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US Solar Developers Are Getting Creative—And Risky—Ahead of the Safe Harbour Deadline

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Anne C. Loomis

Anne Loomis, a partner in Troutman Pepper Locke's [Tax Practice Group](#), was quoted in the June 17, 2026 *PV Tech* article, "[US Solar Developers Are Getting Creative—And Risky—Ahead of the Safe Harbour Deadline.](#)"

"Currently, the focus is on trying to grandfather as many projects as possible," Loomis says. "A lot of developers are looking at what can they possibly do to get more projects started by that deadline, which is now very, very soon."

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"To the extent that they can use tried and true strategies, that's great. Everybody loves that. But there are only so many transformers that can be manufactured by that [4 July] deadline," Loomis explains.

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"The closer to the function and the manufacturing process of a transformer, the better," as far as tax eligibility is concerned, Loomis explains.

She has seen arguments that trackers can be considered custom to a project, and even arguments that modules produced for a solar project could qualify. "I think that that's going to be a hard pill for the industry to swallow, making that type of argument. But developers are picking up every rock and turning it over and evaluating, 'well, is this type of equipment something that can be considered custom?'"

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"All of those projects are going to need more than one type of financing," Loomis explains, "and all of those are counterparties that are typically pretty conservative, because the tax credit is still important to the capital stack."

"Taking risk around the tax credit is not usually something that anybody wants to do, so with any sort of strategy that's new, that the industry hasn't already thought through and gotten comfortable with, those financing parties are going to be skeptical."

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"There is no process by which the IRS reviews these things early and signs off on it," Loomis says. "So, until it's put on a tax return, which isn't done until the project is placed in service, the IRS won't do any sort of evaluation on it, and then once it is on a return, then you know they're going to audit some taxpayers and not audit others, and you don't know whether your name is going to be called."

Loomis notes the effects of the safe harbour deadline could be felt in the US solar industry for a decade: projects starting construction to beat the deadline have a four-year safe harbour window, pushing completion to around 2030, with many coming online in 2031-32. After being placed in service, the IRS then has a three-year window to audit. "So we quickly add up to a ten-year time frame," she says.

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"I haven't seen a lot of change in behaviour of any of our clients, or even in talking to other tax counsel from other firms," she says. "First of all, it's too late, it's too close to the July 4 deadline for people to change any sort of strategy. There's [also] a lot of concern about the appeal – we've seen a lot of district courts issue

injunctions related to administrative guidance for the Trump administration, and then have that be reversed on appeal. So people are not really counting on the 5% safe harbour now being intact.”

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