Sen. Joe Manchin, D-West Virginia, announced Sunday that he wouldn't vote for the Build Back Better Act–a crucial blow to the signature legislation of President Joe Biden's administration, a bill that included major green energy and affordable housing provisions. In today's podcast, Michael Novogradac, CPA, is joined by Novogradac director of public policy and government relations Peter Lawrence and Tony Grappone, a partner at Novogradac, to discuss what's next for Congress and the reaction of those in the clean energy world to Manchin's announcement. They discuss how Congress got to this point, what legislative vehicles could involve tax extenders, which community development tax incentives are expiring, how the green energy world is reacting and whether some tax incentives could be enhanced as well as expanded. They also discuss the role of the child tax credit in the BBBA and what provisions might be in future Build Back Better legislation.

Summaries of each topic:

1. How this happened and what options exist (3:34-8:24)
2. Possible vehicles for tax extenders (8:25-11:35)
3. What tax incentives are expiring (11:36-15:47)
4. Reactions from the green energy world (15:48-23:34)
5. Extension of provisions vs. expansion (23:35-26:37)
6. Child tax credit and the BBBA (26:38-29:57)
7. What might be in future BBB legislation? (29:58-44:00)

Transcript:

[00:00:13] **Michael Novogradac, CPA:** Hello. I'm Michael Novogradac and this is Tax Credit Tuesday. This is the Tuesday, December 21st, 2021 podcast.

This week's podcast is the second of a two-part series about the landmark Build Back Better legislation that the House of Representatives passed in November. We originally planned to focus on the green energy provisions in today's podcast, but there was a dramatic shift in the focus on Sunday when Sen. Joe Manchin of West Virginia announced that he would not vote for the bill. Manchin's vote is crucial for the legislation, since all 50 Democratic senators need to vote for the bill to pass. Because this is a budget reconciliation bill, a 50-50 tie in the Senate would bring in vice-president Kamala Harris to provide a tiebreaker vote. With a 50-50 split in the Senate, every Democratic vote is important, it's critical. So Manchin, and to a lesser degree, Arizona Sen. Kyrsten Sinema have been the focus of attention as Senate leadership attempted to get them both on board to vote for the bill. On Sunday, Manchin announced he would not vote for the legislation. This bill would have represented the largest expansion of affordable housing, community development and clean energy tax incentives and spending in a single piece of legislation ever.

Now my two guests this week will provide insight on what happened and what to expect as well as what those involved in green energy should be considering. Our first guest is Peter Lawrence, Novogradac's director of public policy and government relations. Peter was on last week's podcast and is an expert on how Washington works, which is particularly important this week. Peter has appeared on Tax Credit Tuesday many times, so he'll be familiar to many listeners. My other guest is Tony Grappone, my partner in Novogradac's Andover, Massachusetts, office. Tony works with a variety of stakeholders across community development incentives with a particular focus on green energy.

Tony was the chair of the recent Novogradac 2021 Fall Renewable Energy and Environmental Tax Credit Conference in Washington, D.C. I will note that our next energy environmental tax credit conference is coming up in May 2022 and it will be held in Denver, Colorado. Tony was also a guest on Tax Credit Tuesday in November, when we discussed tips for renewable energy developers.

For today's podcast, we're going to start with a look at what's next for the Build Back Better Act and its provisions, including what to expect from Congress in early 2022. Then we're going to address some tax credit provisions that are expiring at the end of

2021, many of which we had thought were going to be extended as part of Build Back Better, and we'll look at the chances of those expiring tax provisions being included in future legislation. After that, we'll look at what provisions might be included in an updated version of legislation to address that Build Back Better agenda and what timeline to expect should that happen. Now, as you can hear, we do have a lot to cover. So if you're ready, let's get started.

First off, Tony and Peter, I want to welcome you back to Tax Credit Tuesday.

[00:03:29] **Tony Grappone, CPA:** Thanks, Mike, glad to be here.

[00:03:30] **Peter Lawrence:** Thank you, Mike always appreciate the opportunity.

How This Happened, Other Options

[00:03:34] **Michael Novogradac, CPA:** So we're going to start with the lead, we're not going to bury the lead, and it's already been discussed, of the biggest news. And this is Sen. Joe Manchin's announcement on Sunday that he would be a "no" vote on the Build Back Better Act. So Peter, if you could maybe level-set and explain to our listeners what this means for the future of the legislation.

[00:04:01] **Peter Lawrence:** Thanks, Mike. And as you pointed out, in that 50-50 Senate, every single Democratic senator is crucial for it to be able to advance and so when Sen. Manchin, he's been negotiating with the president and Senate leadership for many months now and he wrote a letter with Senator Schumer back in July talking about his red lines.

So he's been signaling that he's not entirely happy with how the legislation was drafted, but he never came out and so publicly and so he definitively said that he's a "no" on the draft of the legislation as currently in front of the Senate. So what I think is going to happen now is folks are going to stay home for the holidays and I think take a step back from the legislative process until the beginning of the new year. The Senate is scheduled to get started again on Jan. 3, but it will take some time, I think, to really figure out, OK, where are we going to find a way to make changes in order to satisfy Sen. Manchin while at the same time not losing any of the other 49 senators out there, who have been pushing for the Build Back Better agenda and, that, I think is going to take a fair amount of time. It's possible that you could perhaps see negotiations come to fruition over January and certainly I think before the Sunday announcement, that was the intent of congressional leadership–to try to get legislation wrapped up in that timeframe. But my guess is that it's probably going to take longer and that there also is another sort of must-pass deadline that they will focus on in February: the federal government funding expires Feb. 18 and my guess is that there won't be a deal before they need to act on that deadline first. So I'm thinking about the action may be after that timeline. And I think it's useful context to say that when you look back a little over 10 years ago on the Affordable Care Act, that did not get enacted until March of 2010 as a reconciliation bill, even though they'd been working on it all the way through the fall of 2009 and it included the infamous Christmas Eve vote in the Senate. I think that seems to be a more reasonable timeline, but I do also want to point out that there is a possibility that they eventually can't find a way to get to 50 votes in the Senate and the whole bill does a founder and not go forward. So there's no guarantee and certainly I think Manchin’s announcement was pretty strong and stark, which I think raises that possibility of nothing going forward.

[00:07:15] **Michael Novogradac, CPA:** Great. Thank you for that, Peter. And it's obviously good to hear that at least at this point, all is not lost with respect to the Build Back Better Act and it’s nice to hear that there's some potential for something to happen in January, more likely after the middle of February. And as you note, certainly, it is possible that something similar to it doesn't end up getting enacted.

Let's talk a little bit now about other legislation. The Build Back Better Act obviously isn't the only legislation in Congress that's actively being considered and/or needing to proceed. That's particularly going to be true in early 2022. So beyond the Build Back Better Act, Peter, if you could explain what legislation is currently expected to be considered in early 2022 and provide a rough timeline. You've already talked about the middle of February, but maybe go into a bit more detail there. I asked the question because obviously that's legislation that can become a vehicle for various tax incentives to be extended and/or expanded.

Tax Extension Options

[00:08:25] **Peter Lawrence:** Indeed. And in fact, in the beginning of this month, there was another deadline that Congress acted upon. The federal fiscal year started Oct. 1, but Congress enabled stopgap funding through Dec. 3 and then when it came close to that deadline, they kicked it forward again to Feb. 18. I think they did that with the assumption that the rest of their must-pass agenda would be done before that time and to give enough time to work out a deal so that they could have a full-year funding legislation or omnibus appropriations bill, in D.C.-speak, that would carry for the full fiscal year of 2022 and that historically has had tax legislation attached to it. Last year at this time, Congress did pass the fiscal year 2021 appropriations with a significant tax title, COVID relief and five years for the new markets tax credit and a number of other provisions. That, I think is a decent chance that there will be legislation on that front, especially if the negotiations on Build Back Better are not going well, that will be, I think, an urgency to try to get as much tax legislation into that vehicle as possible.

So we'll see what the scope will be. Sometimes Congress does a very sparse, just "strike the date, add a new date" type approach, but often, they cannot accommodate other things and other policies in that. Then I think another question we've often received, Mike, is why can't they get another tax bill on a bipartisan basis? I think the one thing to keep in mind is starting next year, it's a midterm election year. It's always difficult to do big pieces of legislation in election year, which is part of the reason why I think the leadership tried to get Build Back Better done this year: to lessen the headwinds on doing significant bipartisan legislation in the election year. To try to get Build Back Better done, an extenders package and get a third piece of tax legislation, I think is just not realistic given the political challenges, especially as many political pundits are predicting the House will flip to Republicans in the 2022 midterm elections. So I think the most reasonable scope is either some sort of pared-down version of the Build Back Better agenda and perhaps an expansive extenders/tax package along with appropriation.

Expiring Provisions

[00:11:36] **Michael Novogradac, CPA:** Peter, let's dig in a little bit deeper on the expiring tax provisions. You definitely mentioned them and it's obviously an issue that's important to many of our listeners. Some of those provisions have a Dec. 31 deadline, so they'll be expiring obviously at the end of this year and we were expecting that they would be extended as part of the Build Back Better Act. Maybe you could share with our listeners some of the key tax credit provisions that are expiring that listeners should be quite mindful of.

[00:11:53] **Peter Lawrence:** First and foremost, we've got to start with the renewable energy production tax. The 60%, level PTC expires at the end of this year and I think there hasn't been so much attention on that, given the expansive agenda in Build Back Better. But given that is stalled and in danger of not moving forward, I think there will be an effort toward addressing it in a tax extenders legislation There's also, for those of you who also are involved in affordable housing, the 12.5% allocation increase for the low-income housing tax credit expires at the end of this year and, absent that, you could see a reduction in the amount of affordable rental homes that are financed next year and given the context of the tremendous challenges we have had with affordable rental housing that have been exacerbated by the pandemic, I think that's something that Congress is going to try to avoid going backward on. Then another sort of set of tax extenders that have frequently been extended on a short-term basis is the Section 45L new energy-efficient homes tax credit, which is something that helps promote, energy-efficiency in both single-family as well as multifamily housing and was a key part of the set of tax incentives in Build Back Better. But if that again is stalled, it will need to be addressed if the incentive is to continue. So those are some that are expiring, there are about two dozen or so that are, sort of a part of the sort of traditional package that expires at the end of this year and we'll see to what extent they are addressing it in an extenders package by February.

[00:13:49] **Michael Novogradac, CPA:** So you mentioned that tax extenders package and it would have to have bipartisan support, which means you'd have to have at least 10 Republican senators voting for it. So is it reasonable to expect to have some Republicans, in the Senate, at least 10 Republicans in the Senate voting to extend the various extenders?

[00:14:08] **Peter Lawrence:** So there's certainly plenty of history of tax extenders legislation being enacted on a bipartisan basis. These extenders have been around for a while now and they have been extended several times in the past and there was also a history of Congress, for whatever reason, doing so on a retroactive basis. So even if we find ourselves in early 2022, you could see a lot of these extensions being effective as of Jan. 1. I wouldn't be surprised. I will say that it's gotten a little bit more difficult with each year, because some of the traditional engines of tax extenders have been addressed and made permanent. For a long time, the individual alternative minimum tax relief was a very powerful incentive to not make sure like some 20 million households or some subject to the AMT or the research and development tax credit, which is a key business tax incentive that affected a wide range of businesses. It was often an engine. So it's gotten a little bit more challenging to get the momentum behind that and address a wide enough part of the economy and taxpayers. But I do think that certainly the PTC is a key, important part of that, that congressional leadership will be motivated to address. Certainly there may be a little bit of turbulence and maybe not every single one of those extenders is made, one or two might not be extended one reason or another, but I do think there's a decent enough chance that won't be a problem.

Reaction in Green Energy World

[00:15:48] **Michael Novogradac, CPA:** Great, thank you for that. And I would also note that one of the expiring extender provisions or one of the extending expiring provisions is the add back of depreciation expense and amortization to taxable income for purposes of determining interest expense deduction limitations, which is something that there's bipartisan interest in seeing get extended.

So Tony, apologies for not bringing you in until now, but I just wanted Peter to do a level set, given that news that we heard over the weekend from Sen. Joe Manchin, but I wanted you to join us now, since you worked so much in the clean energy space. I wanted you to share with our listeners what you're hearing from developers, investors and others about their reaction to the news that the Build Back Better Act, I won't say it certainly will not pass, but it certainly will not pass in the current form. And as Peter noted, if it does pass, maybe something could happen in January, but it likely would be after the middle of February. What are you hearing out there?

[00:16:58] **Tony Grappone, CPA:** Thanks, Mike. Yeah, I know originally I think I was supposed to have a much greater focal point of this podcast, but that's shifted a bit and I'm just as eager to hear Peter's thoughts, especially, based on where we are now. We're trying to a sense of where do we go from here? And so I think we're all eager to hear Peter's thoughts. So that's great.

What am I hearing? Obviously, the clean energy industry is extremely disappointed to have learned Sen. Manchin's reaction over the weekend, saying he wouldn't vote in favor of the Build Back Better legislation. Obviously, the renewable energy industry was very excited about that. The Build Back Better legislation offered increased and expanded incentives to help deploy clean energy in a way that we've never seen before. So it was supposed to be a real game-changing piece of legislation for sure, so it was very disappointing to find out that at least as it stands now, it's not going to get passed as is and so we'll see where we go from there. But developers, we hadn't seen any deals close on financing assuming that the legislation was going to pass as is, but they certainly were having discussions with lenders. They were having those discussions with investors as well. They were eyeballing new projects. I'm talking about things like standalone storage projects. They were doing an initial feasibility around those types of projects. They were doing initial feasibility around green hydrogen projects. They were starting to do initial underwriting of what that elective pay option might be with a solar credit, or when developers were looking at doing feasibility around expanded PTC incentives. And so while they weren't closing on financing, they were certainly excited and starting to do some initial feasibility around these new incentives and having those initial conversations with potential deal participants. Obviously, now all that is put on pause to wait and see if something could get them brought back to life here. I think now, developers and industry participants are thinking, OK, how can we deal with these incentives that are expiring now? So like the PTC, that's going to get a lot of focus right now. How can we revive the PTC as part of some extended package?

[00:19:08] **Michael Novogradac, CPA:** So let's talk about that for a moment. maybe share your thoughts on what's the impact with the expiration of the PTC at the end of this year is likely to have on particularly the wind energy industry.

[00:19:24] **Tony Grappone, CPA:** Yeah. the wind industry has seen this kind of thing before, where the PTC is allowed to expire and then extended post-expiration. And many wind developers several years ago reacted to these. The PTC has been your more start-and-stop kind of program here and so that forced wind developers to expand more into solar. And so one of the things that you're going to see wind developers do now is they're going to, they've got that sort of solar arm to their business and so they're going to pivot, they're going to put more attention for the time being on those solar projects. So you'll definitely see a slowdown in new starts on new wind projects in 2022 until that PTC can get re-upped. And while that PTC is still expired, those developers will focus on other technologies that still have incentives an so they will pivot and they'll start to look at solar.

[00:20:18] **Michael Novogradac, CPA:** Thank you for that. And maybe Tony, you could share with our listeners what it means for the PTC to expire. It doesn't mean that those developments that already are eligible for the PTC aren't eligible. Maybe you could talk a bit about the effective date and the grandfathering rules.

[00:20:39] **Tony Grappone, CPA:** Great point. If your project had already started construction or maybe it was already in service, you're still eligible for that 10-year PTC. So you'll continue to operate, you'll continue to claim that 10-year PTC as is. It's what this expiration really affects is with respect to new projects. So if you don't commence construction before 2022, then while you'll lose eligibility on your new projects, but if you've already started construction or commenced operations, you still have that right to produce electricity and claim those PTCs throughout the original 10-year year period as you would originally planned on.

[00:21:13] **Michael Novogradac, CPA:** Thank you for that. Peter, maybe you could share a little bit more detail in terms of extenders legislation that happens every year and maybe talk a bit about the process in terms of how that legislation comes together and what some of the catalysts are for the timing for getting enacted.

[00:21:35] **Peter Lawrence:** Typically every year, the congressional Joint Committee on Taxation releases the list of all the various provisions that expire in the next few years. So the assumption really is that Congress takes up and uses those provisions and decide whether they need, they deserve being extended, or not. And they're supposed to. Yeah, I'll figure it out and try to make a long-term planning, but often only it doesn't end up happening that way because of budget constraints. You having to typically you have to pay for a long-term permanent policy, while there's has been this sort of current practice where short-term extensions of extenders aren't needed to be paid for often, given the fact they haven't yet had a long-term decision on some of these things. They end up waiting until the end of the year and then acting them into one big package. And then typically it doesn't move on its own. It's usually attached to some other must-pass piece of legislation and often the case legislation funding the federal government has got a very wide purview, as does tax extenders legislation. And so they become a natural way to catch a ride on the last train leaving the station. And this time, of course is a little different, given that the focus on Build Back Better and various other must-pass pieces of legislation like a debt limit was just increased and the annual defense policy legislation was, which has been passed every year since 1961. So those items pushed the omnibus appropriations into next year. But I do think that there will be an effort to address extenders on a retroactive basis.

Options on Extender Legislation

[00:23:35] **Michael Novogradac, CPA:** And you had mentioned earlier in the podcast, how sometimes extenders is merely changed the dates. And sometimes it could be more expansive than that. Maybe you could share a little bit more, for our listeners, I mean by just change the dates versus being a little bit more expansive.

[00:23:52] **Peter Lawrence:** I think this is particularly relevant for must-pass legislation that's pretty narrow in scope, continuing resolution funding the federal government, in that circumstance, it’s hard to do new policies since, as a whole, continue resolution especially is extending temporary things, right? It's extending the federal government on a temporary basis. So in that circumstance, sometimes tax extenders has been attached to that. And there, it's hard to initiate new tax policy because the engine of that legislation is not permanent policy. Tax policy being made permanent in that type of vehicle. So that's those circumstances, they literally just, instead of having such and such sunset in Year X now, it sunsets in Year Y, giving you no change in policy, no change in how it operates, but just simply another year of efficacy.

Certainly when the 60% PTC, one could see that Congress ends up doing that, just extending it from ending in the end of 2021 to ending at the end of 2022. But in other circumstances, when you have a wider range legislation like an omnibus, which provides a full year of federal government funding plus often includes policy changes, changing how all federal programs work, it's easier for Congress to then address broader issues and have longer term or policy changes within those tax incentives. So I think we'll be keeping an eye on how the debate evolves in early next year. And I think, again, as I said before, if Build Back Better remains stalled and the chances of it advancing seem very problematic, I think there might be an effort to have a broader tax legislation to add it to appropriations. But if Build Back Better seems to be back on track or in a pared-down version, there may be more of a strike-the-dates type approach on extenders. We'll just we'll have to see.

Child Tax Credit and the BBBA

[00:26:07] **Michael Novogradac, CPA:** Yes, indeed. A lot of this is we'll have to see, but this is really a helpful in terms of laying the groundwork for what's possible, which obviously influenced actions that many listeners take. I did want to dig in a little bit deeper on the potential for Build Back Better legislation in 2022, in the earlier part of 2022, and in that, one of the items that we heard a lot about in the month of December with respect to the Build Back Better agenda and one of the reasons why there was this push to get Build Back Better passed this year has to do with the child tax credit and the significance of it expiring. We haven't talked about it as an expiring provision yet, but maybe you could discuss Peter, with the expiration of the child tax credit at the end of this year and why that was important to the Build Back Better legislation and how it might influence future Build Back Better legislation.

[00:27:18] **Peter Lawrence:** Yeah, absolutely. And this is certainly one of the central concerns that Sen. Manchin had about the legislation and a resolution of it is crucial for anything to happen. And just a level-set with folks who may not be familiar on the details: As part of the Republican tax reform legislation in 2017, the child tax credit was increased from $1,000 per child to $2,000 per child and that is a temporary provision that now is scheduled to expire at the end of 2025. Earlier this year, Democrats built upon that as part of the American Rescue Plan to increase it yet further, to $3,600 for children under 6 and $3,000 for a 6- to 17-year-olds and also provide for advanced monthly payments, instead of claiming it all at once is part of your tax return. That is considered one of the key most important Democratic priorities, that as part of the American Rescue Plan and extending it was crucial in the view of many congressional Democrats as part of the Build Back Better Act. But it's expensive. The Congressional Budget Office reported that having it with these increased levels that were instituted this year, extending it beyond this year for our full 10 years, would cost $1.6 trillion. That's almost the entire amount of Sen. Manchin's max spend that he was willing to do and it seems really difficult to be able to square all the rest of the agenda and address this at the same time. If Congress were to hit some sort of bipartisan compromise on extending the child tax credit, for example potentially to say maybe the $3,000 level were to go away, but monthly payments on the lower level of $2,000 and make that permanent. Maybe that's a compromise that could be struck in a tax extender legislation and that would make the math easier for the rest of the Build Back Better Act to go forward. So there's some sort of optionality there that I think I will be keeping an eye on as the debate starts again early next year on that because it certainly, I think, one of the keys to know what is possible next year has got to involve some sort of solution on the child tax credit. I can't imagine Democrats in Congress will just let it expire without any action of any sort.

What Could be in a Future BBB Bill?

[00:29:58] **Michael Novogradac, CPA:** No, that's a great point about some of these provisions, that if they do get addressed through a bipartisan tax bill, it does bring down the cost. That's true with the PTC. That's true with the 12.5% for the LIHTC. Obviously, they're not of the dollar significance of the child tax credit, but all of those would lead to provisions from a cost perspective not needing to be part of Build Back Better.

So as we sit here today and think about a potential pared-down Build Back Better or some of the provisions of Build Back Better Act getting dealt with that through bipartisan efforts, through a tax extenders-plus type bill, through the funding of the federal government. When we look at Build Back Better, what provisions would we think are more likely to stay versus less likely to stay in some type of revised Build Back Better-like bill? What are your thoughts in terms of items that are more likely to stay versus those that are less likely.

[00:30:10] **Peter Lawrence:** If you put aside that the big question mark on the child tax credit, there's been press reports since Manchin's announcement that he's a "no," that he sent a counteroffer to the White House on what he'd be willing to support and the energy and climate components were a part of that. So that sounds that's a positive point I think for the green portions of the Build Back Better agenda. Certainly there were things that Sen. Manchin was opposed to and earlier in this process, the clean electricity payment program, which would have paid utilities to increase their portion of renewable and penalize those that weren't increasing those portions, that was abandoned because Sen. Manchin's opposition and certain other things, which haven't been officially abandoned yet, but I imagine it will be a hard time making it into a final bill, such as this sort of union bonus on electrical vehicle credits. Those things might be changed, but I can imagine much of the PTC and ITC proposals continuing. He's made clear that he's in favor of incentives and not punitive measures and certainly those PTC and ITC are the key incentives for renewable energy. So I think that certainly they remain live as part of a pared-down Build Back Better.

On housing, for those folks who are supporting housing, that's unclear because Sen. Manchin has not said that he's opposed to them, but he's not putting it on his priority list either. It was not reported as part of his counteroffer to the White House, so the fate of those are not entirely clear. The low-income housing tax credit provisions are not huge part of the overall price tag, only about $12 billion out of a $1.7 trillion overall package, but it's just a little bit unclear yet and I think we'll know more later on. I think one conclusion we can make is that the cost will continue to come down and perhaps maybe some provisions are made effective for a longer period of time, because I think that was one of Sen. Manchin's complaints is that there was too many what he referred to as gimmicks and having things expire early when there was intent to have them continue beyond their temporary periods, so we'll see.

[00:33:40] **Michael Novogradac, CPA:** You mentioned that estimate of the cost of the housing provisions. I believe you are referring to the tax provisions that related to the low-income housing tax credit, in terms of your estimate. How about the $200 billion in direct spending for housing?

[00:33:55] **Peter Lawrence:** Yeah. About $156 billion in HUD spending of various different types, I don't know. I think certainly there's challenges in housing affordability in West Virginia. And I know there's been lots of activity and folks directly engaging with Sen. Manchin on the importance of these proposals and I have nothing to say that I think they're in trouble. But the fact that Sen. Manchin hasn't explicitly said, "I'm in favor of that," yet, it just is uncertain at this point. We'll just have to see.

[00:34:39] **Michael Novogradac, CPA:** And we've talked a lot about, Sen. Manchin. He's come up a lot in the course of the podcast and we've talked a lot about the Senate, but it is a bicameral legislature. So the House does play a role here. To what extent do you think any agreement on the Senate side would face challenges in the House? Maybe you could share a little bit of what you're hearing about the House's reaction to what Sen. Manchin said and what isn't happening in the Senate with respect to Build Back Better Act.

[00:35:19] **Peter Lawrence:** I think it's bears reminding listeners that, whatever the Senate does do, it still has to go back to the House and get passed there. I think if the bill is dramatically changed, it will be harder to get it past the House. Don't forget that the margins in the House aren't great either. It's certainly not as tight as a 50-50 Senate, but Speaker Pelosi only has three or four votes to spare and so she can't afford to alienate a portion of her caucus. One key sort of issue that's also not yet entirely ironed out is the state and local tax deduction, that there's uncertainty on how that will be addressed going forward, but it is absolutely crucial in order to get something past the House, that has to be addressed and I think there is a very strong constituency in the House for the affordable housing provisions and so if, for example, because there's a desire to reduce the cost in the Senate bill to something much lower, they can't jettison. That will make it harder for it to pass the House given that there are many people who feel that is an absolutely crucial part of the legislation. So it's complicated. It's all part of the reason why I think action in January is going to be really challenging and mid-February and later is probably more real.

[00:36:50] **Michael Novogradac, CPA:** Thank you for that. So Tony, looking at the potential for a Build Back Better bill in the future, what are some of the provisions that you think those in the green energy world would view as more critical or what are the provisions would be less critical. Maybe share how you could see that the desires of the developers, investors and others when they think about Build Back Better.

[00:37:20] **Tony Grappone, CPA:** Sure. Just to maintain business as usual, it's critical that the PTC get extended. So until that happens, that sector is just going to slow down dramatically. And so until that happens, what are you going to see from the PTC crowd? You're going to see some of those developers that seek new projects in 2022, if they hadn't started a construction yet, they will be trying to collaborate with other developers that did previously commence construction. And so that's an area where we get involved in terms of consulting to try to help deal participants try to structure a deal. Developer 1 commenced construction prior to 2022, but maybe they don't have a PPA. They commenced construction by buying components, but they don't have a power contract. Meanwhile, you have developer No. 2, they went out, they won a power purchase agreement, but they weren't able to start construction before 2022. It's an opportunity for those types of developers to collaborate, structure a deal, where the project can still work. So you're going to see more of that.

And so the value of the projects that commence construction prior to 2022, they have increased value in the marketplace. And so you're going to see more collaborations on that front. Some wind developers were already thinking about commencing construction this year. They weren't holding their breath or banking on the fact that Build Back Better was going to get passed. So they had started some conversations with major component suppliers to try and maybe commence construction this year. So those developers are obviously on the phone already with those component suppliers to make sure they can commence construction before year end. So that's what's happening there.

In terms of clean energy provisions that could get put back into Build Back Better, what's top of mind, besides the PTC renewal? Really what the industry really wants more than anything else is a longer runway. So the fact that Build Back Better had that longer runway through 2027, that's really the one aspect of Build Back Better that they want the most, a longer runway of historical incentives. Now what are things, what then comes to mind that can help propel the industry forward even more? Elective pay was very helpful, especially to those smaller projects that historically have lacked access to greater sources of capital. Elective pay had a role there with those smaller projects. So elective pay for smaller projects, longer runway for the ITC, longer runway for the PTC. Those are critical. And then after that, the increased ITC rate and the bonus adders that we were seeing for the tax credits, those are helpful for your harder-to-finance deals or just to jumpstart and move the industry forward in a way that the Biden administration seems to want it. If the Biden administration wants to achieve its climate change goals, you're going to need to see some of these types of green provisions that were in Build Back Better. In the short run, if you want to maintain historical performance, you really need a longer runway of existing PTC and ITC incentives and then if you're trying to achieve those loftier goals, while you need the full suite of incentives that were in Build Back Better.

[00:40:31] **Michael Novogradac, CPA:** Right. And an expanding technologies that are eligible for the incentives as well.

[00:40:36] **Tony Grappone, CPA:** Exactly.

[00:40:37] **Michael Novogradac, CPA:** Thank you both for joining me on the podcast. I invite our listeners to continue to listen to the podcast and follow the free breaking news emails and the blog posts and the rest, because there's going to be a lot of developments in the coming months with respect to Build Back Better and tax legislation for tax incentives in general, it was an understatement to say it's a fast-moving and fast-changing a set of issues.

So once again, thanks to both of you for your thoughts. before I wrap things up and bring you back for our Off-Mike section of the podcast, I did want each of you to provide your email addresses for listeners that may want to be reaching out to you. Peter, I'll let you go first.

[00:41:25] **Peter Lawrence:** Yes, it's my first name dot last name. So Peter.Lawrence@nc-llp.com

Thank you, Peter and Tony?

[00:41:50] **Tony Grappone, CPA:** Yeah. My email address is Tony.Grappone@Novoco.com.

[00:42:09] **Michael Novogradac, CPA:** Great. Thank you, Tony, thank you, Peter. We'll also include your email addresses in today's show notes, so please stick around for our Off-Mike section. I'll ask you to share some words of wisdom that aren't directly related to taxes, not that they can't apply indirectly to tax incentives.

And then to our listeners, we will take a break for the next two weeks from Tax Credit Tuesday podcast and we're going to return on Tuesday, Jan. 11, when my partner Rich Larson will join us to discuss hot topics for public housing authorities as we start 2022. You can make sure that you're notified of that episode and each week's episode by following or subscribing to the Tax Credit Tuesday podcast, go to www.novoco.com/podcast to subscribe to and stream the show on our website. You can also follow or subscribe to Tax Credit Tuesday on iTunes, Spotify, Google podcasts, Stitcher and on Radio Public.

Off-Mike

Now I'm pleased to reach our Off-Mike section, where listeners can get some off-topic advice and words of wisdom from our podcast guests. I'm interested in answers from each of you. So we'll start off with the first question with Peter.

As we wrap up the year, a lot of people are probably looking forward to 2022 and maybe setting goals for the new year. Peter, what advice would you give someone who is looking to develop a new professional skill, maybe something that can help them advance in their career?

[00:41:25] **Peter Lawrence:** This is nothing terribly earth-shattering, but I think networking is so important because getting to know folks in the field, various industry partners are often really key to advancing the new skills. I think we all work on our day-to-day and that's important to do to make sure we knock those things off, but I think I learned a lot by reaching out and talking to colleagues. I can't imagine being able to do this job well without interacting with a wide set of stakeholders. I really do think to the extent that if you're not getting outside of your own particular office, you're wasting an opportunity to really grow professionally and I would certainly urge everyone to get out of your bubble.

[00:44:34] **Michael Novogradac, CPA:** That's a great point, particularly in the midst of a pandemic where a lot of networking that was happening more naturally isn't happening as naturally. So I think everyone needs to be a little bit more proactive in networking because you're not just going to happen to run into someone at the office as often as you did in the past. That's very good. Thank you. Tony, what advice would you share?

[00:45:02] **Tony Grappone, CPA:** OK, so Peter led with the soft skill. I'm going to go with the hard skill. I tell people on my team to work on your Excel skills. We provide financial modeling services here at Novogradac and Co., and good, savvy Excel skills are key to that. It helps sharpen your analytical skills, helps sharpen your understanding of how deals get structured and clients really value our expertise in helping them close on new financing and the skill that goes the furthest there is good sound Excel skills. So financial modeling with Excel.

[00:45:39] **Michael Novogradac, CPA:** When I love about your point is it's not just for trying to model, it's also what it teaches you about the effects of various actions. And your technical skills really get enhanced. It just reminds me sometimes clients will say, "Can't you make the model simpler?" and the problem with making it simpler, of course, is there are a lot of interactions and if you don't model as you expect it to happen, you might in a sense of trying to make it simpler, miss something pretty critical. The models are complex because what is being done is complex and you don't want to short circuit that for fear of making mistake.

So the second question that Tony I'll have you start, what's the most valuable leadership lesson that you've learned so far in your career.

[00:46:37] **Tony Grappone, CPA:** Great question. For me, I'd have to say empower the people that work with you. So you've got those young people coming up, really try and give them opportunities to spread their wings and work independently and find ways to trust them and try to find ways to empower them to work independently.

[00:46:59] **Michael Novogradac, CPA:** I really, like that, because I've always thought that you want to focus on what outcome you're asking for and a little bit less of what the process is. Not to say that you don't want to share one stop in the process as well, but focus on the outcomes. I like that empowerment empower them to get to the result. That's a good leadership lesson to share. Peter, how about for you?

[00:47:27] **Peter Lawrence:** This other one is also seemingly a bit of a cliché, but I do think it's really important to listen to your teammates because I think sometimes we often think this is the way it's got to be done and we have a preconception of what needs to happen to solve a problem. And I think none of us actively listen as well as perhaps we all should. And I need to constantly work on that, to be able to hear all the various perspectives as possible to inform what the best potential solution might be. And so listen to every member, even the quiet person on your team, trying to elicit feedback from them and listen to what they've got to say, I think is a really important part of being a leader.

[00:48:18] **Michael Novogradac, CPA:** No, I thank you for that. And that is, I totally agree with that. I hear you with respect to that suggestion, I know in a sort of a tax and audit world, it's common on a lot of the work that we do to follow the SALY principle, as in same as last year, the acronym. Your point about listening, Peter, it's do listen because SALY should not always be the principal. It might be a good starting point, but you need to be listening to understand when SALY shouldn't be SALY and be DALY: different than last year.

Thank you both for joining me on the podcast. Thank you, Peter Lawrence and thank you, Tony Grappone. That's it for now. I'm Michael Novogradac. Thanks for listening.

Additional Resources

Email

Peter Lawrence

Tony Grappone