

## Part III – Administrative, Procedural, and Miscellaneous

### Domestic Content Bonus Credit Amounts under the Inflation Reduction Act of 2022: Expansion of Applicable Projects for Safe Harbor in Notice 2023-38 and New Elective Safe Harbor to Determine Cost Percentages for Adjusted Percentage Rule

Notice 2024-41

#### SECTION 1. PURPOSE

This notice modifies section 3.04 of Notice 2023-38, 2023-22 I.R.B. 872, in three ways. First, this notice expands the list of Applicable Projects in “Table 2--  
Categorization of Applicable Project Components” (Table 2) to include hydropower and pumped hydropower storage facilities. Second, this notice redesignates the “Utility scale photovoltaic system” Applicable Project as the “Ground-mount and rooftop photovoltaic system.” Third, this notice includes certain Manufactured Product Components with respect to previously listed Applicable Projects. This notice also provides a new safe harbor that taxpayers may elect to use to classify Applicable Project Components and to calculate the Domestic Cost Percentage in an Applicable Project (New Elective Safe Harbor) to qualify for the domestic content bonus credit amounts under §§ 45, 45Y, 48, and 48E of the Internal Revenue Code (Code).<sup>1</sup>

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<sup>1</sup> Unless otherwise specified, all “section” or “§” references are to sections of the Code or the Income Tax Regulations (26 CFR part 1). Unless otherwise specified, capitalized terms used throughout this notice are defined in Notice 2023-38.

Taxpayers may elect to use the classifications and cost percentages in the New Elective Safe Harbor in lieu of the Domestic Manufactured Products and Components Cost and Total Manufactured Products Cost provisions of the Adjusted Percentage Rule in section 3.03(2)(b) and (c) of Notice 2023-38, which provisions require taxpayers to use the manufacturer's direct costs of producing Manufactured Products and Manufactured Product Components in an Applicable Project. Taxpayers who elect to use the New Elective Safe Harbor for any Applicable Project must use the classifications and cost percentages provided under the New Elective Safe Harbor when applying the Adjusted Percentage Rule and may not use a different method or substitute any cost percentages into the provided table to determine any classifications and costs. Finally, this notice requests comments to inform any potential updates to Table 2 and the New Elective Safe Harbor. Although this notice does not address or modify provisions other than sections 3.03(2)(b) and (c) and 3.04 of Notice 2023-38, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to consider comments received on other sections of the notice in the context of forthcoming proposed regulations or any further guidance regarding the domestic content bonus requirements. Taxpayers may rely on Notice 2023-38, as modified by this notice, for the domestic content bonus credit requirements for any Applicable Project the construction of which begins before the date that is 90 days after the date of publication of the forthcoming proposed regulations on the domestic content bonus credit requirements in the *Federal Register*. Taxpayers may rely on the New Elective Safe Harbor provided in Table 1 of this notice for the domestic content bonus credit requirements for any Applicable Project the construction of which begins before the date

that is 90 days after any future modification, update, or withdrawal of the New Elective Safe Harbor.

## SECTION 2. BACKGROUND

Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA), amended §§ 45 and 48 to provide a domestic content bonus credit amount for certain qualified facilities or energy projects placed in service after December 31, 2022, and added new §§ 45Y and 48E, which include a domestic content bonus credit amount for certain investments in qualified facilities or energy storage technologies placed in service after December 31, 2024.<sup>2</sup>

.01 Notice 2023-38. On May 12, 2023, the Treasury Department and the IRS released Notice 2023-38, which states that the Treasury Department and the IRS intend to propose regulations to address the application of the rules that taxpayers must satisfy to qualify for the domestic content bonus credit amounts under §§ 45, 45Y, 48, and 48E, including related recordkeeping and certification requirements. Notice 2023-38 also describes certain rules that the Treasury Department and the IRS intend to include in the forthcoming proposed regulations and describes a safe harbor regarding the classification of certain components in representative types of qualified facilities, energy projects, or energy storage technologies.

Section 2.01 of Notice 2023-38 provides that an Applicable Project refers to: (i) a qualified facility under §§ 45 or 45Y; (ii) an energy project under § 48, which may include qualified property for which a valid irrevocable election under § 48(a)(5) has been made to treat such qualified property as energy property under § 48; or (iii) a

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<sup>2</sup> See §§ 13101(g), 13701(a), 13102(l), and 13702(a) of the IRA, respectively, for the domestic content bonus credit amount requirements under §§ 45(b)(9), 45Y(g)(11), 48(a)(12), and 48E(a)(3)(B).

qualified investment with respect to a qualified facility or energy storage technology under § 48E. An Applicable Project is eligible for a domestic content bonus credit amount if the Applicable Project satisfies the Domestic Content Requirement set forth in section 3 of Notice 2023-38 and the taxpayer timely submits to the IRS the Domestic Content Certification Statement described in section 5 of Notice 2023-38. An Applicable Project satisfies the Domestic Content Requirement if both the Steel or Iron Requirement described in section 3.02, and the Manufactured Products Requirement described in section 3.03, of Notice 2023-38 are satisfied. To determine whether the Steel or Iron Requirement and the Manufactured Products Requirement are met, a taxpayer must first determine if each Applicable Project Component (as defined in section 3.01(2)(a) of Notice 2023-38) qualifies as steel, iron, or a Manufactured Product. Section 3.04 of Notice 2023-38 provides a non-exclusive safe harbor in Table 2 that taxpayers may rely on for the classification of certain Applicable Project Components as steel, iron, or Manufactured Products.

.02 Manufactured Products Requirement and the Adjusted Percentage Rule.

Section 3.03 of Notice 2023-38 provides that the Manufactured Products Requirement is met if all Applicable Project Components that are Manufactured Products are produced in the United States or are deemed to be produced in the United States. Manufactured Products are produced in the United States if all the manufacturing processes for the Manufactured Product take place in the United States and all the Manufactured Product Components are of U.S. origin. Manufactured Products are deemed to be produced in the United States if the Adjusted Percentage Rule in section 3.03(2) of Notice 2023-38 is satisfied.

.03 Direct Costs in Adjusted Percentage Rule. In determining if the Adjusted Percentage Rule is satisfied, the percentage produced by dividing the Domestic Manufactured Products and Components Cost (as described in section 3.03(2)(b) of Notice 2023-38, and referred to as the numerator in this notice) by the Total Manufactured Products Cost (as described in section 3.03(2)(c) of Notice 2023-38, and referred to as the denominator in this notice) is the Domestic Cost Percentage of an Applicable Project, which must equal or exceed the adjusted percentage that applies to the Applicable Project to satisfy the Adjusted Percentage Rule. To determine the costs to include in the numerator, section 3.03(2)(b) of Notice 2023-38 provides that taxpayers must include direct costs (direct materials and direct labor costs as defined in § 1.263A-1(e)(2)(i)) that are paid or incurred within the meaning of section 461 by the manufacturer to produce U.S. Manufactured Products or by the manufacturer of Non-U.S. Manufactured Products to produce or acquire U.S. Components. Section 3.03(2)(b) of Notice 2023-38 defines U.S. Components as Manufactured Product Components of Non-U.S. Manufactured Products that are Applicable Project Components if the Manufactured Product Components are mined, produced, or manufactured in the United States. To determine the costs to include in the denominator, section 3.03(2)(c) of Notice 2023-38 provides that taxpayers must include direct costs (direct materials and direct labor costs as defined in § 1.263A-1(e)(2)(i)) that are paid or incurred within the meaning of section 461 by the manufacturer to produce U.S. Manufactured Products or Non-U.S. Manufactured Products.

### SECTION 3. MODIFICATION OF TABLE 2 IN SECTION 3.04 OF NOTICE 2023-38

.01 Safe Harbor in Table 2 for Classifications of Certain Applicable Project

Components. Table 2 in section 3.04 of Notice 2023-38 identifies certain Applicable Project Components and Manufactured Product Components that may be found in the identified Applicable Projects, which include utility-scale photovoltaic (PV) systems, land-based wind facilities, offshore wind facilities, and battery energy storage technologies. The categorization of each item described in Table 2 as subject to either the Steel or Iron Requirement or Manufactured Products Requirement is based on analysis from the Federal Transit Administration (FTA), Department of Transportation, with assistance from the Department of Energy (DOE) and will be accepted by the IRS for those Applicable Project Components and Manufactured Product Components.

.02 Modification of Table 2. Table 2 in section 3.04 of Notice 2023-38 is modified to add the following Applicable Project:

Table 2 – Categorization of Applicable Project Components

<u>Applicable Project</u>	<u>Applicable Project Component</u>	<u>Categorization</u>
Hydropower Facility, or Pumped Hydropower Storage Facility	Steel or iron rebar for the reservoirs, upper and/or lower	Steel/Iron
	Steel or iron rebar, plating, and piping in water conveyance (penstock piping)	Steel/Iron
	Steel or iron rebar in powerhouse and foundation, spiral case, discharge ring, and draft tube	Steel/Iron
	Steel or iron rebar in canals	Steel/Iron
	Powerhouse structure, gates, stoplogs, screens, and embedded structure parts, foundation plates and anchors	Steel/Iron

	Turbine/Pump Runner (which includes the following Manufactured Product Components, if applicable: spiral/scroll case, vanes, bottom ring, wicket gates, runner, draft tube, shaft, head cover, bearings, and flow control and isolation mechanisms)	Manufactured Product
	Motor/Generator (which includes the following Manufactured Product Components, if applicable: stator, rotor, windings, poles, generator shaft, thrust bearing, brake ring/disc, guide bearings, ventilation and cooling system, and exciter)	Manufactured Product
	Generator Step-up Transformer (which includes the following Manufactured Product Components, if applicable: containment/main tank, cooling system, de-energized tap changer (DETC), load tap changer (LTC), bushings/insulators)	Manufactured Product

Table 2 of Notice 2023-38 is further modified by replacing “Utility-scale photovoltaic system” with “Ground-mount and rooftop photovoltaic system.” Taxpayers may treat any Applicable Project Components or Manufactured Product Components that are listed in Table 1 of this notice as also listed in Table 2 of Notice 2023-38. To the extent Table 2 of Notice 2023-38 and Table 1 of this notice are inconsistent regarding the classification of Applicable Project Components or Manufactured Product Components, Table 1 of this notice will control.

**SECTION 4. NEW ELECTIVE SAFE HARBOR**

.01 In General. The new safe harbor provided in this section applies to both the Steel or Iron Requirement and the Manufactured Products Requirement of the Domestic Content Requirement for an Applicable Project with respect to which a taxpayer elects to have this safe harbor apply. As described more fully in sections 2.03 and 2.04 of this notice, for purposes of the Adjusted Percentage Rule and calculating the Domestic Cost Percentage, Notice 2023-38 requires that costs that are included in the numerator and denominator are the direct materials and direct labor costs that are paid or incurred by the manufacturer of the Manufactured Product. Taxpayers are further required to calculate the direct costs of any U.S. Components that may have been incorporated into Non-U.S. Manufactured Products. The Treasury Department and the IRS are aware that obtaining a manufacturer's direct costs of manufacturing may require the taxpayer to gather cost data from multiple suppliers and manufacturers, including foreign manufacturers, and may present challenges for substantiation and verification.

.02 New Elective Safe Harbor. The Treasury Department and the IRS, in consultation with the DOE, are providing a new elective safe harbor in Table 1 of section 4.04(1)-(3) of this notice (New Elective Safe Harbor) that provides for the classification of identified Applicable Project Components, and the associated cost percentages for each of the identified Manufactured Products and Manufactured Product Components (Assigned Cost Percentages). Although the New Elective Safe Harbor is consistent with Table 2 of Notice 2023-38, as modified by this notice, which provides classifications of Applicable Project Components, the New Elective Safe Harbor also provides cost percentage information obtained from the DOE for purposes of calculating the Domestic Cost Percentage and satisfying the Adjusted Percentage



Rule. To generate the cost percentage information, the DOE utilized cost data from a variety of sources, including datasets of system characteristics, price indices, U.S. survey data from the government (for example, the U.S. Bureau of Labor Statistics, Department of Labor) and private sector, public filings from corporations, and comprehensive interviews of manufacturers, installers, developers, and owners of the representative technologies.

The classifications and cost percentages provided in Table 1 of section 4.04(1)-(3) of this notice will be accepted by the IRS for the identified Manufactured Products and Manufactured Product Components for purposes of determining compliance with the Steel or Iron Requirement and calculating the Domestic Cost Percentage, provided all other requirements in Notice 2023-38 are met. A taxpayer electing to use the New Elective Safe Harbor with respect to an Applicable Project of the taxpayer must use the Applicable Project Components and Manufactured Product Components and the cost percentages listed in Table 1 of section 4.04(1)-(3) of this notice as the exclusive and exhaustive set of Applicable Project Components and Manufactured Product Components for purposes of determining compliance with the Domestic Content Requirement for the Applicable Project with respect to which the taxpayer makes this election.

To be eligible for the safe harbor, Applicable Projects are not required to be constituted of the full list of Applicable Project Components provided in Table 1 of this notice, and each Applicable Project Component listed is not required to be constituted of the full list of Manufactured Product Components provided in Table 1 of this notice. Taxpayers may still elect to use the New Elective Safe Harbor even if entries in Table 1

of this notice are not used as inputs to their Applicable Projects or Manufactured Products, or if the Applicable Project contains additional inputs not listed in Table 1 of this notice.

Any Applicable Project Component or Manufactured Product Component listed in Table 1 of this notice that is not utilized as an input to the Applicable Project must be treated by the electing taxpayer as having a zero value in calculating the Domestic Cost Percentage. An Applicable Project Component or Manufactured Product Component contained in a taxpayer's Applicable Project but not listed in Table 1 of this notice will not disqualify the taxpayer from using the New Elective Safe Harbor. However, such unlisted items may not count toward satisfying the Adjusted Percentage Rule. The absence of a Manufactured Product or Manufactured Product Component that is listed in Table 1 of this notice, or the presence of a Manufactured Product or Manufactured Product Component that is not listed in Table 1 of this notice, in an Applicable Project does not affect the Assigned Cost Percentages listed in Table 1 for purposes of the New Elective Safe Harbor.

.03 New Elective Safe Harbor Requirements.

(1) In general. Unless otherwise provided in this notice, if a taxpayer elects to use the New Elective Safe Harbor, all other provisions of Notice 2023-38 apply in determining whether an Applicable Project meets the Domestic Content Requirement. For example, the Applicable Projects and Applicable Project Components described in Table 1 of section 4.04(1)-(3) of this notice must satisfy the Steel or Iron Requirement described in section 3.02 of Notice 2023-38 with respect to the Applicable Project Components that are specified as subject to the Steel or Iron Requirement in Table 1 of

this notice. See section 4.08 for the New Elective Safe Harbor's election and certification requirements.

(2) No Partial Safe Harbor Reliance. Taxpayers that elect to use the New Elective Safe Harbor must apply in its entirety the section of Table 1 of this notice that is specific to the Applicable Project for which the taxpayer makes such election. For example, if a taxpayer's Applicable Project is a land-based wind facility, the taxpayer must use the classifications for Applicable Project Components and Manufactured Product Components in Table 1 of this notice with respect to land-based wind and must use the Assigned Cost Percentages for all the Manufactured Products and Manufactured Product Components (for example, Blades, Rotor Hub, Nacelle, and Power Converter) provided in Table 1 of this notice that are utilized in the taxpayer's Applicable Project without substitution.

(3) Determining Domestic Cost Percentage. To determine the Domestic Cost Percentage using the New Elective Safe Harbor, a taxpayer must refer to the section of Table 1 of this notice that describes their Applicable Project and add up the Assigned Cost Percentages for each listed U.S. Manufactured Product (as defined in section 3.03(1) of Notice 2023-38) and U.S. Component (as described in section 3.03(2)(b) of Notice 2023-38) of their Applicable Project. This total value is the Domestic Cost Percentage for purposes of the New Elective Safe Harbor. Any Manufactured Product or Manufactured Product Component listed in Table 1 of this notice that is not a part of the taxpayer's Applicable Project must take a zero value for the Assigned Cost Percentage under the New Elective Safe Harbor for such Manufactured Product or Manufactured Product Component, with all Assigned Cost Percentages shown in Table

1 of this notice remaining unchanged. Any Manufactured Product or Manufactured Product Component not listed in Table 1 of this notice must be disregarded for purposes of determining the Domestic Cost Percentage using the New Elective Safe Harbor.

(4) Foreign- and Domestic-Sourced Manufactured Products and/or Manufactured Product Components. Taxpayers who source the same type of Manufactured Product or Manufactured Product Component (that is, they are listed in the same row of Table 1 of this notice) from both foreign and domestic sources (Mixed Source Item or MSI) in a particular Applicable Project described in Table 1 of this notice may use the New Elective Safe Harbor to determine a single Assigned Cost Percentage for each separate type of Mixed Source Item in the Applicable Project. For Mixed Source Items that have a nameplate capacity, the following weighted average formula may be used to determine the Assigned Cost Percentage attributable to each type of Mixed Source Item:

$$\frac{DCP_{\text{Domestic MSI}} \times \text{Nameplate Capacity}_{\text{Domestic MSI}}}{\text{Nameplate Capacity}_{\text{MSI}}}$$

For purposes of this formula:

(a)  $DCP_{\text{Domestic MSI}}$  means the Assigned Cost Percentage derived from Table 1 of this notice of the Mixed Source Item.

(b)  $\text{Nameplate Capacity}_{\text{Domestic MSI}}$  means the nameplate capacity of the Mixed Source Item of the same type in the Applicable Project that is produced in the United States.

(c)  $\text{Nameplate Capacity}_{\text{MSI}}$  means the total nameplate capacity of the Mixed Source Items of the same type in the Applicable Project.

For Mixed Source Items without nameplate capacities, the portion of cost

percentage provided in Table 1 of this notice that may count toward the Domestic Cost Percentage must be calculated by using the weighted average formula described above, modified by replacing the nameplate capacity of the Mixed Source Item with the nameplate capacities of the associated Applicable Project Components with which the Mixed Source Item is directly integrated. For this purpose, Mixed Source Items without nameplate capacities must apply: the total nameplate capacity of the associated PV module(s) for the Solar PV Table; the total nameplate capacity of the associated wind turbine for land-based wind; or the total nameplate capacity of the battery pack(s) for Battery Electric Storage Systems. If a type of Mixed Source Item without nameplate capacity has multiple units that are both foreign- and domestic-sourced associated and directly integrated with the same Applicable Project Component with nameplate capacity, then all such Mixed Source Items must be treated as foreign-sourced.

(5) Production Costs. Table 1 of this notice contains a line item for “Production,” which, although listed under the column for Manufactured Product Components, is not a Manufactured Product Component. “Production” refers to the production cost of the relevant Manufactured Product and can be included in the total Domestic Cost Percentage only if all the Manufactured Product Components of a Manufactured Product are domestically produced. See Notice 2023-38, section 3.03(2). The Assigned Cost Percentage attributable to production costs for a particular Manufactured Product may be used if such Manufactured Product contains Manufactured Product Components not listed in Table 1 of this notice or if entries in Table 1 of this notice are not a part of such Manufactured Product, so long as the remainder of the Manufactured Product Components in Table 1 that are a part of such Manufactured Product are

mined, produced, or manufactured in the United States.

(6) Solar Energy Property and Energy Storage Technology as Part of a Single Energy Project. Taxpayers who wish to claim the energy credit determined under § 48 with respect to an energy project that is comprised of a solar photovoltaic system (solar PV) and battery energy storage system (BESS) described in Table 1 of this notice may use the New Elective Safe Harbor and the BESS Multiplier as described below and in section 4.05 of this notice to determine a single Domestic Cost Percentage, for a single energy project, using a weighted average formula as follows:

Domestic Cost Percentage =

$$\frac{(\text{DCP}_{\text{PV}} \times \text{Nameplate Capacity}_{\text{PVkW}}) + (\text{DCP}_{\text{BESS}} \times \text{Nameplate Capacity}_{\text{BESSkWh}} \times \text{BESS Multiplier})}{\text{Nameplate Capacity}_{\text{PVkW}} + (\text{Nameplate Capacity}_{\text{BESSkWh}} \times \text{BESS Multiplier})}$$

This formula may be applied only to Applicable Projects that are § 48 energy projects that are comprised of solar PV and BESS. The portion of an Applicable Project that relates to solar PV, for example, refers to the solar PV assets in such energy project.

For purposes of this formula:

(a)  $\text{DCP}_{\text{PV}}$  means the total Assigned Cost Percentage derived from Table 1 of this notice associated with the U.S. Manufactured Products and U.S. Components of the solar PV portion of the Applicable Project.

(b)  $\text{Nameplate Capacity}_{\text{PVkW}}$  means the nameplate capacity of the solar PV portion of the Applicable Project, measured in kilowatts of direct current.

(c)  $\text{DCP}_{\text{BESS}}$  means the total Assigned Cost Percentage derived from Table 1 of this notice associated with the U.S. Manufactured Products and U.S. Components of the BESS portion of the Applicable Project.

(d)  $\text{Nameplate Capacity}_{\text{BESSkWh}}$  means the nameplate capacity of the BESS

portion of the Applicable Project, measured in kilowatt-hours of stored energy.

(e) BESS Multiplier means the value used to convert BESS nameplate capacity into proportional equivalency to the nameplate capacity of solar PV for weighting costs.

(7) Exclusive Safe Harbor. A taxpayer that elects to use the New Elective Safe Harbor with respect to an Applicable Project must consider the steel or iron products, Manufactured Products, and Manufactured Product Components that are identified in Table 1 of this notice as an exclusive and exhaustive set of steel or iron products, Manufactured Products, and Manufactured Product Components for purposes of determining compliance with the Domestic Content Requirement for that Applicable Project. The New Elective Safe Harbor may still be used in instances in which a taxpayer's Applicable Project does not contain every item identified in Table 1 of this notice, or in which a taxpayer's Applicable Project contains additional items not identified in Table 1 of this notice, provided the taxpayer applies the rules for determining Domestic Cost Percentage described in section 4.03(3) of this notice.

(8) Certification. Taxpayers must affirmatively elect to rely on the New Elective Safe Harbor in Table 1 of this notice and must notify the IRS of this election by providing information on the Domestic Content Certification Statement as described in section 4.08 of this notice.

.04 Table 1—New Elective Safe Harbor.

**Table 1**

**(1) SOLAR PV TABLE**

<b><u>APC</u></b>	<b><u>MPC</u></b>	<b><u>Ground-mount (Tracking)</u></b>	<b><u>Ground-mount (Fixed)</u></b>	<b><u>Rooftop (MLPE)</u></b>	<b><u>Rooftop (String)</u></b>
<b>PV module</b>	Cells	36.9	49.2	21.5	30.8

	Frame/Backrail	5.3	7.0	3.1	4.4
	Front Glass	3.7	4.9	2.2	3.1
	Encapsulant	2.2	3.0	1.3	1.8
	Backsheet/Backglass	3.7	4.9	2.1	3.1
	Junction Box	1.6	2.2	1.0	1.4
	Edge Seals	0.2	0.2	0.1	0.2
	Pottants	0.2	0.2	0.1	0.2
	Adhesives	0.2	0.2	0.1	0.2
	Bus Ribbons	0.4	0.5	0.2	0.3
	Bypass Diodes	0.4	0.5	0.2	0.3
	<b>Production<sup>3</sup></b>	<b>11.5<sup>4</sup></b>	<b>15.3<sup>4</sup></b>	<b>6.7<sup>4</sup></b>	<b>9.6<sup>4</sup></b>
<b>Inverter</b>	Printed Circuit Board Assemblies	3.0	4.0	16.0 <sup>5</sup>	2.5
	Electrical Parts <sup>6</sup>	1.0	1.3	1.6	1.1
	Climate Control	0.7	0.9	-	0.3
	Enclosure	1.0	1.3	1.6	0.8
	<b>Production</b>	<b>3.3<sup>4</sup></b>	<b>4.4<sup>4</sup></b>	<b>16.4<sup>4</sup></b>	<b>2.9<sup>4</sup></b>
<b>PV Tracker or Non-Steel Roof Racking</b>	Torque tube	9.7	-	-	-
	Fasteners	0.4	-	11.1	16.0
	Slew Drive	2.0	-	-	-
	Dampers	0.4	-	-	-
	Motor	3.1	-	-	-
	Controller	0.9	-	-	-
	Rails	2.0	-	8.6	12.3
	<b>Production</b>	<b>6.2<sup>4</sup></b>	-	<b>6.1<sup>4</sup></b>	<b>8.7<sup>4</sup></b>
	-	-	Steel/Iron Product	-	-
	-	Steel/Iron Product	Steel/Iron Product	-	-
-	Steel/Iron Product	Steel/Iron Product	-	-	

<sup>3</sup> Although “Production” is listed under the column for Manufactured Product Components (MPCs), it is not an MPC. “Production” refers to the production cost of the Manufactured Product and can only be included in the Domestic Cost Percentage if all of the MPCs of a Manufactured Product are domestically produced. See section 3.03(2) of Notice 2023-38.

<sup>4</sup> Consistent with Notice 2023-38, the direct cost of producing a Manufactured Product counts toward the Domestic Cost Percentage only if all its Manufactured Product Components are domestically produced.

<sup>5</sup> For purposes of this table, module-level power electronics inverter systems, including either microinverters or direct current (DC) optimizers, are considered an inverter product.

<sup>6</sup> Includes transformers, capacitors, inductors, bus/cables, circuit protection not on printed circuit board (PCB) assemblies.



	-	100	100	100	100
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**(2) LAND-BASED WIND TABLE**

APC	MPC	Value
<b>Wind Turbine</b>	Blades	31.2
	Rotor Hub	9.9
	Nacelle	47.5
	Power Converter	8.9
	<b>Production</b>	<b>0.9<sup>4</sup></b>
<b>Wind Tower Flanges</b>	Material <sup>7</sup>	0.8
	<b>Production</b>	<b>0.8<sup>8</sup></b>
<b>Tower</b>	-	Steel/Iron Product
<b>Steel or iron rebar in foundation</b>	-	Steel/Iron Product
<b>Total</b>	-	<b>100</b>

**(3) BATTERY ELECTRIC STORAGE SYSTEM (BESS) TABLE**

APC	MPC	Grid-scale BESS	Distributed BESS
<b>Battery Pack</b>	Cells	38.0	18.1
	Packaging	3.3	30.1
	Thermal Management System	4.9	9.0
	Battery Management System	5.2	9.0
	<b>Production</b>	<b>21.1<sup>8</sup></b>	<b>27.3<sup>8</sup></b>
<b>Inverter</b>	Printed Circuit Board Assemblies	1.7	3.8
	Electrical Parts <sup>9</sup>	0.6	0.4
	Climate Control	0.4	-
	Enclosure	0.6	0.4
	<b>Production</b>	<b>1.9<sup>8</sup></b>	<b>1.9<sup>8</sup></b>
<b>Battery Container/Housing</b>	Battery Racks and Metal Enclosure	15.8	-
	<b>Production</b>	<b>6.5<sup>8</sup></b>	-

<sup>7</sup> Flanges are typically made from single pieces of steel bar or pre-formed steel ingot; therefore the only component of a flange would be the steel material.

<sup>8</sup> Consistent with Notice 2023-38, the direct cost of producing a Manufactured Product counts toward the Domestic Cost Percentage only if all its Manufactured Product Components are domestically produced.

<sup>9</sup> Includes transformers, capacitors, inductors, bus/cables, circuit protection not on PCB assemblies.

<b>Steel or iron rebar in foundation</b>	-	Steel/Iron Product	-
<b>Total</b>	-	<b>100</b>	<b>100</b>

.05 Battery Energy Storage System (BESS) Multiplier. Solar PV and BESS systems have nameplate capacities denominated in different units (that is, kW versus kWh). Because the New Elective Safe Harbor was produced using nameplate capacity, the DOE has advised that a multiplier for BESS nameplate capacity is appropriate to align the different solar energy property listed in Table 1 of this notice. Taxpayers may use the BESS Multiplier only with respect to energy projects described in section 4.03(6) of this notice for which they make a valid election to use the New Elective Safe Harbor.

<b>PV Market</b>	<b>Ground-mount (tracker)</b>	<b>Ground-mount (fixed-tilt)</b>	<b>Rooftop (MLPE)</b>	<b>Rooftop (string inverter)</b>
<b>Multiplier</b>	0.57	0.75	0.69	0.99

.06 Definitions.

(1) Land-based wind. The term “land-based wind” refers to an energy system using wind turbines to generate electricity on land.

(2) Ground-mounted PV (tracker). The term “ground-mounted PV (tracker)” refers to an energy system using photovoltaic solar modules to generate electricity, mounted to a non-pre-existing, non-building structure, which integrates a solar tracker to rotate the solar modules.

(3) Ground-mounted PV (fixed-tilt). The term “ground-mounted PV (fixed-tilt)” refers to an energy system using solar modules to generate electricity, mounted to a non-pre-existing, non-building structure, where the PV modules are mounted at a fixed

angle and orientation.

(4) Rooftop PV (MLPE). The term “rooftop PV (MLPE)” refers to an energy system using PV solar modules to generate electricity, mounted to a building structure, which integrates one or more microinverters or uses a DC-optimized inverter system to convert direct current electricity into alternating current electricity.

(5) Rooftop PV (string inverter). The term “rooftop PV (string inverter)” refers to an energy system using solar modules to generate electricity, mounted to a building structure, which integrates one or more inverters to convert direct current electricity from a string of solar panels into alternating current electricity.

(6) Grid-scale BESS. The term “grid-scale BESS” refers to an energy storage system for electricity generation using battery cells and battery modules, which has a nameplate capacity greater than 1 megawatt-hour.

(7) Distributed BESS. The term “distributed BESS” refers to an energy storage system for electricity generation using battery cells and battery modules, which has a nameplate capacity not greater than 1 megawatt-hour.

.07 Examples. The following examples illustrate the application of the New Elective Safe Harbor in Table 1 of this notice:

(1) Example 1.

(a) In taxable year 2024, taxpayer purchases a 5-megawatt alternating current (MWac) land-based wind facility (Applicable Project A) from Contractor under an engineering, procurement, and construction contract (EPC contract) and places Applicable Project A in service. Taxpayer makes a valid election to use the New Elective Safe Harbor to qualify for the domestic content bonus credit amount under

§ 45. Applicable Project A is comprised of four Applicable Project Components identified in Table 1 of this notice: wind turbine, wind tower flanges, tower, and steel rebar in foundation. For taxable year 2024, § 45(b)(9)(C) provides that, for purposes of the Adjusted Percentage Rule, the adjusted percentage is 40 percent for qualified facilities that are not offshore wind facilities.

(b) Taxpayer identifies the tower and steel rebar in foundation as steel or iron products in accordance with Table 1 of this notice. The tower and steel rebar in foundation are manufactured in the United States and meet the Steel or Iron Requirement described in section 3.02 of Notice 2023-38.

(c) Taxpayer identifies the wind turbine and the wind tower flanges as Manufactured Products in accordance with Table 1 of this notice.

(d) The wind turbine is manufactured in the United States and has four Manufactured Product Components: blades, rotor hub, nacelle, and power converter. The blades and nacelles are manufactured in the United States and the rotor hub and power converter are not manufactured in the United States. The wind turbine is, therefore, a Non-U.S. Manufactured Product because some of its Manufactured Product Components are not produced in the United States.

(e) The wind tower flanges are not manufactured in the United States and therefore are Non-U.S. Manufactured Products.

(f) Two Manufactured Product Components identified in Table 1 of this notice are U.S. Components, namely, the blades and nacelle of the wind turbine. Table 1 of this notice identifies the blades as constituting 31.2% and the nacelle as constituting 47.5% of the total cost of the Manufactured Products of the land-based wind facility.

Therefore, Applicable Project A satisfies the Adjusted Percentage Rule because its Domestic Cost Percentage of 78.7% (31.2% + 47.5%) exceeds the adjusted percentage that applies to Applicable Project A (40%).

(2) Example 1.1. Assume the same facts as in Example 1, except Applicable Project A includes an interconnection transformer and substation. Because an interconnection transformer and substation are not included in Table 1 of this notice, and the taxpayer elected to use the New Elective Safe Harbor, the interconnection transformer and substation are excluded from the Domestic Cost Percentage calculation. Applicable Project A satisfies the Adjusted Percentage Rule because its Domestic Cost Percentage of 78.7% (31.2% + 47.5%) exceeds the adjusted percentage that applies to Applicable Project A (40%).

(3) Example 2.

(a) In taxable year 2024, Taxpayer purchases a 100-megawatt direct current (MWdc) ground-mounted PV (tracker) (Applicable Project B) from Contractor under an EPC contract, places the project in service, and makes a valid election to use the New Elective Safe Harbor to qualify for the domestic content bonus credit amount under § 48. Applicable Project B is an energy project for purposes of § 48 that is comprised of five categories of Applicable Project Components identified in Table 1 in this notice for a ground-mounted PV (tracker): PV modules, inverters, PV trackers, steel piles, and steel rebar in foundation. For purposes of the Adjusted Percentage Rule, the adjusted percentage is 40 percent for energy projects that are not offshore wind facilities. See § 48(a)(12)(B).

(b) In accordance with Table 1 of this notice, taxpayer identifies the steel piles

and steel rebar in foundation as steel or iron products and the PV modules, inverters, and PV trackers as Manufactured Products.

(c) All of the steel piles and steel rebar in foundation are manufactured in the United States and meet the Steel or Iron Requirement.

(d) Two sets of PV modules are used in the Applicable Project B. One set has a capacity of 60 MWdc and uses PV modules manufactured in the United States, all of whose Manufactured Product Components, as identified in accordance with Table 1 of this notice, are also manufactured in the United States. The remaining set has a capacity of 40 MWdc and uses PV modules that are not manufactured in the United States and that have no U.S. Components. None of Applicable Project B's PV inverters are manufactured in the United States or have any U.S. Components.

(e) The PV trackers used in Applicable Project B are manufactured in the United States and have seven categories of Manufactured Product Components (torque tubes, fasteners, slew drives, dampers, motor, controllers, and rails) of which a portion of the torque tubes are manufactured in the United States. The PV trackers are associated and directly integrated with all the PV modules used in Applicable Project B. The torque tubes manufactured in the United States are the only torque tubes associated and directly integrated with 80 MWdc of Applicable Project B's PV modules. The remainder of torque tubes and other PV tracker components are not manufactured in the United States. The PV trackers are Non-U.S. Manufactured Products because some of their Manufactured Product Components are not produced in the United States.

(f) Applicable Project B's steel or iron products identified in Table 1 of this notice meet the Steel or Iron Requirement. Table 1 of this notice identifies the torque tube

Manufactured Product Component of a PV tracker as constituting 9.7% of the total cost of manufactured products for this type of Applicable Project. Table 1 of this notice identifies the Manufactured Product Components of a PV module as constituting 54.8% (36.9% + 5.3% + 3.7% + 2.2% + 3.7% + 1.6% + 0.2% + 0.2% + 0.2% + 0.4% + 0.4%) of the total cost of Manufactured Products for an Applicable Project that is a ground-mounted PV (tracker). In addition to these costs, Table 1 of this notice provides that the cost to produce PV modules for such an Applicable Project constitutes 11.5% of the total cost of Manufactured Products for such an Applicable Project. Based on a nameplate capacity weighted average of Applicable Project Component categories and Manufactured Product Component categories identified in Table 1 of this notice, the total Assigned Cost Percentage attributable to the PV modules of Applicable Project B would be calculated as:  $(54.8\% + 11.5\%) \times 60 / 100 = 39.8\%$ . Based on a nameplate capacity weighted average of Applicable Project Components associated with torque tubes, the Assigned Cost Percentage attributable to the torque tubes of Applicable Project B would be calculated as:  $9.7\% \times 80 / 100 = 7.8\%$ . Applicable Project B's overall Domestic Cost Percentage is:  $39.8\% + 7.8\% = 47.6\%$ . Applicable Project B satisfies the Adjusted Percentage Rule because its Domestic Cost Percentage of 47.6% exceeds the adjusted percentage that applies to Applicable Project B (40%).

(4) Example 3.

(a) Assume the same facts as in Example 2, except that the PV modules used in Applicable Project B do not include backrails, but instead include another Manufactured Product Component not mentioned in Table 1 of this notice. In this case, the total Assigned Content Percentage associated with PV modules would be lowered by 5.3

percentage points. However, because all of the other components listed in Table 1 of this notice are in the PV modules and are manufactured in the United States, the PV modules are still considered to have been manufactured in the United States. Any component not mentioned in Table 1 of this notice may not count toward satisfying the Adjusted Percentage Rule.

(b) The calculation of the new Assigned Cost Percentage attributable to the PV modules of Applicable Project B is as follows:  $(54.8\% - 5.3\% + 11.5\%) \times 60 / 100 = 36.6\%$ . The Assigned Cost Percentage attributable to the torque tubes of Applicable Project B is 7.8%. Applicable Project B's overall Domestic Cost Percentage is  $36.6\% + 7.8\% = 44.4\%$ . The project satisfies the Adjusted Percentage Rule because its Domestic Cost Percentage of 44.4% exceeds the adjusted percentage that applies to Applicable Project B (40%).

(5) Example 4.

(a) Assume the same facts as in Example 2, except that the § 48 energy project (Applicable Project C) also includes a 240 MWh grid-scale BESS. The grid-scale BESS is comprised of four categories of Applicable Project Components identified in Table 1 of this notice: battery packs, battery inverters, battery container/housing, and steel rebar in foundation.

(b) In accordance with Table 1 of this notice, Taxpayer identifies the steel rebar in foundation as steel or iron products and the battery pack, battery inverters, and battery container/housing as Manufactured Products.

(c) All of the steel rebar in foundation is manufactured in the United States and meets the Steel or Iron Requirement. The battery packs and battery container/housing



are manufactured in the United States and all their Manufactured Product Components, as identified in accordance with Table 1 of this notice, are manufactured in the United States, except for the battery packs' cells. The battery container/housing is a U.S. Manufactured Product and the battery packs are Non-U.S. Manufactured Products with U.S. Components.

(d) None of the battery inverters or their components were manufactured in the United States. All of the inverters are therefore Non-U.S. Manufactured Products and the components of the inverters are not U.S. Components.

(e) Taxpayer elects to use the New Elective Safe Harbor to qualify for the domestic content bonus credit amounts under § 48. All of Applicable Project C's steel or iron products identified in Table 1 of this notice meet the Steel or Iron Requirement. The solar PV portion of Applicable Project C has an Assigned Cost Percentage of 47.6%, as calculated in Example 2. Table 1 of this notice identifies the non-cell Manufactured Product Components of a battery pack as constituting 13.4% of the total cost of Manufactured Products within a grid-scale BESS. Table 1 of this notice identifies the Manufactured Product Component of a battery container/housing as constituting 15.8% of the total cost of Manufactured Products within a grid-scale BESS. Table 1 of this notice also identifies the cost to produce battery containers/housings for a grid-scale BESS (Production) as constituting 6.5% of the total cost of Manufactured Products within a grid-scale BESS. The BESS portion of Applicable Project C has a total Assigned Cost Percentage of 35.7% (13.4% + 15.8% + 6.5%).

(f) The overall Domestic Cost Percentage of Applicable Project C, comprising the 100 MWdc PV system and 240 megawatt-hours BESS, is calculated based on

application of the relative capacities of each portion of the Applicable Project and the appropriate BESS Multiplier from section 4.05 of this notice, as follows:  $(47.6\% \times 100 + 35.7\% \times 240 \times 0.57) / (100 + 240 \times 0.57) = 40.7\%$ . Applicable Project C satisfies the Adjusted Percentage Rule because its overall Domestic Cost Percentage of 40.7% exceeds the adjusted percentage that applies to Applicable Project C (40%).

(6) Example 5.

(a) In taxable year 2024, Taxpayer purchases a 10-kilowatt direct current (kWdc) rooftop PV solar system with a DC optimized inverter system (Applicable Project D) from Contractor under an EPC contract and places the project in service. Applicable Project D is an energy project for purposes of section 48 that is comprised of three categories of Applicable Project Components identified in Table 1 of this notice for a rooftop PV (MLPE): PV modules, DC optimized inverter system, and non-steel roof racking.

(b) The non-steel roof racking used in Applicable Project D is manufactured in the United States and has two categories of Manufactured Product Components (fasteners and rails) of which only the rails are manufactured in the United States. The non-steel roof racking is a Non-U.S. Manufactured Product because some of its Manufactured Product Components are not produced in the United States.

(c) Applicable Project D uses PV modules manufactured in the United States, of which only the PV cells are manufactured in the United States. The PV modules are Non-U.S. Manufactured Products because some of their Manufactured Product Components are not produced in the United States.

(d) Applicable Project D uses a DC optimized inverter system. The inverter and

the DC optimizers are manufactured in the United States. The inverter uses printed circuit board assemblies produced in the United States; the DC optimizers use printed circuit board assemblies not produced in the United States.

(e) Taxpayer makes a valid election to use the New Elective Safe Harbor to qualify for the domestic content bonus credit amount under § 48. The PV cells in Applicable Project D are U.S. Components of the PV module. Table 1 of this notice identifies the PV cell Manufactured Product Component of a PV module as constituting 21.5% of the total cost of manufactured products for this type of Applicable Project. The rails in Applicable Project D are U.S. Components of the non-steel roof racking. Table 1 of this notice identifies the rails as constituting 8.6% of the total cost of manufactured products for this type of Applicable Project. The printed circuit board assemblies in Project D are both U.S. Components and Manufactured Product Components that are not produced in the United States of a DC optimized inverter system. Table 1 of this notice identifies the printed circuit board assemblies of an inverter as constituting 16.0% of the total cost of manufactured products for this type of Applicable Project. However, the individual printed circuit board assemblies do not have nameplate capacities and cannot be separated into exclusively foreign and exclusively domestic portions using the nameplate capacity of the associated Applicable Project Components with nameplate capacities with which they are directly integrated. Therefore, Applicable Project D cannot receive any credit for the domestically produced printed circuit board assemblies under the New Elective Safe Harbor.

(f) Applicable Project D's overall Domestic Cost Percentage is:  $21.5\% + 8.6\% = 30.1\%$ . Applicable Project D does not satisfy the Adjusted Percentage Rule because its

Domestic Cost Percentage of 30.1% is below the adjusted percentage that applies to Applicable Project D (40%).

.08 Certification. An Applicable Project is eligible for a domestic content bonus credit amount if the Applicable Project satisfies the Domestic Content Requirement and the taxpayer timely submits to the IRS the certification described in section 5 of Notice 2023-38. To affirmatively elect to rely on the New Elective Safe Harbor, a taxpayer must provide on the Domestic Content Certification Statement described in section 5.01(2)(c) of Notice 2023-38 a statement that the taxpayer is relying on the New Elective Safe Harbor. As provided in section 5.01(2)(b) of Notice 2023-38, the Domestic Content Certification Statement must be attached to Form 8835, *Renewable Electricity Product Credit*, Form 3468, *Investment Credit*, or other applicable form for reporting domestic content bonus credit amounts under §§ 45, 45Y, 48, or 48E filed with the taxpayer's annual return submitted to the IRS for the first taxable year in which the taxpayer reports a domestic content bonus credit amount for such Applicable Project.

## SECTION 5. SUBSTANTIATION

A taxpayer reporting a domestic content bonus credit amount for meeting the Domestic Content Requirement must meet the general recordkeeping requirements under § 6001 in order to substantiate that the Domestic Content Requirement has been met. Section 6001 provides that every person liable for any tax imposed by the Code, or for the collection thereof, must keep such records as the Secretary of the Treasury or her delegate may from time to time prescribe. Section 1.6001-1(a) provides that any person subject to income tax must keep such permanent books of account or records as are sufficient to establish the amount of gross income, deductions, credits, or other

matters required to be shown by such person in any return of such tax. Section 1.6001-1(e) provides that the books and records required by § 1.6001-1 must be retained so long as the contents thereof may become material in the administration of any internal revenue law. See also §§ 45(b)(12), 48(a)(16), 48E(a)(3)(B) (by cross-reference to § 48(a)(12)), and 45Y(f).

## SECTION 6. REQUEST FOR COMMENTS

The Treasury Department and the IRS may consider updates to the New Elective Safe Harbor and request comments with respect to the following specific questions, in addition to general comments regarding the New Elective Safe Harbor, to inform the development of any future updates:

(1) Are there any other technologies, or technology subsets, that should be addressed by Table 1 of this notice, and what criteria should be used for new additions? How often should these tables be updated?

(2) Are there instances in which the nameplate capacity allocation approach in section 4.03 of this notice for calculating domestic content for a mix of foreign and domestic Manufactured Product Components should be clarified, either for current technologies or technologies that may be addressed in the future? In those instances, how should the Assigned Cost Percentages be allocated to Applicable Project Components with a mix of foreign and domestic Manufactured Product Components?

## SECTION 7. PROCEDURES FOR SUBMITTING COMMENTS

.01 Deadline. Written comments should be submitted by July 15, 2024. However, consideration will be given to any written comments submitted after July 15, 2024, if such consideration will not delay the issuance of future published guidance.

.02 Form and Manner. The subject line for the comments should include a reference to Notice 2024-41. All stakeholders are strongly encouraged to submit comments electronically. Comments may be submitted in one of two ways:

(1) Electronically via the Federal eRulemaking Portal at

<https://www.regulations.gov> (type IRS-2024-0023 in the search field on the <https://www.regulations.gov> homepage to find this notice and submit comments).

(2) By mail to: Internal Revenue Service, CC:PA:LPD:PR (Notice 2024-41), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

03 Publication of Comments. The Treasury Department and the IRS will publish for public availability any comment submitted electronically or on paper to the IRS's public docket on <https://www.regulations.gov>.

## SECTION 8. PAPERWORK REDUCTION ACT

Any collection burden associated with this notice is accounted for in Office of Management and Budget (OMB) control numbers 1545-0123 for businesses and 1545-0047 for non-profit organizations. The reporting requirements from section 4.08 of this notice and the recordkeeping requirements from section 5 of this notice are associated with the IRA-related changes to Form 3468 and Form 8835 that were approved, and will continue to be approved, under OMB control numbers 1545-0123 and 1545-0047. This notice does not alter any previously approved information collection requirements and does not create new collection requirements not already approved by OMB.

## SECTION 9. EFFECT ON OTHER DOCUMENTS

Table 2 in section 3.04 of Notice 2023-38 is modified as provided in section 3.01 of this notice.

## SECTION 10. DRAFTING INFORMATION

The principal author of this notice is the Office of Associate Chief Counsel (Passthroughs & Special Industries). However, other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this notice, call the energy security guidance contact number at (202) 317-5254 (not a toll-free call).