



**Tax Advisor/Client Communication**

**Privileged and Confidential**

May 15, 2026

To: Guam International Country Club, Inc.<sup>1</sup>

From: Ernst & Young LLP

RE: Section 48E Credit – Non-U.S. Entity Ownership for Investment Tax Credit Purposes

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**I. Introduction**

Guam International Country Club, Inc., a Guam Corporation (“GICC” or the “Company”), has engaged Ernst & Young, LLP (“We” or “EY”) to provide a memorandum (this “Memorandum”) with respect to certain, limited aspects of the investment tax credit under Section 48E of the Internal Revenue Code of 1986, as amended (the “Code” or “IRC”), as discussed herein.

**II. Discussion**

**a. Overview of Section 48E of the Code**

The clean electricity investment tax credit under Section 48E(a) of the Code (the “CEITC”) replaces the energy credit under Section 48 of the Code for certain clean electricity generation and energy storage properties placed in service after December 31, 2024. The CEITC was originally enacted by the Inflation Reduction Act of 2022<sup>2</sup> (the “IRA”), to accelerate the expansion of clean energy by providing tax incentives for qualifying clean electricity generation and energy storage facilities. Furthermore, on January 15, 2025, the Service and Treasury published final regulations regarding the clean electricity production credit and the CEITC established by the IRA.<sup>3</sup>

The amount of the CEITC is generally an amount equal to the applicable percentage of 6 percent of the qualified investment with respect to any qualified facility and any energy storage technology placed in service by the taxpayer during the taxable year.<sup>4</sup> For this purpose, the term “qualified facility” means a facility (i) which is used for the generation of electricity, (ii) which is placed in service after December 31, 2024, and (iii) for which the anticipated greenhouse gas emissions rate (as defined in subsection (b)(2) of Section 48E) is not greater than zero.<sup>5</sup>

Section 48E(b)(1) states that the “qualified investment” with respect to any qualified facility for any taxable year is the sum of the basis of any qualified property placed in service by the taxpayer during such taxable year which is part of a qualified facility, plus the amount of any expenditures

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<sup>1</sup> 180 Cabras Highway, Piti, Guam 96915.

<sup>2</sup> Pub. L. No. 117-169 (August 16, 2022).

<sup>3</sup> See T.D. 10024, 90 Fed. Reg. 4006 (January 15, 2025).

<sup>4</sup> Section 48E(a)(1).

<sup>5</sup> Section 48E(b)(3).



which are (i) paid or incurred by the taxpayer for qualified interconnection property in connection with a qualified facility which has a maximum net output of not greater than 5 megawatts (as measured in alternating current), and placed in service during the taxable year of the taxpayer, and (ii) properly chargeable to capital account of the taxpayer. For purposes of Section 48E(b)(1)(A), the term “qualified property” means property (i) which is tangible personal property, or other tangible property (not including a building or its structural components), but only if such property is used as an integral part of the qualified facility, (ii) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and (iii) the construction, reconstruction, or erection of which is completed by the taxpayer, or which is acquired by the taxpayer if the original use of such property commences with the taxpayer.<sup>6</sup>

#### **b. Property used outside the United States**

Not all depreciable or amortizable property qualifies for the CEITC. Certain otherwise qualified property may be ineligible for the CEITC with respect to, in part, disqualified uses described in Section 50(b) of the Code. **As described below, foreign or non-U.S. ownership of potentially qualifying property presents challenges for CEITC qualification.**

As a general rule, no CEITC is available with respect to any property used predominantly outside the United States.<sup>7</sup> An exception exists under Section 50(b)(1)(B) of the Code for property described in Section 168(g)(4) of the Code, which includes, in part,<sup>8</sup> **property predominantly used outside of the United States that is (1) owned by a domestic corporation or by a U.S. citizen (other than a citizen entitled to the benefits of Section 931 of the Code or Section 933 of the Code) and (2) used predominantly in a U.S. possession by such persons.**<sup>9</sup> Certain other limitations may exist. For this purpose, Section 7701(a)(9) of the Code defines the “United States,” when used in a geographical sense, as only the U.S. States and the District of Columbia. Consequently, neither Puerto Rico nor the U.S. possessions are included in the term “United States” for U.S. federal income tax purposes, when such phrase is used in a geographical context.

### **III. Disclaimer**

*Because this Memorandum is limited to discussing certain, limited aspects of Section 48E of the Code, this Memorandum is not intended to, and should not be construed or understood to, (i) be*

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<sup>6</sup> Section 48E(b)(2).

<sup>7</sup> Section 50(b)(1)(A).

<sup>8</sup> Section 168(g)(4)(G).

<sup>9</sup> In PLR 201426013, the Internal Revenue Service (the “Service”) adopted an aggregate approach to the application of Section 50(b)(1)(B) of the Code, ruling that a domestic partnership solely owned by approved domestic corporations and eligible persons under Section 168(g)(4)(G) of the Code may be entitled to claim the investment tax credit with respect to property used predominantly in a U.S. possession. A private letter ruling is a ruling issued to a particular taxpayer in response to a particular set of facts asserted by such taxpayer. A private letter ruling may not be cited by other taxpayers, or the Service, as precedent in litigation and is not binding upon the Service other than with respect to the requesting taxpayer, and only in so far as the actual facts do not differ materially from those assumed in the ruling. Nevertheless, private letter rulings often serve as a useful indication of the views and reasoning of the Chief Counsel’s office of the Service, and may be influential in the analysis by an examination agent in an audit or to others in the Chief Counsel’s office considering subsequent ruling requests. See IRC § 6110(k)(3); Rev. Proc. 2026-1, 2026-1 I.R.B. 1 (Dec. 29, 2025).



*advice or an opinion (or a commitment (express or implied) to render advice or an opinion) of EY, or express our view on the substantive merits of any tax position, (ii) imply that arguments supporting a contrary federal income tax position do not exist, or (iii) provide (directly or indirectly) any basis for avoiding penalties that may be imposed under the Code, or applicable state or local tax law provisions. Moreover, this Memorandum does not consider or provide (nor should it be construed as considering or providing) a discussion of any additional issues, such as (i) taxes not specifically identified and jurisdictions not discussed (e.g., state, local and foreign taxing jurisdictions, including, but not limited to, local Guam tax rules), and (ii) legal or non-tax issues such as corporate law, securities law or valuation issues.*

*In preparing this Memorandum, we have relied, without further verification, on the accuracy and completeness of the facts, representations and assumptions provided to us in discussions with GICC. Any inaccuracies in, omissions from, or modifications to, this information may adversely affect the discussion set forth herein, perhaps rendering it inapplicable. Moreover, nothing in this Memorandum should be construed as imposing any obligation on EY to update the discussion set forth herein if it is determined, subsequent to the date hereof, that there are inaccuracies in, omissions from, or modifications to, such facts, representations or assumptions.*

*This Memorandum is based on our understanding of the Code, Regulations promulgated thereunder, court decisions, rulings and official pronouncements issued by the Service, all in effect as of the date hereof. Because this Memorandum discusses the law potentially applicable to the Section 48E Credit as of the date provided herein, it is possible that Section 48E and the applicable law with respect thereto may change prior to the beginning of construction or commencement of operations of any potentially applicable project. As a result, the Company and its affiliates acknowledge and understand that the applicable law and our interpretation of such law are subject to change, potentially retroactive in effect, and any such change could adversely affect this Memorandum. Should there be such a change in applicable law or our interpretation of such law, including a change having retroactive effect, the summary set forth herein would need to be reevaluated. This Memorandum reflects our summary of the applicable authorities as of the date hereof, and we are not obligated to inform any person of a change, or otherwise update the discussion herein, for changes subsequent to the date hereof.*

*As indicated above, this Memorandum is neither an opinion of EY nor a commitment (express or implied) of EY to issue an opinion at any future date. As a result, EY is not, nor should it be construed as, expressing (or committing to express) a view on the substantive merits of any tax position. Thus, the use of terms herein such as "will," "should," "likely," "is," "are," and similar terms is merely to facilitate the discussion and is not to be interpreted as an indication of the strength of a position on any issue addressed herein. The potential federal income tax consequences of the transactions described herein are complex, subject to varying interpretations, and involve issues with respect to which the tax law is not clear and the result is not free from doubt. This Memorandum is not binding on the Service or any court that may address the issues considered herein. Thus, we can give no assurance that the Service will not be successful in taking positions in conflict with this Memorandum, in which case all or part of any anticipated Section 48E Credit be denied, disallowed or reduced. If the Service were able to successfully assert such a contrary position, it could have adverse federal income tax consequences to the Company and its affiliates.*



*EY expressly authorizes the Company and its affiliates (and each employee, representative, or other agent thereof) to disclose to any and all persons, without limitation of any kind, all materials (including this Memorandum) that we have provided relating to the solar and battery energy storage investments. However, no one should rely on this Memorandum regarding the substantive merits of any tax position and all persons to whom disclosure is made must be so informed. We assume no responsibility for tax consequences, or any other consequences, to any party or person.*