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## ENERGY AND TAX ALERT

### *One Year Extension of the Grant Program for Renewable Energy Projects*

On December 17, 2010, President Barack Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (the "Tax Relief Act") which, among others, extends several deadlines related to the federal cash grant for renewable energy projects established under Section 1603 of the American Recovery and Reinvestment Act of 2009 (the "Recovery Act").

Under the Recovery Act, certain taxpayers, including developers could elect cash grants, which in general equal up to thirty (30) percent of the cost of certain eligible equipment, in lieu of investment tax credits. To be eligible for such grants, eligible energy property had to be placed in service by the end of 2010, or placed in service after 2010 and before the credit termination date, but only if the construction of the property began by the end of 2010. The Tax Relief Act extends the placed in service and commencement of construction deadlines until December 31, 2011. Furthermore, the deadline for submitting applications for grants under Section 1603 was extended from October 1, 2011 until October 1, 2012.

While the placed in service and construction commencement dates are extended one year, the final date when the equipment must be placed in service, known as the "Credit Termination Date", remain unchanged. The Credit Termination Dates range from January 1, 2013 for large wind projects, to January 1, 2014 for biomass, landfill gas, and waste facilities, and January 1, 2017 for solar, fuel cells and small wind projects.

In addition, Section 401 of the Tax Relief Act increases the 50% depreciation bonus established by the Recovery Act to 100% for certain new equipment acquired after September 8, 2010, and before January 1, 2012, and placed in service before January 1, 2012 or 2013, depending on the type of property. Under this new increase, the entire cost of the equipment may be deducted in the year the eligible energy property is placed in service. This bonus replaces the regular depreciation that the company would otherwise be able to claim. The depreciation bonus reverts to 50% set by the Recovery Act for qualifying energy property that is placed in service in 2012 and acquired any time after 2007 outside the period covered by the Tax Relief Act.

If you have any questions or comments, or wish additional information regarding this matter, please contact any of the attorneys listed below, members of our [Environmental, Energy and Land Use Practice Group](#) and our [Tax Practice Group](#).

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