





Putting Private Capital to Work for Fuel Cells

Lee J. Peterson, Esq.



GovEnergy
www.govenergy.gov



CIRCULAR 230 DISCLOSURE NOTICE

To ensure compliance with requirements imposed by the IRS, Reznick Group hereby informs you that any federal tax advice contained in this document is not an Opinion.

Any U.S. federal tax advice included in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of

- (i) avoiding tax-related penalties under the Internal Revenue Code or
- (ii) promoting, marketing or recommending to another party any transaction or tax-related matter addressed herein.



All Federal Legal Direction for Fuel Cell Purchase and

Improvements in Energy Policy and Executive Orders are Unfunded Mandates

- Federal and State Tax Incentives Lower Capital Outlay
 - Private sector gets a substantial tax “break” and may therefore pass on the reduced capital cost to the government in the form of:
 - Reduced contract-for-service rates on equipment eligible for the tax benefits.
 - Moving costs from the capital budget to operating budget in the near-term
 - Provide the later ability to move costs back to capital budget, but at a reduced cost
 - Reduce the amount of obsolete and inefficient equipment owned and used by the government.

The Basics: Tax Deductions vs. Tax Credits



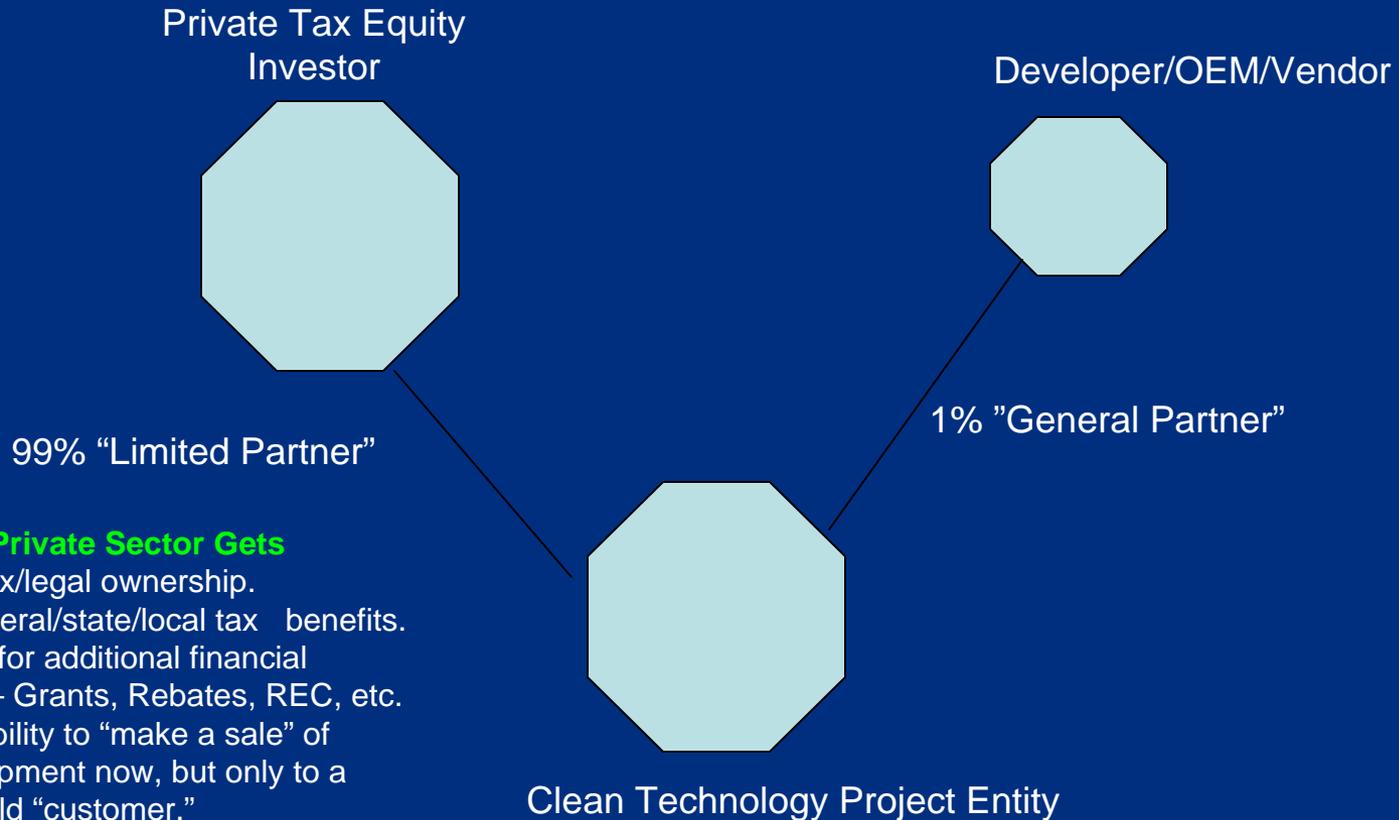
v.



\$1000 as a Federal:

- Deduction = \$350 of after tax value
 - $\$1,000 \times 0.35$ (assume tax rate of 35%)
 - Tax Credit = \$1,000 of after-tax value

How It Actually Works In The Private Sector



What The Private Sector Gets

- Retains tax/legal ownership.
- Keeps federal/state/local tax benefits.
- Is eligible for additional financial incentives – Grants, Rebates, REC, etc.
- Retains ability to “make a sale” of capital equipment now, but only to a privately held “customer.”
- Still retains and earns service and O & M revenues.

Options Using Current Tax and Business Related Incentives



2 Million Fuel Cell, 2 million IT Equipment, Some Debt Some Purchase

Fuel Cell Project X – w/Grant

Fuel Cell Cost	2,000,000
Nameplate Capacity (KwH)	500
IT Cost	<u>2,000,000</u>
Total Cost	4,000,000
Depreciation (35%) – Bonus ?	1,400,000
Depr. Synd. (.13)	
Depr. Equity	(180,000)
Fed. Credit - \$1000/kW	500,000
State Credit	-
Fed. Equity	(500,000)
State Equity	-
Utility Rebate	-
Grants – Net of Tax	1,000,000
Debt/Remaining Cap. Cost	2,320,000

Base Case – No State/local Incentives

Fuel Cell Cost	2,000,000
Nameplate Capacity (KwH)	500
IT Cost	<u>2,000,000</u>
Total Cost	4,000,000
Depreciation (35%) – Bonus?	1,400,000
Depr. Synd. (.13)	
Depr. Equity	(180,000)
Fed. Credit	500,000
State Credit	-
Fed. Equity	(500,000)
State Equity	-
Utility Rebate	-
Grants – Net of Tax	-
Debt/Remaining Cap. Cost	3,320,000

Solar w/Fed. Credit

Solar Cost	2,000,000
Nameplate Capacity (KwH)	500
IT Cost	
Total Cost	<u>2,000,000</u>
Depreciation (35%) – Bonus?	700,000
Depr. Synd. (.13)	
Depr. Equity	(91,000)
Fed. Credit (30%)	600,000
State Credit	-
Fed. Equity	(600,000)
State Equity	-
Utility Rebate	(600,000)
Grants – Net of Tax	-
Debt/Remaining Cap. Cost	709,000



Best Possible Tax and Business Related Incentives: 2 Million Fuel Cell, 2 million IT Equipment, Expanded Federal Credit, State Credit, Utility Rebate and Grant

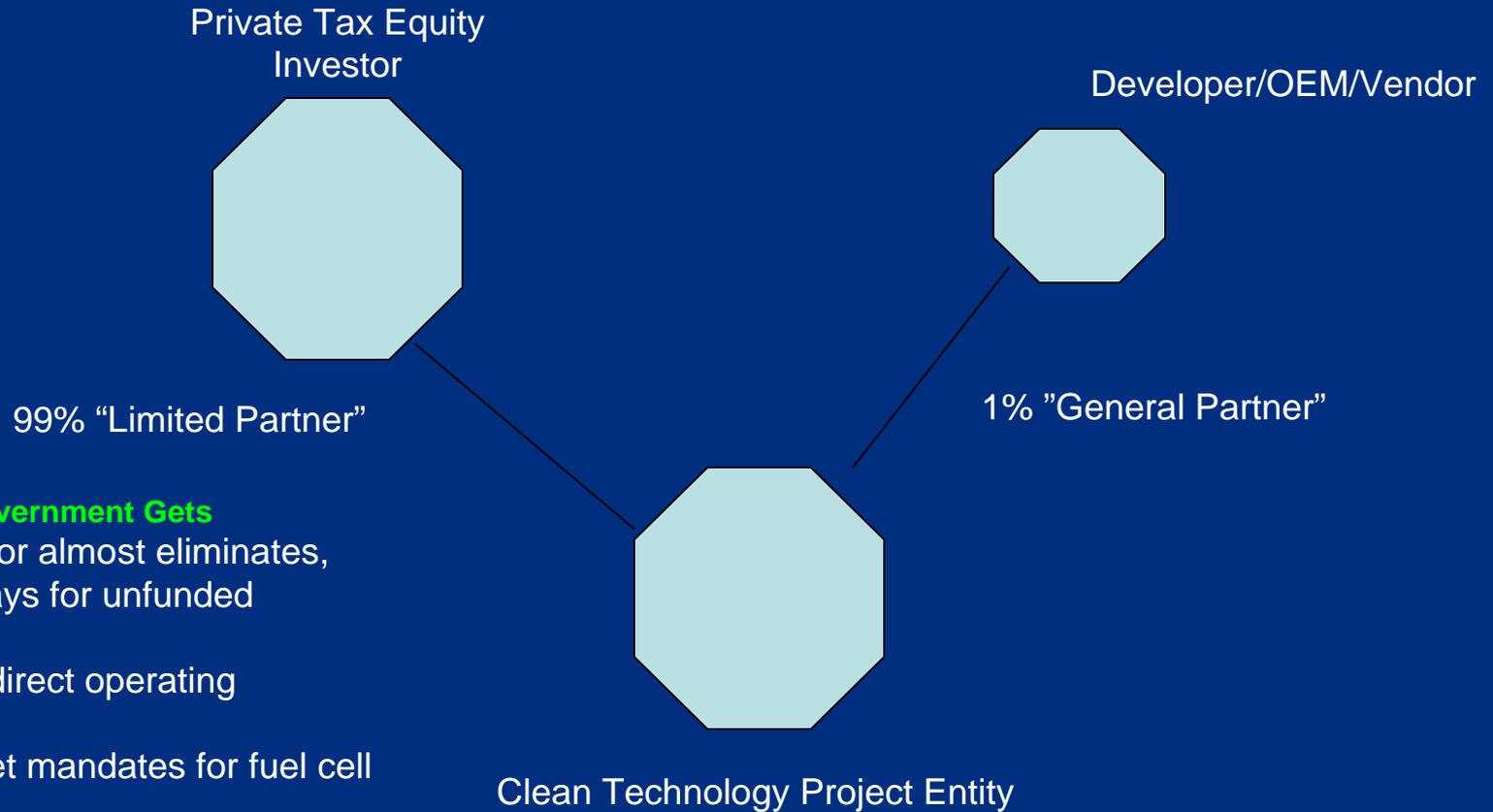
Fuel Cell Project X

Fuel Cell Cost	2,000,000
Nameplate Capacity (KwH)	500
IT Equipment Cost	<u>2,000,000</u>
Total Cost	4,000,000
Depreciation	1,400,000
Depr. Synd. (0.13)	
Depr. Equity	(180,000)
Improved Federal Credit (50% ITC) Fuel Cell and IT/Grid Independent	2,000,000
State Credit (35% - Fuel Cell Only)	700,000
Fed Synd. (1.00)	
State Synd. (0.65)	
Fed. Equity	(2,000,000)
State Equity - at .65 cents	(455,000)
Utility Rebate	(600,000)
Grants (net of tax)	(1,000,000)
Project Debt	- 0 -

Remaining Capital Costs (235,000) - Fully Paid For

Lee J. Peterson, Esq. - Reznick
Group, PC

How It Works In The Public Sector



What the Government Gets

- Reduces, or almost eliminates, capital outlays for unfunded mandates
- Reduces direct operating expense
- Helps meet mandates for fuel cell deployment
- The ability to abandon outdated technology



This is NOT a new idea or practice

- IRC Section 42 – Low Income Housing

- Federal tax credits can provide over **2/3** of the capital costs of building residential rental apartments for this nation's low income citizens, including police, fire and nursing staff in high-cost-of-living areas.

- EXAMPLE: Development Cost = **\$19.8M** Connecticut Project
 - » With no bond proceeds = \$13.3M Federal Tax equity (credit only at 99¢)
 - » 67% of deal is federal tax equity
 - » Assume State Tax Credit (25¢) = \$3.36M additional equity

**Tax Credit Private Equity Structuring Created \$16.66M Total
(Federal and State) Tax Equity = 84.14% of Development Cost**



This is NOT a new idea or practice

:

- IRC Section 45D – New Markets Tax Credit

- Federal tax credits can provide 25% of the capital costs of building non-profit facility in a blighted area being financed primarily with charitable contributions but still facing a development funding gap.
- EXAMPLE: Development Cost = **\$20M**
 - » Project Qualifies for \$20M NMTC allocation (determines credit)
 - » Project succeeds in negotiating a “good” credit price, decent CDE fees/load, and fair exit puts
 - » 25% of deal may be federal tax equity (after transaction costs above)
 - » **Tax Credit Private Equity Structuring Created \$ 5M Total (Federal and State) Tax Equity = 25% of Development Cost**



This is *NOT* a new idea or practice:

- IRC Section 47 – Historic Rehabilitation AND NMTC Combined
 - Federal tax credits can provide nearly 1/3 of the capital costs of building residential rental apartments, commercial and historically significant sites.
 - EXAMPLE:
 - Development Cost = **\$22M** qualified rehab (excludes acquisition)
 - \$5M Federal Tax equity
 - » \$7M of NMTC allocation gets \$1.5M NMTC credit net of NMTC related transaction costs.
 - » Assume State Tax Credit (25¢) = \$3.36M additional equity
- Tax Credit Private Equity Structuring Created \$6.5M Total
(Federal and State) Tax Equity = 29.5% of Development Cost**

Tax Credits For Grid Independence?



- Only the § 48 indirectly gives a tax credit for electricity you make and use.
- Current PTC is 2.1¢ Kwh – No credit for self-use
- How to measure the number upon which a new tax, user-based tax credit would be calculated?
- Or is it better to just boost the ITC?
- Or should the ITC be expanded to include: different definitions of eligible fuel cells or specific fuel cell projects?



Would you like to know more about this session?

Lee J. Peterson, Esq.

Senior Manager – Tax Research and Planning



Reznick Group, P.C.
2002 Summit Blvd.
Suite 1000
Atlanta, GA 30319-1470

Direct (404) 847-7702
Main (404) 847-9447
Fax (404) 847-7703
lee.peterson@reznickgroup.com
www.reznickgroup.com

Don't forget to fill out and drop off your session evaluations.