meet the nation's climate goals.

Sincerely,

A handwritten signature in black ink, appearing to read "Paula Soos", written in a cursive style.

Paula Soos