



# **DIRECT PAY:** **What You Need to Know.**

July 20th, 2023  
11 AM PT/2 PM ET



# MEET YOUR HOST



**Nicole Withrow**  
**Director of Sales**

## Background

- Over 25 years of experience as a sales manager, contract administrator, and fulfillment coordinator.
- As the Sales Director at CollectiveSun, Nicole Withrow exemplifies a true trailblazer in the solar industry. With an unwavering commitment to sustainability and a deep understanding of the solar industry, Nicole is a driving force in helping organizations and communities embrace clean energy solutions.
- When Nicole isn't busy championing solar projects, you can find her immersed in environmental advocacy, supporting local initiatives, and promoting sustainability awareness in her community.

# DISCLAIMER

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**This information does not constitute legal or tax advice and should not be relied upon for any purpose. Please consult your legal counsel and tax advisor.**



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- 1 Meet CollectiveSun and Your Speakers
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- 3 3 Things You Need To Know about Direct Pay
- 4 New Solutions
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**WHO IS**  
**COLLECTIVESUN?**

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*Over a decade ago we recognized that nonprofits didn't have easy access to the myriad benefits that come with clean renewable energy.*



***So we started CollectiveSun***



# MEET CollectiveSun

- We streamline the process to support nonprofits trying to go solar
- We have supported over 200 nonprofit organizations on their solar journey
- We have been the industry's solar funding experts for over a decade +
- Active in 25 states & counting



# MEET YOUR SPEAKER



**Lee Barken**  
**Chief Community Officer**

## Background

- CPA, LEED-AP with a broad industry experience in renewable energy project finance, environmental commodities, consulting, and public analysis
- Active Board member of Cleantech San Diego and the Impact Investment committee at San Diego Grantmakers
- Bachelor of Science Degree in accounting from San Diego State University
- He is dedicated to helping nonprofits and social ventures develop economically viable energy projects.



# WHAT IS DIRECT PAY?

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The 2022 Inflation Reduction Act brings forth a groundbreaking provision known as "Elective Pay" or "Direct Pay," which has far-reaching benefits for tax-exempt and governmental entities. For the very first time, these organizations will have the opportunity to receive a payment equivalent to the full value of tax credits when they construct qualifying clean energy projects.

## Summary

<https://www.whitehouse.gov/cleanenergy/directpay>

## Treasury Guidance

<https://federalregister.gov/d/2023-12798>

# 3 THINGS YOU NEED TO KNOW ABOUT DIRECT PAY\*

*\* plus 1 thing you probably don't need to know*

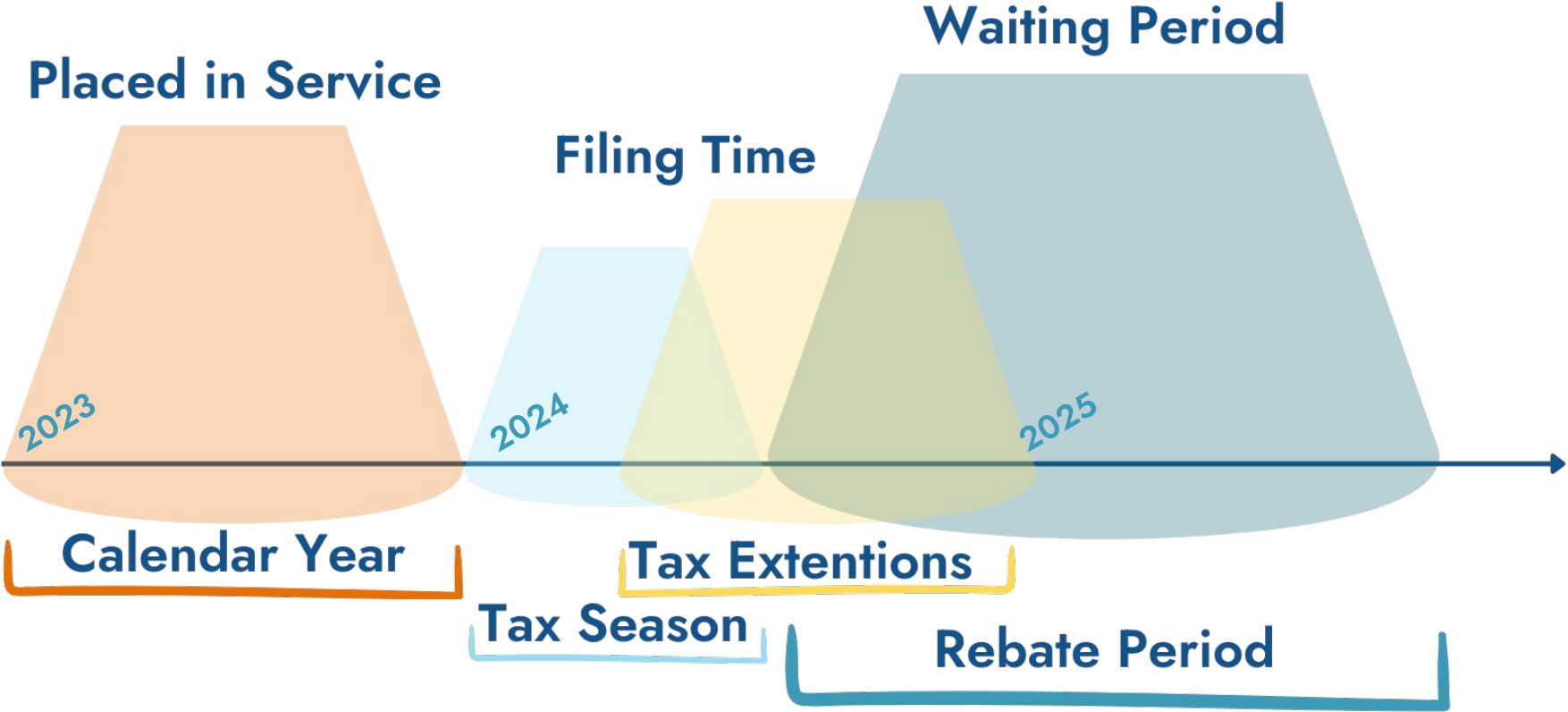
**1. Timing Issues**

**2. Excessive Benefit**

**3. Audit Risk**



# DIRECT PAY TIMELINE

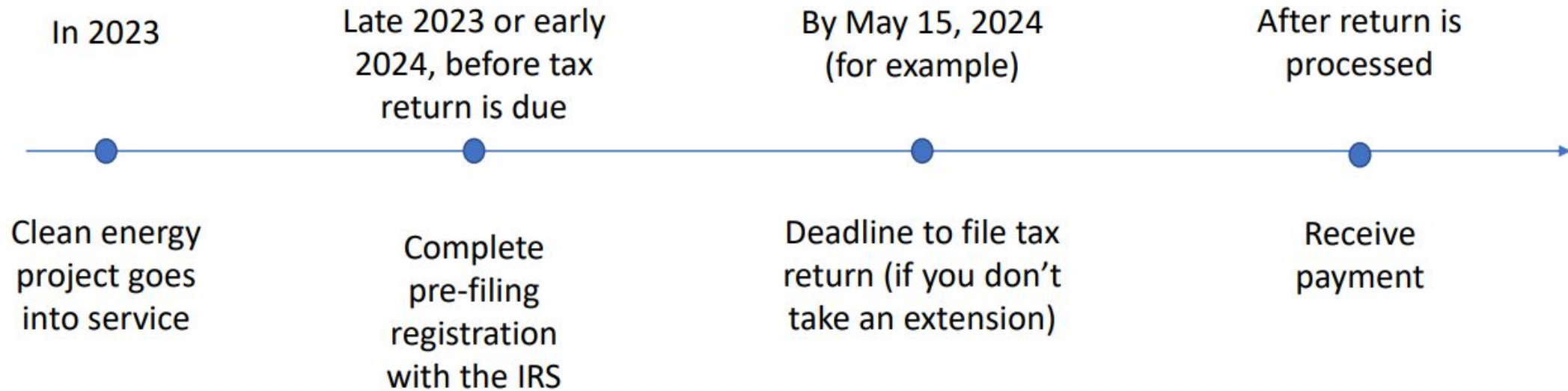


Note: The rebate period begins when the tax return is filed.

## Example Timeline: Local Government Project Placed Into Service in 2023

A local government that makes a clean energy investment that qualifies for the investment tax credit can file an annual tax return (via Form 990-T) with the IRS to claim elective pay for the full value of the investment tax credit, as long as it meets all of the requirements, including a pre-filing registration requirement.

As the local government would not owe other federal income tax, the IRS would then make a refund payment in the amount of the credit to the local government.

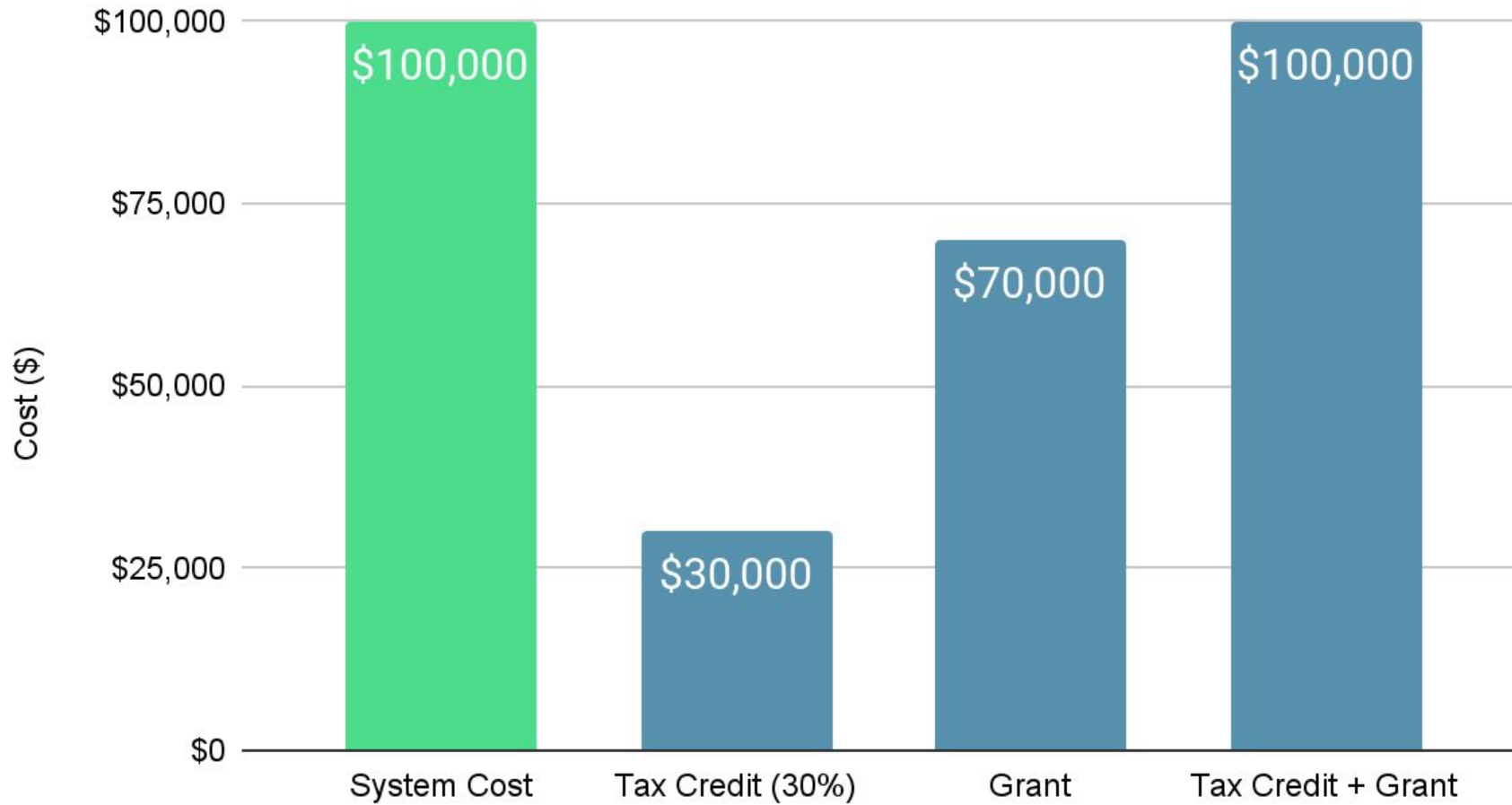


# EXCESSIVE BENEFIT

However, to prevent an excessive benefit, proposed § 1.6417-2(c)(3) would provide that, if an applicable entity receives Tax Exempt Amounts for the specific purpose of purchasing, constructing, reconstructing, erecting, or otherwise acquiring an investment credit property (Restricted Tax Exempt Amount), and the Restricted Tax-Exempt Amount plus the applicable credit otherwise determined with respect to that investment-related credit property exceeds the cost of the investment-related credit property, then the amount of the applicable credit is reduced so that the total amount of applicable credit plus the amount of any Restricted Tax Exempt Amount equals the cost of investment credit property.

# EXCESSIVE BENEFIT

"Excessive Benefit"?



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# EXCESSIVE BENEFIT



## Pre-filing Registration

“...for purposes of preventing duplication, fraud, improper payments, or excessive payments.”

(E) If an investment-related credit property (as defined § 1.6417-2(c)(3)), the source of funds the taxpayer used to acquire the property; and



# EXCESSIVE BENEFIT



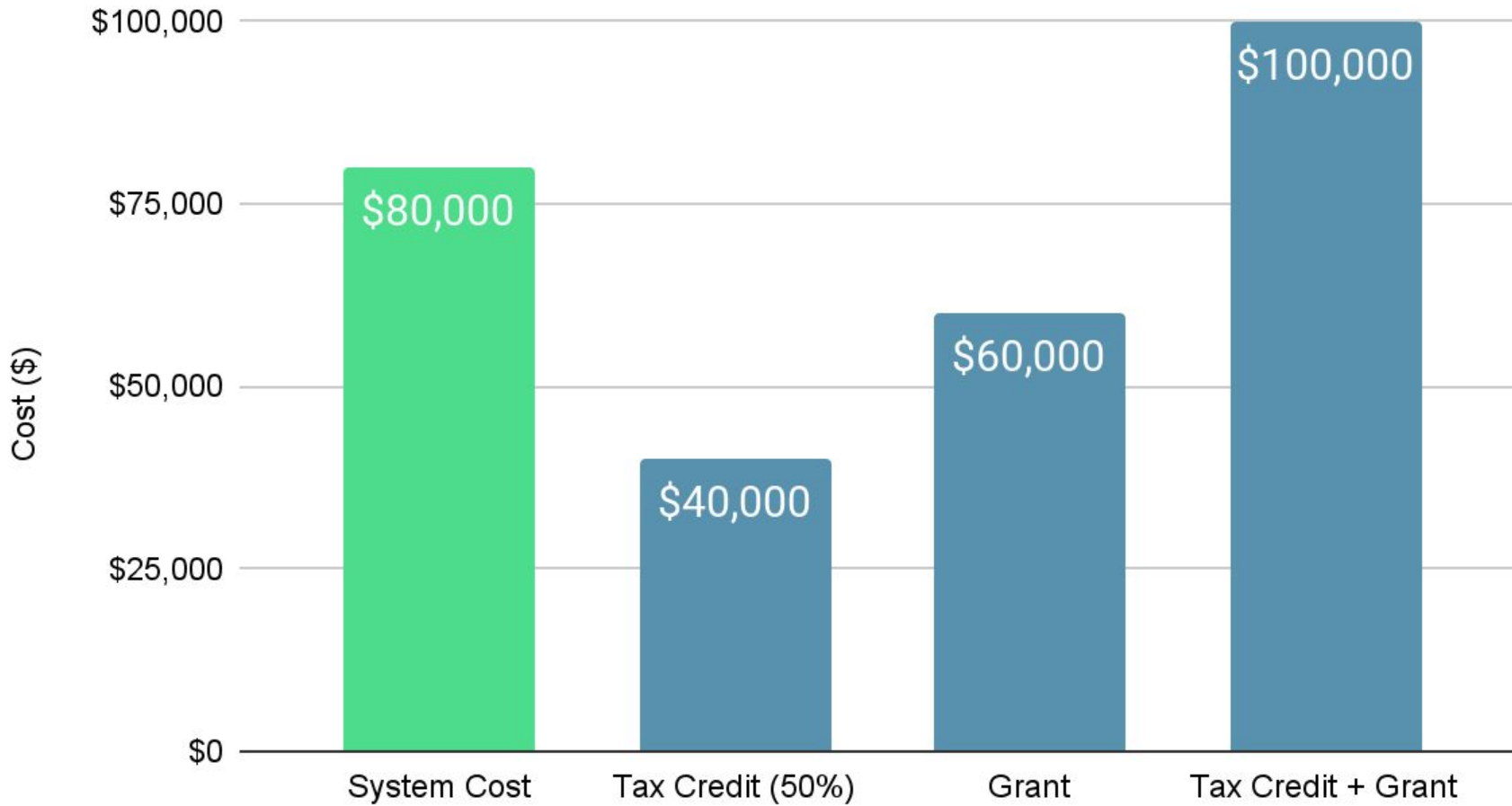
(iii) Example 3. Public charity B receives a \$60,000 grant from a private foundation to build energy property, P, a qualified investment credit property that costs \$80,000. B uses \$20,000 of its own funds plus the \$60,000 grant to build P. B's basis in P is \$80,000. Based upon acquisition cost, B can earn a section 48 investment credit (with bonus credit amounts) of \$40,000 (50% of basis). However, because the amount of the restricted tax exempt grant (\$60,000) plus the section 48 credit (\$40,000) exceeds P's cost by \$20,000, B's section 48 applicable credit is reduced by \$20,000 so that the total amount of the section 48 investment credit plus the restricted tax exempt grant equals the cost of P.

# EXCE

## "Excessive Benefit"?



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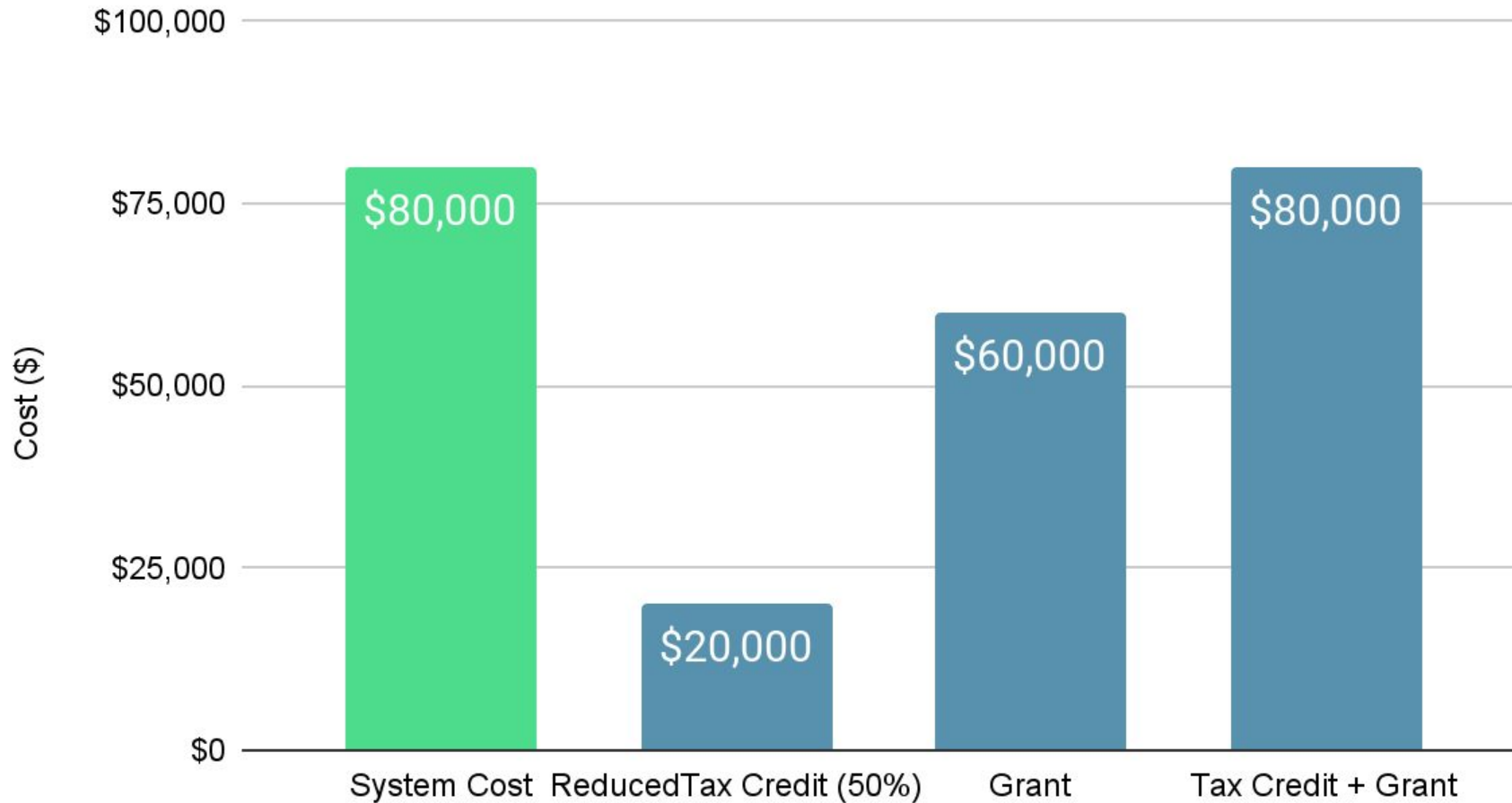
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# EXCE

## "Excessive Benefit"?



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# AUDIT RISK



<https://www.irs.gov/credits-deductions/elective-pay-and-transferability-frequently-asked-questions>

## **Q31. Can the IRS audit an applicable entity or taxpayer that makes an elective payment election? (added June 14, 2023)**

**A. Yes.** Entities and taxpayers that make an elective payment election could potentially be selected for an IRS audit. If the IRS identifies a problem with an applicable entity's or electing taxpayer's elective payment election, including the underlying tax credits or associated bonus credits, the IRS might need to collect payment from the applicable entity or electing taxpayer. The amount that needs to be repaid would vary based on the specific circumstances.

# AUDIT RISK



<https://www.irs.gov/credits-deductions/elective-pay-and-transferability-frequently-asked-questions>

**Q34. Does receipt of a registration number guarantee that I am eligible for the credit and that payment will occur once I file a timely tax return making the elective pay election? (added June 14, 2023)**

A. No, a registration number does not confirm credit eligibility. Pre-filing registration provides the IRS with information that helps ensure the prompt processing of the election and payment after a tax return is filed. You still must establish eligibility for the credit on your tax return before a payment will occur. In addition, you must substantiate your eligibility for the credit if selected for an IRS audit.



# Direct Pay

[Have questions or need additional information?](#) | [Español](#)

Progress bar with 5 segments, the first is dark blue. **Step 1 of 5**

## Tax Information

Select the appropriate payment type and reason for your payment. Information about payment types can be found by clicking the help icon (?). If you are making more than one type of payment or making payments for more than one tax year, submit each of them separately.

**Business Taxes?**  
All business tax payments should be made through the [Electronic Federal Tax Payment System \(EFTPS\)](#)

**Reason for Payment** ?  
Select Reason ▼

**Apply Payment To** ?  
[Empty text box]

**Tax Period for Payment** ?  
[Empty text box]

**CONTINUE** >

# SEE SOMETHING? SAY SOMETHING.

Regulations.gov  
Your Voice in Federal Decision Making

SUPPORT

Docket / Document (IRS-2023-0029-0001) / Comment

**PUBLIC SUBMISSION**

## Comment from Beck, Brian

Posted by the **Internal Revenue Service** on Jul 17, 2023

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**Comment ID**  
IRS-2023-0029-0005

**Tracking Number**  
ljj-wndu-rj37

**Comment Details** **Submitter Info**

**Document Subtype** ?  
Public Comment

**Received Date** ?

Comment

The concept of "Restricted Tax Exempt Amounts" reducing the applicable credit is illogical. If an applicable entity's general revenue (from charitable donations) is not taxable and does not reduce the credit amount, then the concern of an excessive benefit for specific grants is unfounded. This specific rule still will frustrate Congressional intent to provide the section 6417(a) election for investment credit. The rule is also administratively impractical and will lead applicable entities and donor to structure general donations (with a legal unenforceable expectation) that will still be used to fund the energy property. The lack of a legally enforceable obligation by donors will lead to more opportunities for misuse of funds and further frustrate Congressional intent to encourage applicable entities to actually build and operate energy property. The IRS should desire donor oversight and grant administration of grantor agreements for the specific purpose of building credit property. The proposed rule creates the opposite market incentives and doesn't effectuate a sound tax policy for distinguishing between general unrestricted donations used to build energy property vs specific grants.

# SEE SOMETHING? SAY SOMETHING.

The screenshot shows a web browser window with the address bar displaying <https://www.regulations.gov/comment/IRS-2023-0029-0003>. The page header includes the Regulations.gov logo with the tagline "Your Voice in Federal Decision Making" and a "SUPPORT" button. Below the header, the breadcrumb "Docket / Document (IRS-2023-0029-0001) / Comment" is visible. The main content area features a "PUBLIC SUBMISSION" icon and the title "Comment from Anonymous", posted by the Internal Revenue Service on Jul 9, 2023. There are three buttons: "View More Comments" (5), "View Related Comments" (5), and "Share".

**Comment ID**  
IRS-2023-0029-0003

**Tracking Number**  
ljq-5jay-8qf4

**Comment Details**   **Submitter Info**

**Document Subtype** ?  
Public Comment

**Received Date** ?

**Comment**

You have included elective pay for non-profits and government agencies with no tax liability, but what about every Disabled or Retired Home Owner on Social Security with no tax liability? Utility rates hikes and fixed incomes become a problem that solar can help solve if you allow us to also benefit from this new legislation.

You should allow Elective Pay for individuals with no tax liability because there is no benefit for an individual or a business to have you transfer your tax liability to them, unless you pay them part of it. I'm sure that is not what was intended with these laws. It's not even clear if you will even allow individuals to transfer liability, which would be the only other option for people with no lax liability.

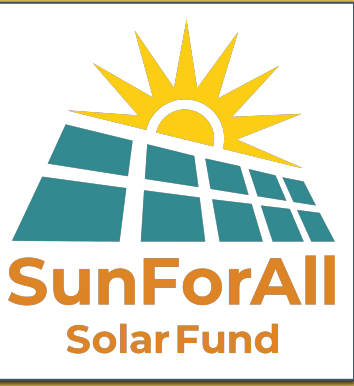
It would really be disheartening to realize everyone one else will be covered under the new laws passed except for me and every other individual like me who fall into a very vulnerable population group. I know this public forum is to surface things like this and I'm confident your final guidance will reflect these concerns. Thank you! John



# SOLUTIONS

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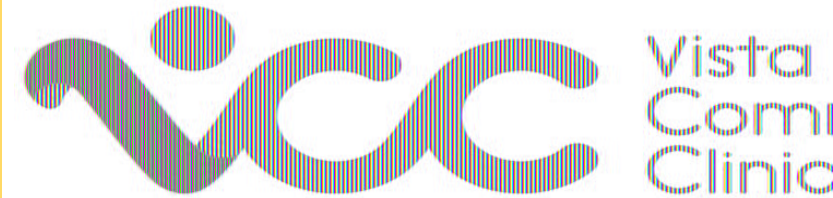
# THE RIGHT FIT:

## Qualifying Tax Exempt Organizations

### Some Eligible Categories Include:

- Houses of Worship
- Animal Welfare Organizations
- Art & Culture
- Community Solar
- Schools & Educational Organizations
- Senior Services
- Service Organizations
- Medical Centers
- Tribal Projects
- and more...

### RECENT SUNFORALL PROJECTS:



United Way



# The SunForAll Solar Loan

*designed by nonprofit professionals, not banks*

- Interest rates are based on community impact, not credit score
- No payments during construction
- No prepayment penalties
- No collateral required beyond the equipment itself
- Direct pay ready



# The SunForAll Solar Lease

*designed by nonprofit professionals, not banks*

- No fees, all construction management provided
- Zero down - no upfront payments
- Lease rates are based on community impact, not credit score
- You own all of the energy generated by the solar system
- Full operations & maintenance are included



# MAKING SENSE OF IT ALL



*Ask yourself these 3 things..*

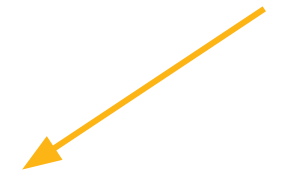
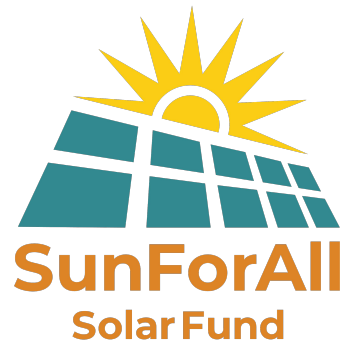
YES

NO

- |                          |   |                          |
|--------------------------|---|--------------------------|
| <input type="checkbox"/> | Do you have in-house construction management expertise? | <input type="checkbox"/> |
| <input type="checkbox"/> | Are you comfortable bearing construction risks?         | <input type="checkbox"/> |
| <input type="checkbox"/> | Are you comfortable bearing long term ownership risks?  | <input type="checkbox"/> |



**Do It Yourself!**  
Loan Product  
Recommended



**Easy Button!**  
Lease Product  
Recommended

Please direct  
your questions  
into the Zoom  
Q&A for all  
attendees and  
speakers to see.

The image shows the letters 'Q&A' in a 3D, white, sans-serif font. The letters are positioned on a solid blue background. The 'Q' has a small tail at the bottom right, the ampersand is stylized with a loop, and the 'A' is a simple, blocky letter. The lighting creates soft shadows beneath the letters, giving them a three-dimensional appearance.

# Have more questions?

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If you liked this webinar, and want to learn more about the other IRA bonus adders:

8/17/23 Domestic Content | 9/21/23 Energy Community | 10/19/23 Low Income Community





**THANK YOU**

**FOR JOINING US!**

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