



SUBMITTED ELECTRONICALLY

November 24, 2022

U.S. Department of the Treasury  
Internal Revenue Service  
Office of Chief Counsel, Passthroughs and Special Industries  
1111 Constitutional Avenue NW  
Washington, DC 20224

**Subject:** Comments on Elective Payment of Applicable Credits and Transfer of Certain Credits (Notice 2022-50)

**Responding Entity:** Eavor Inc.

**Respondent Contact:** Neil Ethier, Director – Business Development, Americas, 403-998-1771, [neil.ethier@eavor.com](mailto:neil.ethier@eavor.com)

On behalf of Eavor Inc, I respectfully submit the attached comments to the Department of the Treasury and the Internal Revenue request for Comments on Elective Payment of Applicable Credits and Transfer of Certain Credits (Notice 2022-49).

We appreciate the opportunity to respond to this request and welcome the opportunity to participate in any stakeholder engagement as the agency crafts this important guidance.

Best regards,

A handwritten signature in black ink, appearing to be "Neil Ethier", written over a horizontal line.

Neil Ethier, Director of Business Development – Americas

Eavor Technologies Inc. (<https://www.eavor.com>) is the developer of Eavor-Loop™ technology, a closed-loop geothermal system that provides a novel solution that enables scalable, baseload or dispatchable, emissions free electricity to be generated next to your demand.

Eavor-Loop™ is a disruptive geothermal system which eliminates or mitigates many of the issues with traditional geothermal. The key difference compared to existing

geothermal technologies is that Eavor-Loop™ is completely closed-loop: it is simply a buried-pipe system, akin to a deep radiator or heat exchanger.

Eavor's circulating fluid is not from a subsurface reservoir, but made up primarily of water added at surface, then circulated to harvest heat from deep in the earth to be used to generate electricity or in commercial direct heating and/or cooling applications.

The technology is scalable as there is no need for high temperature volcanic hotspots and no need for permeable aquifers or hydrothermal flow capacity. This makes it possible to scale up using repeatable standardized wells without being held back by a scarce resource and high-risk exploration.

Carbon-free technologies that can be dispatched to load-follow energy demand are needed to transition to a net-zero future. Geothermal would seem a natural fit for this issue but it has remained a niche solution because of its lack of scalability and dispatchability. Eavor has developed a deep closed-loop geothermal solution that addresses the challenge and provides firm lossless-load-following electricity at a lower cost than Hydrogen or Batteries. This solution allows for increased grid resiliency as it has the ability to place the source near the demand, thus limiting the amount of transmission needed to be built and eliminating the risk of events occurring on those transmission lines. This has the effect as well as improving safety and reliability of reducing the adverse impacts from energy generation by rural or remote areas.

There are numerous publications validating the thermodynamics of Eavor's system as well as capital assumptions. Please see a recently published paper written by the National Renewable Energy Laboratory (NREL), Techno-Economic Performance of Eavor-Loop™ 2.0 (Beckers et al., 2022). Eavor would be pleased to provide further technical publications if requested.

#### **.01 Elective Payment of Applicable Credits (§ 6417)**

(1) What, if any, guidance is needed to clarify the meaning of certain terms in § 6417, such as applicable credit and excessive payment? Is there any term not defined in § 6417 that should be defined in future guidance? If so, what is the term and how should it be defined?

*Eavor would like clarification from the IRS that Community Choice Aggregations (CCAs) are eligible for electing direct payment of applicable credits. CCAs are organized as Joint Powers Authorities of local governments and should fall under the "political subdivision" criteria for eligibility.*

#### **.02 Transfer of Certain Credits (§ 6418)**

(1) What, if any, guidance is needed to clarify the meaning of certain terms in § 6418, such as eligible credit, eligible taxpayer, and excessive credit transfer? Is there any term not defined in § 6418 that should be defined in guidance? If so, what is the term and how should it be defined?

*Is there a limit on the number of taxpayers who are eligible to receive the tax credit? We understand that they can only be transferred once, but can the tax credit be split up to multiple taxpayers*

(12) Please provide comments on any other topics that may require guidance.

*Clarification from the Treasury Department on how the eligible basis is determined would be helpful. Will the basis be determined by capital expended on a facility, including drilling costs for geothermal, or by the fair market value of the assets? What limitations exist for wrapping tax credits with other federal tax incentives? For example, intangible drilling costs and depreciation are currently often bundled as part of tax equity. Does a similar structure exist for transferability, or will the taxpayer forfeit the benefits?*