

## WSGR ALERT

DECEMBER 2010

# TREASURY GRANT DEADLINE TO BEGIN CONSTRUCTION EXTENDED ONE YEAR

Earlier today, President Obama signed legislation (H.R. 4583) to extend for two years the Bush-era individual income tax rate reductions. H.R. 4583 also contains items of interest to the renewable energy sector, the most significant of which is a one-year extension of the deadline to begin construction of "specified energy property" for purposes of the cash-grant provisions enacted by Section 1603 of the American Recovery and Reinvestment Act of 2009. In addition, H.R. 4583 (i) extends 50 percent bonus depreciation for two years (generally, for property placed in service before January 1, 2013) and (ii) enacts a provision allowing 100 percent expensing of certain types of depreciable property placed in service after September 8, 2010, and before January 1, 2012.

The Section 1603 grant program allows owners and certain lessees of specific types of renewable energy property to receive a cash grant of, generally, 30 percent of the cost of the property in lieu of claiming certain tax credits with respect to the property. Before H.R. 4583 was enacted, grants were available only for property placed in service in 2009 or 2010 or for property placed in service after 2010 (and before the termination date of the credit available for the property), so long as construction of the property began in 2009 or 2010. H.R. 4583 allows grants to be paid with respect to specified energy property placed in service in 2009, 2010, or 2011, or placed in service after 2011 so long as construction of the property begins during 2009, 2010, or 2011 and the property is placed in service before the termination date

of the credit otherwise available for the property. The placed-in-service deadlines remain unchanged by H.R. 4583: December 31, 2012, for wind facilities; December 31, 2013, for closed-loop and open-loop biomass facilities, geothermal facilities, landfill gas facilities, municipal solid waste facilities, certain hydroelectric facilities, and marine and hydrokinetic facilities; and December 31, 2016, for qualified fuel cell property, solar property, qualified small wind energy property, qualified microturbine property, combined heat and power system property, and geothermal heat pump property. The deadline to apply for a grant has also been extended one year (to September 30, 2012).

For more information, please visit [http://www.wsgr.com/WSGR/Display.aspx?SectionName=publications/PDFSearch/wsgralert\\_section1603.htm](http://www.wsgr.com/WSGR/Display.aspx?SectionName=publications/PDFSearch/wsgralert_section1603.htm) to view our WSGR Alert on the Treasury Department's guidance and application materials for the Section 1603 cash-grant program; visit [http://www.wsgr.com/WSGR/Display.aspx?SectionName=publications/PDFSearch/wsgralert\\_grant\\_program.htm](http://www.wsgr.com/WSGR/Display.aspx?SectionName=publications/PDFSearch/wsgralert_grant_program.htm) to view our WSGR Alert on the Treasury Department's revisions to its guidance; and visit [http://www.wsgr.com/WSGR/Display.aspx?SectionName=publications/PDFSearch/wsgralert\\_energy\\_property\\_construction.htm](http://www.wsgr.com/WSGR/Display.aspx?SectionName=publications/PDFSearch/wsgralert_energy_property_construction.htm) to view our WSGR Alert on the Treasury Department's application for determining the beginning of construction.

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Andrew Bryant (abryant@wsgr.com or 206-883-2512) in Wilson Sonsini Goodrich & Rosati's tax practice with any questions.

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