

# United States Senate

WASHINGTON, DC 20510

September 20, 2018

The Honorable Steven T. Mnuchin  
Secretary of the Treasury  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Dear Secretary Mnuchin:

We write today to request clarification on whether energy storage technologies qualify for the investment tax credit (“ITC”) when added to an existing ITC-eligible technology. Additionally, we request that this clarification be included in the Internal Revenue Service’s (“IRS”) 2018-2019 Priority Guidance Plan.

On October 2, 2015, the U.S. Department of the Treasury (“Treasury”) and the IRS issued Notice 2015-70 requesting public comments on future guidance related to the definition of qualifying energy property under section 48 of the Internal Revenue Code (“IRC”). The notice expressly stated that Treasury and the IRS intended to update the current regulations under IRC section 48 to define certain types of property qualifying for the ITC, with particular attention to energy storage technologies. Nearly three years later, thousands of our constituents and local businesses are still waiting to know whether they can use the ITC to install energy storage technologies on existing ITC-eligible technologies.

As you know, the IRS previously recognized that energy storage technologies are eligible for the ITC when installed at the same time as ITC-eligible technologies, but has not explicitly affirmed whether storage technologies are eligible when added to an existing ITC-eligible technology.<sup>1</sup> By making these clarifications the IRS can ensure the full utilization of these domestic energy resources, thereby maximizing the public benefit of the tax incentive and bolstering grid reliability and energy security for the future.

Thank you for your consideration of this important request. We look forward to hearing from you on the inclusion of the Section 48 clarification in the 2018-2019 Priority Guidance Plan.

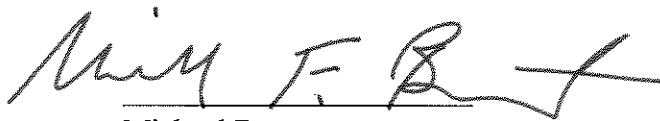
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<sup>1</sup> “Residential Renewable Energy Tax Credit.” U.S. Department of Energy.  
<https://www.energy.gov/savings/residential-renewable-energy-tax-credit>

Sincerely,



Tim Scott  
U.S. Senator



Michael Bennet  
U.S. Senator

CC: David J. Kautter, Acting Commissioner, IRS  
David Simmons, Principal Deputy Assistant Secretary, DOE