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Contacts

Richmond Office

Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074

Washington, DC Office

1900 K Street, NW
Washington, DC 20006-1109

[Laura Ellen Jones](#)

(804) 788-8746
ljones@hunton.com

[David S. Lowman, Jr.](#)

(202) 419-2070
dlowman@hunton.com

[Timothy L. Jacobs](#)

(202) 955-1669
tjacobs@hunton.com

IRS Issues Section 45 Inflation Adjustment Factor and Reference Price Notice

On March 31, 2010, the IRS issued the annual notice that provides the inflation adjustment factor and reference prices for the production tax credit under Section 45 of the Code. In summary, no phaseout applies to any of the various energy resources in 2010. Note that the IRS still has not determined reference prices for facilities that produce electricity from closed-loop biomass, open-loop biomass, geothermal, solar, small irrigation power, municipal solid waste, hydropower, and marine and hydrokinetic energy.

The Notice indicates the credit amount for calendar year 2010 is 2.15 cents/kwh for electricity produced from wind, closed-loop

biomass, geothermal and solar energy; 1.1 cents/kwh for electricity produced from all other facilities; \$6.27/ton of refined coal; and \$2.87/barrel-of-oil equivalent of steel industry fuel. The Section 45 tax credit amount for wind, closed-loop biomass, and geothermal and solar energy is incorrect. As noted by the IRS in the Notice, Section 45(b)(2) requires that the increased credit amount be rounded to the nearest multiple of 0.1 cent. Accordingly, the credit amount should be 2.2 cent/kwh for electricity produced from such sources. We have discussed this issue with the IRS and they have confirmed that the Notice will be corrected. A copy of the notice is available [here](#).