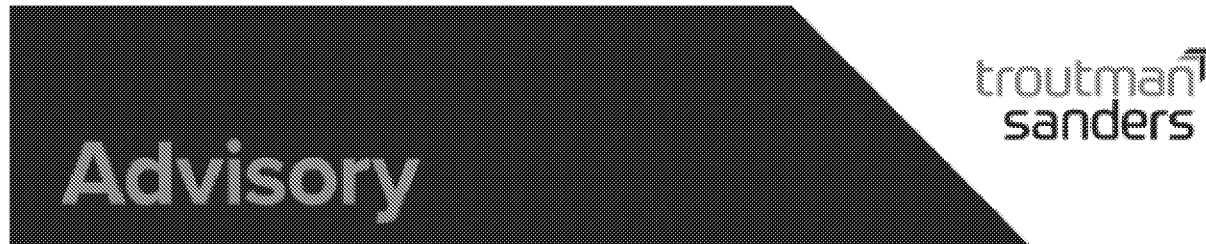


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AUGUST 7, 2018

Government Records Significant Victory in Alta Wind

On July 27, 2018, the U.S. Court of Appeals for the Federal Circuit issued an [opinion](#) reversing the [decision](#) of the Court of Federal Claims in *Alta Wind / Owner-Lessor C, et al. v. U.S.* The Federal Circuit held that goodwill and going concern value could attach to the assets of wind facilities that had not yet been placed in service and therefore that the Code Section 1060 residual method of allocating purchase price applied to the acquisition of the wind facilities. The Federal Circuit's holding that goodwill and going concern value can attach to a wind facility, and the fact that it vacated the decision of the Court of Federal Claims (which included other holdings favorable to industry participants) could have significant implications for renewable projects.

At issue in *Alta Wind* was the appropriate amount of cash grants pursuant to Section 1603 of the American Recovery and Reimbursement Act of 2009 for several wind facilities. The *Alta Wind* plaintiffs purchased wind farms from a developer, placed them in service, and then applied to the Treasury Department for \$703 million in Section 1603 grants. The Treasury Department awarded Section 1603 grants of approximately \$495 million based on a determination that a portion of the purchase price for the wind facilities should be allocated to intangibles, potentially including going concern value and goodwill, using the residual method under Section 1060 of the Code.

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