

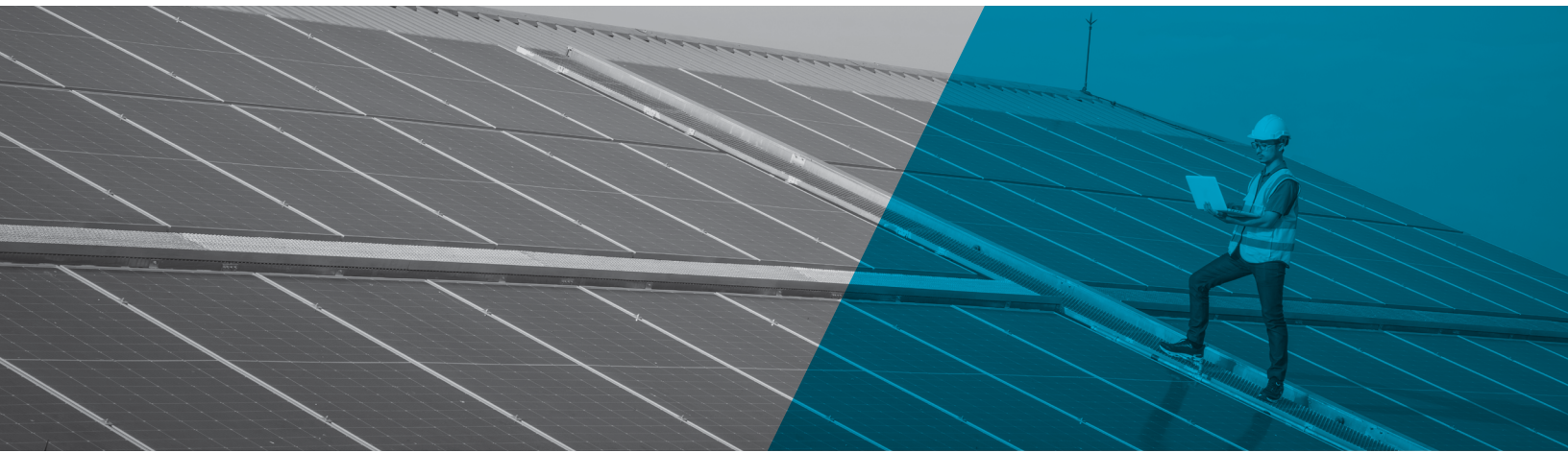
Insuring Solar Tax Credits

The renewable energy sector is still experiencing rapid growth. Driven in part by the Investment Tax Credit (ITC), private capital investment in solar energy projects has risen in recent years. And now, with the One Big Beautiful Bill Act (OBBA) and new IRS guidance, those projects are accelerating to begin, and in some cases complete, construction on faster timelines to ensure the availability of credits.

Solar energy projects that began construction by December 31, 2025, may still qualify for tax credits without being subject to new restrictions under Section 48. These projects generally have four years to be placed in service under certain safe-harbor guidance and with rising electricity prices and demand from data centers, development is expected to surge in 2026 as only 35% of the pipeline is currently under construction.

In response to this ongoing growth, a highly specialized insurance market has emerged to help protect investors and credit buyers against financial loss resulting from tax credit challenge, disallowance or recapture.





Understanding tax credit insurance

Tax credits, such as the ITC, can be awarded when a solar project meets federal requirements and is placed in service. However, compliance must continue for several years post-completion. If a developer or operator fails to maintain compliance with IRS rules or other applicable regulations, credits may be recaptured, leaving buyers financially exposed.



Key features of tax recapture insurance include:

Coverage trigger: Policies respond when tax credits are disallowed following a successful tax authority challenge or are otherwise revoked under the statutory recapture rules, paying insureds for credits that are lost.

Scope: Policies are specifically tailored to cover losses associated with the disallowance or recapture of tax credits, including potential fines and penalties, contest costs incurred in defending against an IRS audit and, in some cases, providing a gross-up for tax liability incurred on the receipt of loss paid under the policy. They are not considered all-risk policies.

Claims basis: Coverage is typically claims-made, triggered by a final determination after an audit, or where an insured has determined, to the insurer's satisfaction, that previously claimed credits must be recaptured pursuant to the applicable statutes.

Limits: Coverage limits typically reflect the value of the tax credits increased for an estimate of additional amounts for associated interest, penalties, contest costs and gross-up.

Unlike traditional property or liability insurance, tax credit and recapture insurance is highly technical and requires underwriters with expertise in tax law, project finance and renewable energy compliance. At the same time, the policy can be heavily manuscripted to reflect not only the exposure but the coverage needs of the insured/credit buyer driven by their specific deal structure or other commercial requirements. This complexity often makes the market intimidating and relatively inaccessible to generalist insurers.



Benefits of tax credit and recapture insurance

Tax credit and recapture insurance offers multiple benefits for developers, investors and buyers. Coverage can cap exposure to financial loss from disallowed or recaptured credits and help to mitigate concentration risk associated with reliance on a single developer or syndicator. At the same time, it may also encourage investor participation in markets previously constrained by tax appetite and provide confidence to risk-averse boards or management teams. It can also help facilitate complex structures such as direct transfers, hybrid flips and syndications.

Market dynamics

The market for tax recapture insurance is currently underserved, creating both challenges and opportunities. Deal demand significantly exceeds available insurance limits, with underwriting bandwidth stretched thin, and in some cases reinsurance capacity constrained due to losses in related sectors. Similarly, technical underwriting requirements, familiarity with tax codes and experience in solar project compliance can make entry difficult for new carriers.

Primary premium rates have increased by more than 30% in the past year, with excess coverage costs up 20%, reflecting tightened reinsurance and higher demand.

Underwriting considerations

Submissions for tax recapture coverage have increased by approximately 30% to 50% year over year. The underwriting process can be complex and time-intensive, depending on the status of the project, the experience of the parties involved and the level of information available at the outset.



Submitting a project for tax recapture insurance requires comprehensive documentation, including (at a minimum):

Project specifics: This includes project type, size, location, construction timeline and when construction began.

Tax structure details: This may be a partnership flip, inverted lease or other equity arrangement.

Financial and legal documentation: Appraisals, legal opinions, cost segregation studies, term sheets (if available), contracts and site control agreements must be attached.

Mitigants for Section 50 recapture: Documentation of escrowed funds, insurance coverage for related risks, site control, limitations on lender rights and third-party compliance oversight.

This complexity and level of detail required contributes to the market's limited capacity but helps to ensure that coverage is properly tailored to each project. It is imperative that the initial submission is robust. If an insured is utilizing a third party advisor, they must not only be qualified but well known and experienced in their area of expertise. Without this distinction, many markets cannot even provide an indication.

Takeaway

Tax credit and recapture insurance is a critical enabler of the U.S. solar market. As the renewable energy market continues to expand, tax credit insurance will play a crucial role in enabling clean energy investments.

- Transferability and hybrid structures are easing historical constraints on tax equity investor capital.
- Repeatable, standardized insurance and financing structures will accelerate clean energy development while optimizing risk allocation.
- Established insurers are adapting to provide coverage tailored to tax credit risks.

Notably, tax credit insurance has supported the adoption of transferability provisions under the IRS, enabling an exponential increase in the monetization of tax credits through direct sales, hybrid structures, or syndication, thereby broadening the investor base and increasing capital efficiency.

We help you win

Tax recapture insurance is not just a niche product. It is an essential tool for scaling solar development, unlocking capital and helping to ensure the success of solar projects in the U.S.

Amwins understands the nuances of tax credit compliance and recapture risk. Our specialists are positioned to help you and your clients capitalize on the opportunities presented by the ITC, OBBA and IRS incentives.

We are continually expanding our offerings to address middle-market brokers and investors unfamiliar with this space, leveraging established relationships and our deep underwriting expertise. Contact us today to learn more.

Insights provided by:

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CONTACT

To learn more about how Amwins can help you place coverage for your clients, reach out to your local Amwins broker.

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