

DOE OFFICE OF INDIAN ENERGY

Project Finance – Tax Incentives and Disincentives

BIA Utility Scale Solar Energy Development Workshop
Phoenix, AZ February 2013



U.S. DEPARTMENT OF
ENERGY

Office of
Indian Energy

Key Tax Issues in Solar Renewable Energy Development

- Tax Incentives and Financing
 - Federal Tax Incentives
 - State Tax Incentives
- Tax Assessments and Costs

Key Concept: Tax Equity Partnership – Federal Tax Incentives

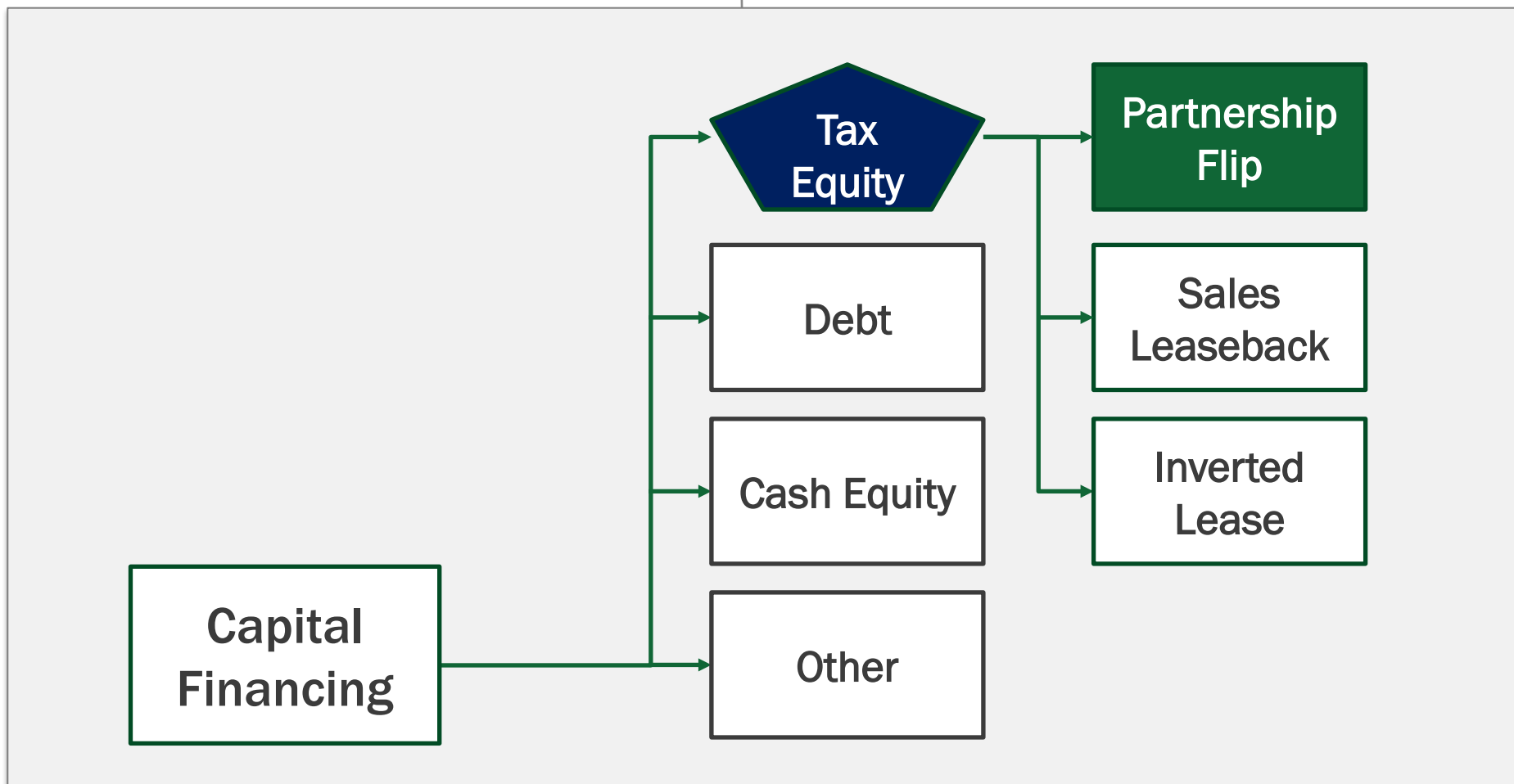
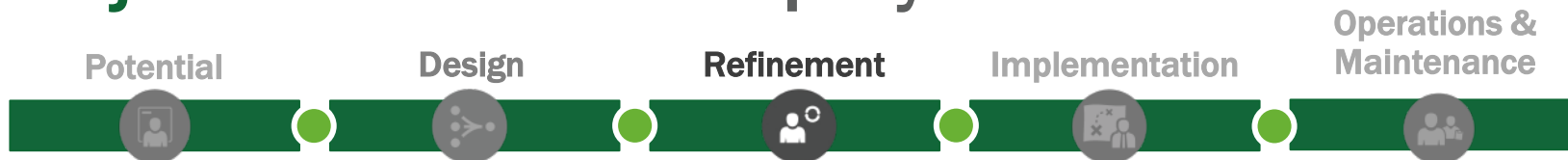
Internal Revenue Code

- Production based tax credit or investment cost based tax credit
 - Solar ITC 30%
 - Expires 2016
- Tax credit to reduce federal income tax liability
 - Additional credits – Indian employment tax credit
- Cost recovery of plant through depreciation deductions
 - Accelerated depreciation on Indian lands
- Additional Tax Incentives:
 - New Market Tax Credits

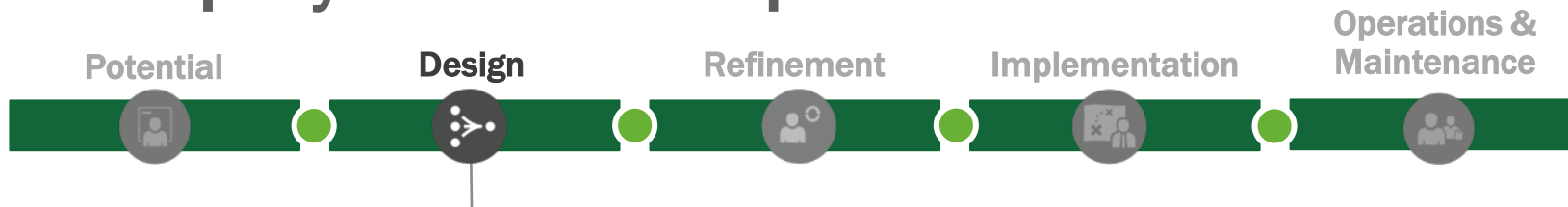
Key Concept: Tax Equity Partnerships

- Tax equity and other incentives can lower capital costs for a qualifying project significantly (40%-50%)
- Tribe benefits by either reduced electricity costs from the renewable project, or offering a more competitive price for energy/RECs from the project
- Tribes can partner with 3rd party tax investors and/or developers to gain this advantage.

Project Finance: Tax Equity Structure



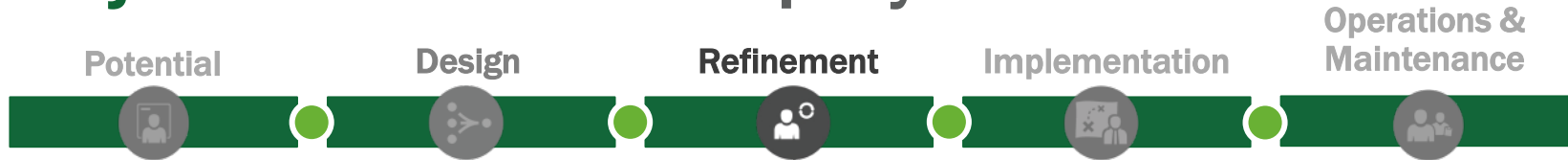
Tax Equity Structure Options



Structures	Overview	Characteristics	Tax Equity Returns
Flip	Simple, two participants (Tax Equity and Developer)	99%/1% allocations until Flip (approx. 6 years) then 5%/95%	8% - 12%
Sale Leaseback	More complex, at least two participants (Owner/Tax Equity, Lessee)	Developer sells completed project to Tax Equity, leases it back	10% - 15%
Lease Pass-Through	More complex, at least two participants (Tenant/Tax Equity, Land lord)	Land Lord majority owned by Developer, leases to Tenant, majority owned by tax equity	10% - 15%

Partner identification and evaluation strategies available in Advanced Courses

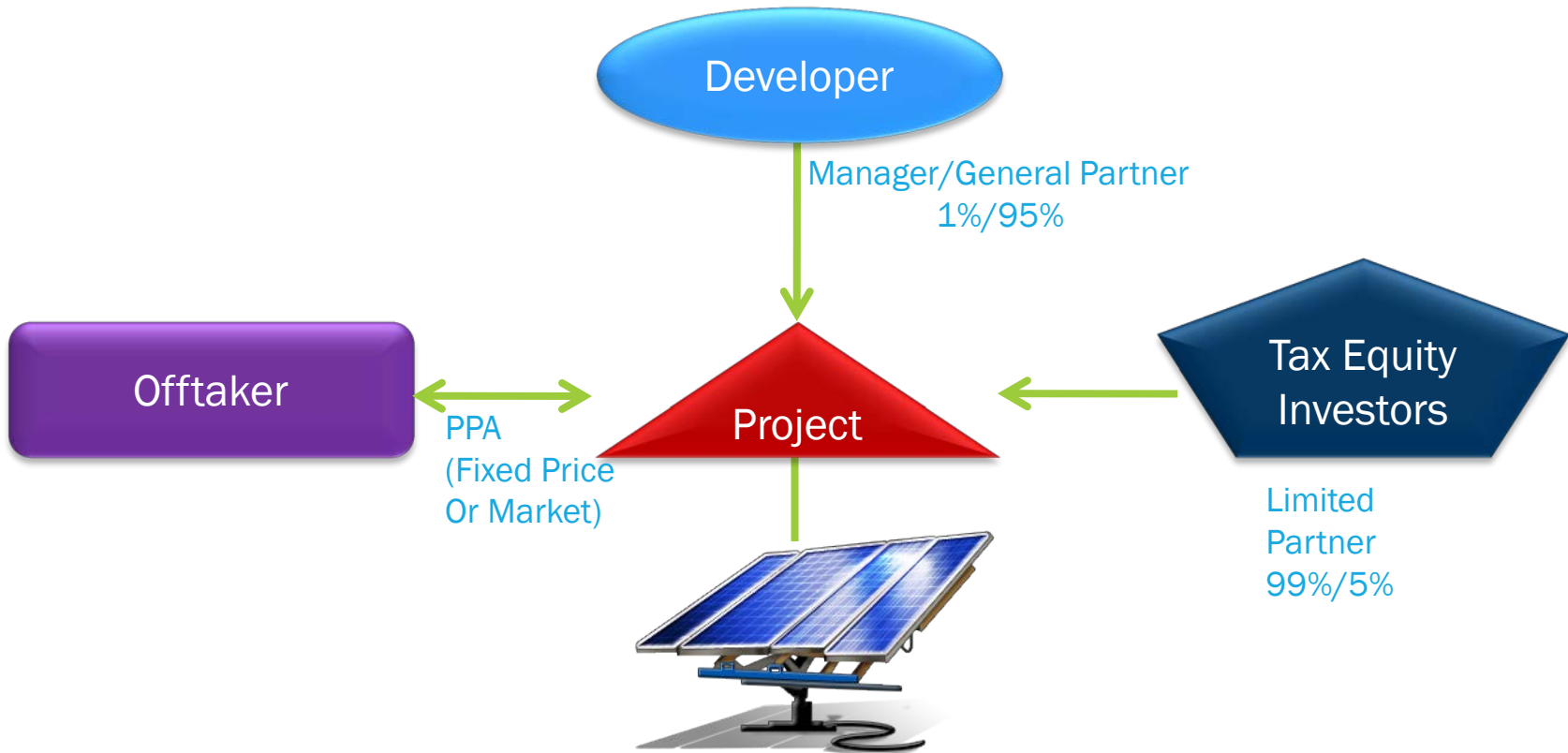
Project Finance: Tax Equity Structure



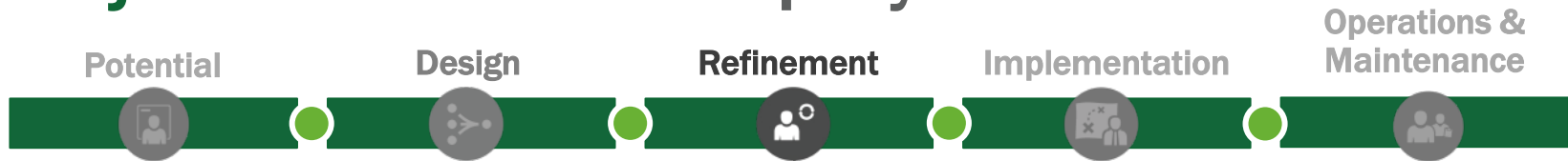
Summary – Partnership Flip

- Simple, common structure
- Tax Equity Investor utilizes tax credits in exchange for capital
- Opportunity to buy Tax Equity investor out after flip

Partnership Flip Structure



Project Finance: Tax Equity Structure



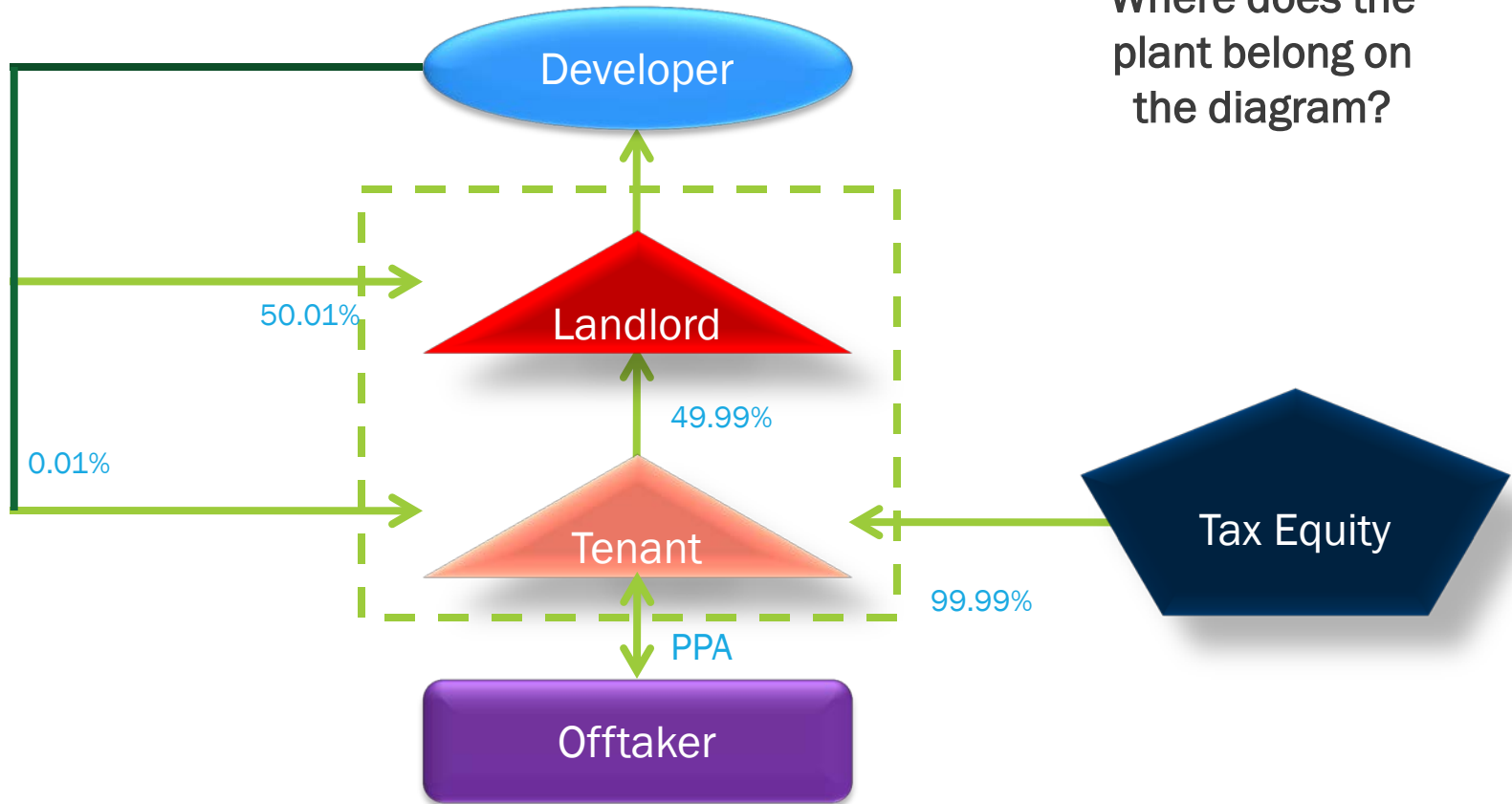
Summary – Lease Pass-Through

- Tax credit pass-through to tenant from the landlord
- Many tax equity investors familiar with and PREFER this structure
- Potentially higher return for tax equity investor
- Tenant walks away at the end of the lease

Lease Pass-Through Structure



Where does the plant belong on the diagram?



State Tax Incentives

- Example – Arizona
 - Non-Residential Solar and Wind Tax Credit – 10% of costs
 - Production Tax Credit - varies
 - Residential Solar and Wind Tax Credit – 25% of costs
 - Solar and Wind Equipment Sales Tax Exemption – 100% exempt
 - Energy Equipment Property Tax Exemption – 100% of increased value
 - Property Tax Assessment for Renewable Energy Equipment – assessment reduced by 20%
 - Business Tax Incentives – manufacturing incentives

Types of Taxes Imposed

- Property Taxes
- Ad Valorem Taxes
- Possessory Interest Taxes
- Income Tax
- Sales Tax
- Gross Receipts Tax/Privilege Tax
- Excise Tax
- Utility Tax

State Tax Assessments and Costs

- Black letter law that states can tax non-Indian property and economic activity on Indian lands
- Several states have imposed such taxes, some have compacts with tribes, others have exempted certain activities
- But, states cannot tax tribes or tribal enterprises conducting business on tribal lands
- Tension: federal and state tax incentives require non-tribal ownership, which then puts these projects under state taxation authority

About the Office of Indian Energy Policy and Programs

The Office of Indian Energy Policy and Programs is charged by Congress to direct, foster, coordinate, and implement energy planning, education, management, and programs that assist tribes with energy development, capacity building, energy infrastructure, energy costs, and electrification of Indian lands and homes. Led by Director [Tracey A. LeBeau](#), a member of the Cheyenne River Sioux Tribe of South Dakota, the Office of Indian Energy works within the Department of Energy, across government agencies, and with Indian tribes and organizations to promote Indian energy policies and initiatives.

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