IRS Interim Prohibited Foreign Entity Guidance Under OBBBA

The One, Big, Beautiful Bill Act (OBBBA) created new Prohibited Foreign Entity (PFE) requirements for 48E/45Y projects starting construction, and 45X components sold, after 12/31/25. Notice 2026-15 provides **taxpayers two pathways for demonstrating compliance** with OBBBA's "Material Assistance" requirements.

OPTION 1 **Identification + Cost Percentage Safe Harbors**	• **ID Safe Harbor:** Taxpayers can use Notice 2025-08's Domestic Content Bonus Credit safe harbor tables (Tables) to identify their project/component and associated inputs needed for their Material Assistance Cost Ratio (MACR) calculation. • **Cost % Safe Harbor:** Taxpayers can then use the Tables' assigned cost percentage for each input to calculate PFE/non-PFE direct costs and complete the MACR. • Interconnection property requires a separate MACR analysis. Off-Table items and costs, as well as structural steel/iron, are ignored. • Taxpayers can blend PFE and non-PFE inputs.
OPTION 2 **Taxpayer-Determined Costs + Certification Safe Harbor**	• **ID:** Taxpayers can identify their own project/component and associated inputs or use the ID Safe Harbor. • **Costs:** Taxpayers can then do their own cost analysis to determine PFE/non-PFE direct costs for each, and utilize the Certification Safe Harbor by relying on accurate certifications from their direct suppliers attesting either: ◦ The input is non-PFE throughout its supply chain, or ◦ The input's direct costs that are not produced by a PFE. • Batteries <1 MW and 45X can average the costs of certain inputs, as well as any input(s) below 10% of total cost. • Interconnection property requires a separate MACR analysis. Structural steel/iron is ignored. • Taxpayers can blend PFE and non-PFE inputs.

48E/45Y taxpayers can use these methodologies up to 60 days after the publication of future guidance. **45X taxpayers** can use interim safe harbors up until publication, while non-safe harbor methods can be used up to 60 days after publication.

Notice 2026-15 does not include much-needed guidance on entity-level PFE definitions and parameters. Further guidance on PFE debt thresholds, contracts with PFE "effective control," and anti-circumvention is expected in late 2026 or early 2027.