

Prevailing Wage and Apprenticeship Requirements Final Rules Released

Cross References

- IR-2024-168

The Internal Revenue Service has issued final regulations on the prevailing wage and apprenticeship (PWA) requirements related to increased credit or deduction amounts for certain clean energy incentives, enacted as a part of the Inflation Reduction Act (IRA). The final regulations can be found at:

<https://www.federalregister.gov/documents/2024/06/25/2024-13331/increased-amounts-of-credit-or-deduction-for-satisfying-certain-prevailing-wage-and-registered>

The IRA provides increased credit or deduction amounts for taxpayers who satisfy certain PWA requirements regarding the construction, alteration or repair of certain clean energy facilities or properties, projects or equipment. By satisfying the PWA requirements, taxpayers can generally increase the base amount of the credit or deduction by five times.

“The increased credit or deduction for taxpayers meeting prevailing wage and apprenticeship requirements creates opportunities for both workers and employers,” IRS Commissioner Danny Werfel said. “The IRS is committed to ensuring that taxpayers claiming the clean energy credits comply with all of the applicable prevailing wage and apprenticeship requirements. The additional resources the IRS has received are making a difference for our efforts to ramp up taxpayer service and enforcement, and we will continue to build on these improvements.”

To qualify for the PWA increased credit or deduction amounts, taxpayers generally need to:

- Ensure that laborers and mechanics employed in the construction, alteration or repair of the facility or property, project or equipment are paid wages at rates not less than applicable prevailing wage rates.
- Meet certain requirements related to employing qualified apprentices from registered apprenticeship programs.
- Meet specific recordkeeping and reporting requirements.

The PWA requirements apply to all contractors and subcontractors of the taxpayer who employ laborers and mechanics in construction, alteration or repair work. However, taxpayers claiming the increased credit or deduction are solely responsible for ensuring that the PWA requirements are satisfied.

Ensuring that taxpayers claiming the PWA increased credit or deduction amounts have met the requirements, along with enforcing the requirements for other clean energy tax

credits, is a top priority for the IRS. In the months ahead, the IRS will dedicate significant resources to promoting and enforcing compliance with the final clean energy rules.

The IRS is committed to working with taxpayers, their advisors and other stakeholders to ensure compliance, including conducting appropriate education and outreach. The IRA funding will support efforts for effective tax administration of these novel and cross-cutting provisions.

As part of this effort, the IRS also released Publication 5983, *IRA Prevailing Wage and Apprenticeship Requirements Fact Sheet*, Publication 5855, *IRA Prevailing Wage & Registered Apprenticeship Overview*, and the Prevailing wage and apprenticeship frequently asked questions, which can be found at:

<https://www.irs.gov/credits-deductions/frequently-asked-questions-about-the-prevailing-wage-and-apprenticeship-under-the-inflation-reduction-act>

Publication 5855 provides a summary of the PWA requirements. The frequently asked questions provide more details about the PWA requirements and information for how to alert the IRS of suspected tax violations related to the PWA requirements. The IRS takes referrals of alleged tax violations seriously and may use the information received about potential violations in connection with any applicable audit.

The PWA provisions include a significant penalty framework for failures to meet the PWA requirements. The penalty structure is intended to create incentives for real-time compliance with the PWA requirements.

Given the potential increased credit or deduction amounts available under the PWA provisions and the significant penalties at stake, taxpayers should consider establishing frameworks to support timely compliance with the PWA requirements, including the associated reporting and recordkeeping requirements. To minimize the potential for mistakes and significant penalties, taxpayers who know they intend to claim an increased credit or deduction amount through satisfaction of the PWA requirements should proactively take steps to position their project for compliance with the PWA requirements.

These steps could include, but would not necessarily be limited to:

- Regularly reviewing payroll records.
- Ensuring all contracts require that contractors and their subcontractors adhere to PWA requirements.
- Regularly reviewing the classifications of laborers and mechanics, prevailing wage rates, and percentage of labor hours to be performed by qualified apprentices.
- Posting information about prevailing wage rates in a prominent and accessible location or otherwise providing written notice of prevailing wage rates to laborers and mechanics during construction, alteration, and repair work.
- Establishing procedures for individuals to report suspected failures to comply with the PWA requirements without fear of retaliation or adverse action.
- Investigating reports of suspected failures to comply with the PWA requirements.
- Contacting the Department of Labor's Office of Apprenticeship or the relevant state apprenticeship agency for assistance in locating registered apprenticeship programs.

The U.S. Department of Labor (DOL) determines the applicable prevailing wage rates for each classification of laborers and mechanics in a prescribed geographic area for a particular type of construction. For more information about prevailing wage rates please visit the Department of Labor's website:

<https://www.dol.gov/general/inflation-reduction-act-tax-credit>

To support the IRS's efforts in ensuring taxpayer compliance with the PWA requirements, DOL and the IRS are working on a memorandum of understanding (MOU) to be signed by the end of the year. Harnessing DOL's extensive prevailing wage and registered apprenticeship expertise, the MOU will facilitate joint and cooperative education and public outreach and development of training content for IRS examination personnel. The MOU will also facilitate DOL's review and comment as part of the development of PWA tax forms. Finally, the MOU will formalize a process for DOL to share with the IRS any credible tips or information that DOL receives as to potential noncompliance with the PWA requirements.