

Submitted Electronically via the Federal eRulemaking Portal

November 04, 2022

The Honorable Lily Batchelder
Assistant Secretary (Tax Policy)
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

William M. Paul
Principal Deputy Chief Counsel
Internal Revenue Service Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Request for Comments on Elective Payment of Applicable Credits and Transfer of Certain Credits (Notice 2022-50)

Dear Ms. Batchelder and Mr. Paul,

In furtherance of Ørsted's goal, creating a world that runs entirely on green energy, Ørsted either directly or through its affiliates, develops, constructs, owns, and operates offshore and land-based wind resources, solar farms, storage, and offshore transmission facilities. Ørsted is among the world's largest renewable energy companies and the global-leader in establishing utility-scale energy projects at sea, including developing more than 28 offshore wind farms and 17 offshore transmission systems. This portfolio includes the world's first offshore wind farm (Vindeby, 1991); America's first offshore wind farm (Block Island); and the world's largest (Hornsea 2). Ørsted's current installed offshore wind capacity is 7.6GW with another 2.3GW under construction. Ørsted has been awarded offtake agreements for about 5GW of offshore wind capacity on the east coast of the United States. With this extensive portfolio of offshore generation, Ørsted has designed and built the associated transmission assets including on- and offshore substations and converter stations and designed, permitted and constructed over one thousand miles of subsea export cables; and more than 1,700 miles of subsea array cables. Ørsted Onshore currently owns and operates 11 land-based wind farms, 4 solar farms, and 1 battery energy storage facility co-located with solar, with many more projects in various stages of development in the United

States. In total, approximately 4GW of renewable land-based generation is either operational or in an advanced construction stage.

Ørsted appreciates the opportunity to submit the following comments in response to the Request for Comments on Elective Payment of Applicable Credits and Transfer of Certain Credits (Notice 2022-50).

I. QUESTIONS FROM INTERNAL REVENUE SERVICE

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

Q4. With respect to an election under § 6417(a) made by a partnership or S corporation pursuant to § 6417(c)(1) for any applicable credit determined with respect to any facility or property held directly by a partnership or S corporation:

- (a) What, if any, issues could arise when a partnership or S corporation makes an election under § 6417(a) and what, if any, guidance is needed with respect to such issues?

Partnership with Tax-exempt Partner

Please address the scenario in which a partnership is partially owned by a tax-exempt partner and partially owned by a taxable partner. In this case, please clarify that if a joint venture treated as a partnership for U.S. federal income tax purposes validly elects out of Subchapter K under section 761, each partner is treated as the direct owner of its proportionate share of assets for purposes of section 6417 and section 6418, and is eligible to make separate elections thereunder based on such partner's individual status (i.e., a tax-exempt partner can elect direct payment under section 6417, while a taxable partner can either claim the applicable credit or elect to transfer under section 6418).

.02 Transfer of Certain Credits (§ 6418).

Q7. Is guidance needed to clarify how any other Code provision applies to an eligible taxpayer or a transferee taxpayer when an election is made under § 6418? If so, what is the Code provision and what clarification is needed?

§ 56A Corporate Alternative Minimum Tax

We believe that § 56A(c)(9) should be clarified. This section contains a specific exclusion from or adjustment to adjusted financial statement income for amounts attributable to an election for direct payments of certain credits. Please clarify that transferable credits under § 6418 would similarly be an exclusion from or adjustment to adjusted financial statement income pursuant to the § 56A Corporate Alternative Minimum Tax, thereby creating uniformity in the application of Section 6418 and Section 6417 for purposes of computing the § 56A Corporate Alternative Minimum.

II. CONCLUSION

Ørsted appreciates the opportunity to respond to this request for Notice 2022-50, and we would be pleased to discuss these comments with you if necessary.

Sincerely,



Peter Allen
CFO, Ørsted Americas