Two key steps renewable energy companies can take to manage tax risks in the U.S.

Last year, the Internal Revenue Service (IRS) was flushed with funding from the Inflation Reduction Act (IRA).[1] Today, the IRS will be lucky to maintain even a portion of its pre-IRA budget.

Key takeaways:

- In addition to trade and tariffs volatility, renewable energy companies are also facing changing tax pressures due to significant personnel reductions at the IRS, alongside a new tax bill on the horizon
- In a prolonged period of uncertainty, renewable energy companies could feel the acute impact in available project financing
- There are two key steps to take in navigating geopolitical headwinds: tax insurance and bringing tax expertise in house

Pre-January 2025: The IRS was poised to amplify enforcement

The IRA – a cornerstone of the Biden administration's activities – was signed into law in August 2022 and gave the IRS $79.4 billion in funding to transform tax administration and to improve enforcement.[2] In response to the funding, the Department of the Treasury and the IRS announced in September 2023 a Strategic Operating Plan[3] for the fiscal year 2023-2031, with a compliance coverage shift to focus attention in areas with complex issues where the IRS previously lacked the resources to fully assess risks, including those relating to complex partnership structures, large corporations, and high-income and high-wealth individuals. Under the plan, of the $79.4 billion provided to the IRS under the IRA, the IRS allocated $45.6 billion (over 57%) to enforcement over the 2023-2031 period.[4]

To implement this plan, the IRS made two significant announcements relevant to the renewable industry:

- First, it announced the opening of more than 3,700 positions nationwide to help with expanded enforcement focusing on complex partnerships and large corporations.[5] These positions were intended to attract more seasoned professionals, because they were listed at a hiring level usually reserved for those with specialized technical skills. This announcement is relevant to the renewable industry due to the use of partnerships and other financial entities to structure the relationship between developers and investors.

- Second, the IRS announced a change to its organizational structure.[6] The new structure consolidates two deputy commissioner positions into a single Deputy Commissioner. Four chiefs would then report to the new consolidated Deputy Commissioner, including a new Chief Taxpayer Compliance Officer. Furthermore, the IRS announced the creation of a new pass-through field operations unit[7] within its Large Business & International Division (LB&I) to focus on partnerships and s-corporations. These pass-through audits were previously spread out in small business/self-employed (SBSE) and LB&I. The combined structure was designed to support a partnership audit strategy using an enterprise approach, meaning that the entire partnership structure, including related non-partnerships, could be included in an audit.

To support the IRS, the IRS Office of Chief Counsel (OCC) also announced an organizational change in October 2024: the Office of the Associate Chief Counsel, a branch of the OCC,[8] will be split into two offices – one with jurisdiction over partnership, s-corporation, trust, and gift and estate tax issues and another with jurisdiction over credits and incentives and excise tax.

With these structural changes, practitioners were advising clients to expect increased audits of pass-through entities, better trained auditors on partnership issues, likelihood of improved IRS identification of potential noncompliance, and a better deployment of audit reserves.

By the end of 2024, the IRS looked poised to do some serious enforcement.

Since January 2025: Major personnel changes

2025 changes at a glance:

- Reduced IRS audit staff
- Signals from the IRS Acting Chief Counsel that the reduction in force would impact the attorneys at the Associate Chief Counsel's Office in charge of regulatory guidance
- Another tax bill on the horizon
- U.S. tax administration function will change in the years ahead

Since January 2025, there has been continued turnover in the executive leadership positions at the IRS and OCC. In April 2025, Acting IRS Commissioner Michael Faulkender became the fifth person in that position since Trump took office.[9]

Immediately under the executive leadership of the IRS, there is similar turbulence at the senior leadership rank. Since January at the IRS, the Chief Financial Officer, Acting Chief Financial Officer, Deputy Chief Operating Officer, Chief Tax Compliance Officer, Chief Human Capital Officer, Chief of Staff, Chief Transformation Officer, Chief Implementation Officer, Chief Risk Officer, Chief Privacy Officer, and the Director of the Officer of Professional Responsibility have all departed.

Reduced audit staff:

More widely, the IRS is on track to lose[10] nearly a third of its workforce this year after about 20,000 employees accepted a second deferred resignation offer – an opportunity to resign and be placed on paid administrative leave through the end of September.

Losing 20,000 employees alongside natural attrition due to retirement, would bring the agency's total staff to about 70,000, effectively undoing the hiring blitz of technical experts funded by the IRA.[11]

A reduction in force could impact Chief Counsel attorneys:

According to a recent Tax Notes Today article,[12] more than 300 attorneys in the IRS OCC have submitted requests for the second deferred resignation program.

This planned reduction is happening in the midst of a planned promulgation of a new tax bill – dubbed 'the big beautiful bill',[13] which is expected to modify provisions relating to the IRA, with new restrictions, new definitions, and new analysis in need of interpretation (i.e., the sort of activities that the OCC Associate Chief Counsel's Office are tasked).

> It will likely change in the direction of fewer audits, fewer regulatory guidance, and therefore greater uncertainties.
>
> — **Shirley Chin,** Head of Tax Insurance, North America, Willis

On April 18, 2025, in the midst of the tumultuous staff reduction and leadership changes, the IRS released its first ever multiyear operating plan.[14] When the rest of the IRS was suffering from budget and personnel reductions, the Whistleblower Office announced the hiring of 36 additional employees (reflecting a 75% increase)[15] during fiscal year 2024, enhanced efficiency in processing whistleblower claims, and a commitment to paying whistleblower awards faster. It signals a potential turn to the Whistleblower Program to make up for a drastic reduction in its workforce.

What has stayed the same

Despite these dizzying personnel changes, some things have stayed constant. The OCC leadership, and legal expertise, at the newly restructured Office of the Associate Chief Counsel (Passthroughs and Special Industries) and the broader IRS organizational restructuring have remained the same.

Similarly, the statute of limitation (SOL), the time period established by law during when the IRS can review, analyze, and resolve a taxpayer's tax related issues, has not changed - three years and can be extended to six in certain circumstances.

What this means for tax risks in the renewable energy sector

The implication of these abrupt resignations and reduction in work force suggest that, at least for the short term, the IRS will need to narrow its audit focus and scale up on the threshold size of an issue that would be picked up for audit.

Tax credits, given their prominence in the IRS and OCC organizational structure, will likely stay an audit focus, but its impact will likely be felt more by large developers and large banks claiming the tax credits and the large corporate taxpayers purchasing them.

A spotlight on tax credits: A recent survey showed that 84% of investors and 73% of developers would reduce their clean energy activities if tax credit policies were modified or repealed.[16]

The timeline from enacting the IRA to releasing the final section was faster than anything any tax practitioner has ever seen and reflected the Biden Administration's priority in supporting the IRA and the resources available at the Treasury and the IRS. There will be neither political priority nor resources available for the IRA under this current administration to provide regulatory guidance to the renewable industry. The time it takes for regulatory guidance, coupled with various sunset and phaseout dates coming as soon as a year after the eventual enactment date, will create a great deal of uncertainty for the renewable industry. Uncertainty is anathema to financing. This uncertainty threatens to chill billions in investments with direct impacts on project economics and bankability.

After pulling $3.7 billion in clean energy funding[17] and suspending all funding disbursements under the IRA, clean energy projects are unable to rely confidently on federal support. Private equity and other investments are under pressure to keep renewable energy projects moving. But private investment in clean energy manufacturing, which reached $89 billion in two years,[18] faces uncertainty due to the administration's stance and regulatory delays. Some companies are reconsidering or halting projects, particularly in hydrogen electrolyzer manufacturing and electric vehicle supply chains, due to unclear tax credit regulations and policy shifts.[19]

Two ways renewable energy companies can take action

1. Invest in tax insurance

Tax insurance eliminates the uncertainty inherent in tax compliance by transferring the risk of loss arising from a tax challenge to an insurance company. Particularly powerful during merger and acquisition activities, tax insurance will compensate the insured for:

- Taxes assessed by a tax authority in respect to the insured tax risk
- Interest and penalties (to the extent insurable)
- Defense and contest costs to defend the tax matter
- Taxes incurred on receipt of insurance proceeds (known as a 'tax gross-up').

> Unlocking project financing is a major priority for the renewables sector and without a doubt, tax insurance will have to play a part in continuing to facilitate tax credit claims and transfers in this period of uncertainty.
>
> — **Shirley Chin,** Head of Tax Insurance, North America, Willis

Tax insurance allows renewable energy companies more certainty to meet financial goals, structure transactions and solve other contingent exposures that arise during business and tax planning. This creates a more stable financial and operating environment to secure financing, stabilize supply chains and revenue flows, and pursue growth opportunities.

2. Bring tax expertise in house

In addition to tax insurance, developers in the renewable space, especially large developers, should consider bringing tax expertise in-house to interpret the coming onslaught of new tax laws, muddle through the uncertain tax terrain, operationalize new compliance requirements and to socialize these new and changing tax requirements to ensure internal tax compliance throughout the organization.

An effective tax leader can craft a legal position on open tax questions, ensure internal buy-in and consistency, analyze the cost vs. benefit of obtaining tax insurance and defend the tax position if and when challenged.

Large developers should ensure that they are prepared to mount coordinated accounting, tax and legal responses to any information document requests from the IRS, especially in the early stage of an audit when the audit team has the authority to withdraw an audit request letter without further questions. At a government bureaucracy, the longer an audit drags, the harder it is to close it out. With the oncoming deluge of tax talent coming on the market due to reduction at the IRS and OCC, there is an opportunity for developers to hire these tax professionals as part of an overall tax strategy to brace for the uncertainties ahead.

> It helps to have an in-house tax expert who knows what the tax question is, how to build an audit defense strategy around it, how to ensure tax compliance around a strategy, and has knowledge of the chess moves necessary to defend against an IRS challenge.
>
> — **Shirley Chin,** Head of Tax Insurance, North America, Willis

To take action in managing tax risks amid geopolitical volatility, contact:

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