

The U.S. Inflation Reduction Act: Major Issues and Future Prospects

Seoul, South Korea

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Sheppard Mullin, together with Kim & Chang, a leading Korean law firm, will hold a joint seminar on Tuesday, April 2, 2024, in Seoul, South Korea on "The U.S. Inflation Reduction Act: Major Issues and Future Prospects."

While the U.S. Inflation Reduction Act (IRA) created a framework for cleantech investments by Korean and other non-U.S. firms to qualify for potentially extensive U.S. tax credits, uncertainties and challenges continue to accompany the tremendous opportunities provided by this unprecedented legislation. At this seminar, leading attorneys from both law firms will address and discuss how to navigate current and future opportunities as well as the major issues and challenges ahead.

Agenda

Special Allocation Partnerships (Presenter: Julie Marion, Sheppard Mullin)

Joint venture structures to hold assets that qualify for tax incentives are increasingly common. This topic will consider JV structures between foreign and US partners with different appetites to absorb tax benefits and under what circumstances such tax benefits can be specially allocated as a component of return to a partner with greater US tax appetite.

Section 30D Due Diligence Methodology and Precautions (Presenters: Soyeon Park, Hyesung Kim, Suhwa Jung, Kim & Chang)

In order to qualify for the tax benefits set forth in Section 30D of the Internal Revenues Code (IRC), complicated Foreign Entity of Concern (FEOC) regulations must be complied with and observed. We will look at what due diligence methodology should be adopted to prove the critical minerals and battery component content requirements, and what special considerations should be considered in the process. We will also discuss strategies for responding to situations that may frequently arise in practice for companies that need to respond to the needs of their customers who are subject to various supply chain due diligence legislation, including the IRA.

Monetizing Excess Tax Benefits (Presenters: Amit Kalra, Julie Marion, Katherine Gillespie, Sheppard Mullin)

The US has long used tax benefits as an incentive for renewable energy development. This has led developers to hold excess tax benefits that must be monetized to offset capital costs. This topic will compare traditional Tax Equity Financing structures with the emerging market for Tax Credit Transfers as added by the IRA. A financial comparison of the economics for an actual facility will be considered, along with the US tax considerations for foreign investors owning stock in a US corporation.

Foreign Entities of Concern (Presenter: Curtis Dombek, Sheppard Mullin)

The US has disqualified Chinese and certain other entities from supplying specified products for use in manufacturing that would otherwise qualify for IRA Tax Credits. The rules as implemented in agency regulations are intricate, however. There are important exceptions, transition rules and structuring provisions that call for careful corporate and supply chain planning.

The Relationship Between the IRA and the Global Minimum Tax (Pillar 2) (Presenter: Yeonwoo Lee, Kim & Chang)

The global minimum tax (Pillar 2) has been implemented in Korea effective January 1, 2024. Based on administrative guidance issued by the OECD, we examine the interactions of how IRA credits are treated under the global minimum tax regime and what their impact is on effective tax rates.

The Future of IRA Tax Benefits: Prospects for the New Regime (Presenters: Amit Kalra, Julie Marion, Katherine Gillespie, Sheppard Mullin)

Will a new administration in Washington, D.C. reverse the incentives for renewables included in the IRA? Republicans in the US House of Representatives have already proposed largely undoing the IRA's renewable energy incentives as a cost savings strategy. Although no one can be certain, this topic will include educated speculation about the incentives to rollback IRA provisions, the practical ability to accomplish such a rollback, and the regime (if any) that could be adopted in the place of tax incentives for renewable assets.

RSVP:

For more information or to RSVP, please contact Youna Choi at Ychoi@sheppardmullin.com.

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