



**Adam M. Cohen**

Partner  
303.295.8372  
Denver  
acohen@hollandhart.com



**Colin J.A. Oldberg**

Associate  
303.295.8175  
Denver  
cjoldberg@hollandhart.com

# Fund Formation and Credit Transfers: Monetizing Tax Credits Using Partnerships

**Insight — February 16, 2024**

Section 6418 of the Internal Revenue Code (as added by the Inflation Reduction Act of 2022) allows an eligible taxpayer that qualifies for certain clean energy tax credits, including investment tax credits and production tax credits, to transfer those credits to a third-party buyer in exchange for cash. To be able to transfer those credits, a registration number is required. In December 2023, the Internal Revenue Service launched an online registration tool to obtain those registration numbers.

Partnerships can transfer or acquire credits under Section 6418. Proposed regulations published in June 2023 contain rules specific to credit transfers where a partnership is the transferor or transferee. In general, if a partner in a transferee partnership is not subject the passive activity rules (i.e., corporations and other institutional investors), then that partner can take full advantage of purchased credits. While buyers of credits cannot sell the acquired credits, the allocation of acquired credits does not violate this limitation, and credits will be allocated based on who pays for them.

Because of the flexibility of the rules related to transferee partnerships, we expect there to be a number of partnerships created to acquire clean energy tax credits under Section 6418 and enable institutional investors to rely upon those managing these partnerships to diligence and negotiate credit acquisition and manage post-acquisition requirements. The Fund Group at Holland & Hart LLP is well positioned to assist in all facets of this process, including formation of (or investment in) special purpose funds, negotiation of the purchase of tax credits, diligence surrounding the purchased credits, and compliance with statutory and regulatory requirements associated with formation of these funds and the receipt and allocation of the credits.

---

*This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ*

*depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.*