# Coalition Tax Priorities for Inclusion in COVID-19 Stimulus Legislation


## Summary

Amid massive economic impacts and uncertainty caused by COVID-19, tax equity markets that finance clean energy and industrial projects have seized up, imperiling economic activity and jobs right when they are needed most. Projects under development to capture and use carbon from industrial facilities, power plants and ambient air through direct air capture are especially at risk, just as project developers and investors are gearing up to build out a carbon management industry in response to the reformed Section 45Q credit enacted by Congress in February 2018.

In this context, the Carbon Capture Coalition is making tax policy suggestions for inclusion in economic stimulus legislation to address the chilling effect that COVID 19 has already had on current development of carbon capture projects and prospects for future deployment. Such legislation rightly focuses on the immediate health and economic well-being of Americans. Toward that end, the Coalition's recommendations do not divert resources from near-term COVID-19 response and economic support. Instead, they are appropriately targeted to provide financial certainty to investors, leverage private capital and ensure access to existing incentives.

Specifically, the Coalition recommends the following provisions for inclusion in stimulus legislation:

- ***Extend the 45Q tax credit for ten years to prevent the cancelation of carbon capture, use, removal and geologic storage projects*** due to mounting concerns among project developers that they risk not meeting the current January 1, 2024 deadline due to current market turmoil and investment uncertainty;
- ***Implement direct pay as a mechanism for project developers to monetize 45Q directly*** amidst the current paralysis of tax equity markets for investment;
- ***Prevent disallowance of 45Q under the Base Erosion and Anti-Abuse Tax (BEAT) to expand the pool of available tax equity investors*** to finance carbon capture projects, once market confidence is restored and tax equity investment resumes; and
- ***Fix the 48A tax credit to enable developers of carbon capture retrofits at power plants access to roughly $2 billion in federal funds*** that are already available for this purpose.

If taken at this critical time, these actions by Congress will help restore project developer and investor confidence in the emerging carbon capture sector, enabling 45Q-inspired projects to proceed and contribute to economic activity and jobs, while ensuring the essential long-term, economywide scale-up of carbon capture and removal to meet midcentury climate goals.


## Extending the 45Q Tax Credit

Economic and market impacts and uncertainty from COVID-19 have already had a chilling effect on project development and deployment for all low and zero-carbon technologies, but carbon capture projects are particularly vulnerable due to the short commence construction timeframe under the current authorization of 45Q, which requires projects to begin construction by January 1, 2024. Enacting a long-term extension now of 10 years will help ensure that projects, both announced and under development, will continue to move forward despite near-term economic and market headwinds from COVID-19.

Most carbon capture projects typically take longer to plan, engineer, permit and finance than projects involving technologies that are well established in the commercial marketplace. Moreover, carbon capture and utilization technologies have only had a significant financial incentive in federal law since the passage in February 2018 of the FUTURE Act that reformed and expanded 45Q, and project developers and investors are still awaiting the final necessary component of 45Q guidance from Treasury and the Internal Revenue Service after more than two years of delay. What was a six-year window for projects to begin construction to qualify for the 45Q credit has now been reduced to less than four.

Other incumbent low and zero-carbon technologies have benefitted from federal support for decades. The Production Tax Credit (PTC) for wind energy was first enacted nearly 30 years ago in the Energy Policy Act (EPACT) of 1992, and the Investment Tax Credit (ITC) for solar energy became law 15 years ago as part of EPACT 2005. The successful commercialization of renewable energy technologies offers powerful evidence for the critical role that government incentives play in scaling up needed technology deployment when given sufficient time to leverage private capital in the marketplace. Toward that end, a much longer commence construction window for projects claiming 45Q will provide urgently needed certainty to project developers and investors and ensure greater deployment of carbon capture sector-by-sector over the coming decade, so that these technologies can scale economywide by 2050 to meet midcentury emissions reduction targets.

Representative Sewell (D-AL) has introduced the Carbon Capture and Sequestration Extension Act of 2019 (H.R. 5156) to provide for a one-year extension of 45Q, which majority Democrats on Ways and Means incorporated into their Green Act legislative draft on energy tax credits. Representative Schweikert (R-AZ) followed with H.R. 5883 to make 45Q permanent, which House GOP leaders made a centerpiece of their recent climate package. Most recently, Senators Capito (R-WV), Whitehouse (D-RI), Barasso (R-WY) and Cramer (D-ND) have introduced a bipartisan amendment (S. Amdt. 1374) to the American Energy Innovation Act (S. 2657) to extend 45Q for five years.

The Coalition welcomes members' efforts to extend 45Q in this Congress. Given the extreme economic circumstances from COVID-19 unfolding now and over the coming months, the Coalition suggests a ten-year extension to ensure that current carbon capture projects do not stall out and that these critical technologies can adequately deploy to meet future climate goals.

**Providing Direct Pay for 45Q along with Other Low and Zero-Carbon Technologies**

The Carbon Capture Coalition recognizes the significant and potentially transformative impact on financing clean energy and industrial projects of a direct pay mechanism, which would allow 45Q tax credit recipients to receive a direct cash payment from the Treasury, instead of resorting to the tax equity market. The direct pay mechanism, always valuable, has become urgent given that the tax equity market has ceased to function amidst a COVID 19-induced economic and market crisis. The fact that the American Wind Energy Association and Solar Energy Industries Association have also called on Congress to implement direct pay for the wind PTC and solar ITC underscores the central importance of a direct pay provision at this time to ensure that projects in development can still be financed and proceed to construction and commercial operation.

Providing cash to finance carbon capture and utilization projects would be of substantial benefit to project developers. Because carbon capture and utilization projects remain more challenging to finance than incumbent low and zero-carbon technologies, 45Q should also be eligible for direct pay. The Ways and Means Majority Green Act discussion draft released late last year includes in Section 104 a direct pay provision for renewable electricity tax credits, but not for 45Q. In its efforts to sustain economic activities and jobs associated with clean energy development, Congress should ensure parity for 45Q in any direct pay provision as part of COVID-19 related stimulus.

**Protecting 45Q from Disallowance under BEAT Consistent with Wind and Solar**

Taxpayers with potential exposure under BEAT represent an important set of potential tax equity investors for carbon capture and utilization projects. These same investors invest significantly in wind and solar projects, taking advantage of the PTC and ITC, respectively. Such investors will prefer investing in tax equity opportunities that have less BEAT exposure.

Once tax equity markets recover from current economic and market conditions caused by COVID-19, tax equity will represent an important source of private sector investment in carbon capture projects being developed in response to the 45Q credit. Therefore, the Coalition requests that 45Q be provided the same treatment accorded renewable electricity tax credits in the 2017 Tax Cuts and Jobs Act (TCJA), which protects wind and solar tax equity investors from disallowance under BEAT. Had the FUTURE Act been enacted prior to TCJA passage, 45Q would likely have also received the same favorable treatment, and the Carbon Capture Coalition would have advocated for parity at the time.

**Fixing the 48A Tax Credit to Enable Carbon Capture Retrofits of Power Plants**

There are multiple front-end engineering and design studies underway to retrofit power plants with carbon capture, but the current economic and market crisis associated with COVID-19 threatens to derail these projects and their associated economic benefits. The 48A tax credit program has roughly $2 billion funds available right now, but technical changes in statute are required to access the credits, so that retrofit projects can move forward.

In 2008, Congress provided an additional $1.25 billion for 48A tax credits through the Energy Improvement and Extension Act, while imposing a new requirement to capture and store at least 65 percent of the $CO_2$. However, when the carbon capture provision was added, heat rate requirements in the original 2005 statute were not adjusted to accommodate the increased demand for power from carbon capture systems. Unless efficiency requirements are changed, power companies cannot access the 48A credit to retrofit existing power plants for carbon capture and achieve much deeper emissions reductions. Moreover, having retrofit projects move forward domestically in the U.S. would pressure emerging economies such as China to implement carbon capture on their vast and growing fleet of coal-fired power plants—an essential step if we are to get on a path to net-zero globally by 2050—while spurring jobs and investment here at home during difficult economic times.

Representative McKinley (R-WV) and Senator Hoeven (R-ND) have introduced companion versions of the Carbon Capture Modernization Act (H.R. 1796 and S. 407) to accomplish the needed technical fixes to 48A.