

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT  
PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
Date of Report (Date of Earliest Event Reported): May 7, 2021



IES Holdings, Inc.

Delaware  
(State or other jurisdiction  
of incorporation)

001-13783  
(Commission  
file number)

76-0542208  
(I.R.S. Employer  
Identification No.)

5433 Westheimer Road, Suite 500, Houston, Texas 77056  
(Address of principal executive offices and zip code)

Registrant's telephone number, including area code: (713) 860-1500

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instructions A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2 (b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4 (c))

Securities registered pursuant to Section 12(b) of the Act:

| Title of each class                      | Trading Symbol | Name of each exchange on which registered |
|--|----------------|---|
| Common Stock, par value \$0.01 per share | IESC           | NASDAQ Global Market                      |
| Rights to Purchase Preferred Stock       | IESC           | NASDAQ Global Market                      |

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).  
Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

**Item 1.01 Entry into a Material Definitive Agreement.**

On May 7, 2021, IES Holdings, Inc. (the “Company”) entered into an amendment (the “Amendment”) to that certain Tax Benefit Protection Plan Agreement, dated as of November 8, 2016, by and between the Company and American Stock Transfer & Trust Company, L.L.C., as rights agent (as so amended, the “NOL Rights Plan”). Pursuant to the Amendment, the Final Expiration Date (as defined in the NOL Rights Plan) was accelerated from December 31, 2021 to May 21, 2021. As a result of the Amendment, effective as of the close of business on May 21, 2021, the Rights (as defined in the NOL Rights Plan) will expire and cease to be outstanding, and the NOL Rights Plan will terminate by its terms.

The foregoing description of the Amendment does not purport to be complete and is qualified in its entirety by reference to the Amendment, which is attached hereto as Exhibit 4.1 and incorporated herein by reference.

**Item 7.01 Regulation FD Disclosure.**

On May 10, 2021, the Company issued a press release announcing the Amendment of the NOL Rights Plan. A copy of the press release is furnished as Exhibit 99.1 to this Current Report on Form 8-K.

On May 10, 2021, the Company posted to its website, www.ies-co.com, under the Investor Relations section, a presentation with the title “IES Holdings, Inc. Investor Presentation (May 10, 2021).” The presentation will remain on the Company’s website for a period of at least thirty days.

The information set forth herein is furnished pursuant to Item 7.01–Regulation FD Disclosure and shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities of such section nor shall the information be deemed incorporated by reference in any filing of the Company.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

| <b>Exhibit Number</b> | <b>Description</b>  |
|-----------------------|---|
| 4.1 —                 | <a href="#">Amendment No. 1 to Tax Benefit Protection Plan Agreement, dated May 7, 2021, by and between IES Holdings, Inc. and American Stock Transfer &amp; Trust Company, LLC</a> |
| 99.1 —                | <a href="#">Press release dated May 10, 2021 announcing the Amendment to the NOL Rights Plan</a>  |
| 104 —                 | Cover Page Interactive Data File (embedded within the Inline XBRL document)   |

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date:  
10, 2021

|     |  |            |
|-----|--|------------|
|     | <b>HOLDINGS, INC.</b>                              | <b>IES</b> |
| May | <u>Mary K. Newman</u>                              | /s/        |
|     | K. Newman  | Mary       |
|     | President, General Counsel and Corporate Secretary | Vice       |

**AMENDMENT NO. 1 TO  
TAX BENEFIT PROTECTION PLAN AGREEMENT**

**IES HOLDINGS, INC.**

**AND**

**AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC,**

**AS RIGHTS AGENT**

**DATED AS OF MAY 7, 2021**

This Amendment No. 1 to Tax Benefit Protection Plan Agreement (the "Amendment"), dated as of May 7, 2021, by and between IES Holdings, Inc., a Delaware corporation (the "Company"), and American Stock Transfer & Trust Company, LLC, a New York limited liability trust company (the "Rights Agent"), is being executed at the direction of the Company. Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to such terms in Tax Benefit Protection Plan Agreement, dated as of November 8, 2016, by and between the Company and the Rights Agent (the "NOL Rights Plan").

RECITALS:

**WHEREAS**, the Company and the Rights Agent are parties to the NOL Rights Plan; and

**WHEREAS**, pursuant to Section 26 of the NOL Rights Plan, the Company may, in its sole and absolute discretion, and the Rights Agent shall, if the Company so directs, supplement or amend the NOL Rights Plan for so long as the Rights are then redeemable; and

**WHEREAS**, pursuant to Section 26 of the NOL Rights Plan, this Amendment shall become effective immediately upon execution by the Company, whether or not also executed by the Rights Agent;

**NOW, THEREFORE**, in consideration of the foregoing and the mutual agreements set forth herein, the parties agree as follows:

1. Amendments.

(a) Section 1(r) of the NOL Rights Plan is hereby amended by replacing the words "December 31, 2021" with the words "May 21, 2021."

(b) All references to the date of "December 31, 2021" in Exhibit A (the Form of Right Certificate) and Exhibit B (the Summary of Rights to Purchase) shall hereby be changed to "May 21, 2021."

2. Remaining Terms. Those portions of the NOL Rights Plan that are not expressly amended hereby shall continue in full force and effect. Notwithstanding the foregoing, the Rights Agent and the Company hereby acknowledge and agree that upon the Final Expiration Date the Rights Agreement shall terminate and be of no further force and effect.

3. Counterparts. This Amendment may be executed multiple counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement. A signature to this Amendment transmitted electronically shall have the same authority, effect and enforceability as an original signature.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have duly executed this Amendment as of the day and year first above written.

**COMPANY:**

**IES Holdings, Inc.**

By /s/ Jeffrey L. Gendell  
Name: Jeffrey L. Gendell  
Title: Chairman and Chief Executive Officer

**RIGHTS AGENT:**

**American Stock Transfer & Trust  
Company, LLC**

By /s/ Michael A. Nespoli  
Name: Michael A. Nespoli  
Title: Executive Director



**FOR IMMEDIATE RELEASE**

**IES Holdings Terminates NOL Rights Plan**

HOUSTON — May 10, 2021 — IES Holdings, Inc. (or “IES” or the “Company”) (NASDAQ: IESC) today announced that its Board of Directors has approved an amendment to the Company’s Tax Benefit Protection Plan (the “NOL Rights Plan”) to accelerate the expiration date of the NOL Rights Plan to May 21, 2021, effectively terminating the plan as of that date. The NOL Rights Plan, which was previously set to expire on December 31, 2021, was intended to preserve the availability of IES’s federal net operating loss carryforwards (“NOLs”) by deterring an acquisition of the Company’s stock in excess of a threshold amount that could trigger an “ownership change” within the meaning of the Internal Revenue Code. Shareholders are not required to take any action in connection with the termination of the NOL Rights Plan.

Jeff Gendell, Chairman and Chief Executive Officer of IES, said, “In reaching the decision to terminate the NOL Rights Plan, the Board considered a variety of factors, including our substantial NOL utilization in recent years and the timeframe in which we expect to utilize our remaining NOLs, as well as shareholder feedback on implementing best corporate governance practices. We believe that the tax savings we expect to generate as we use our remaining NOLs will further enhance our already strong financial position and help support our growth strategy.”

Separately, IES has posted an updated investor presentation on its website, which can be found at [www.ies-co.com/presentations](http://www.ies-co.com/presentations).

## **About IES Holdings, Inc.**

IES is a holding company that owns and manages operating subsidiaries that design and install integrated electrical and technology systems and provide infrastructure products and services to a variety of end markets, including data centers, residential housing, and commercial and industrial facilities. Our more than 5,000 employees serve clients across the United States. For more information about IES, please visit [www.ies-co.com](http://www.ies-co.com).

### **Company Contact:**

Tracy McLauchlin  
Chief Financial Officer  
IES Holdings, Inc.  
713-860-1500

### **Investor Relations Contact:**

Robert Winters or Ross Collins  
Alpha IR Group  
312-445-2870  
[IESC@alpha-ir.com](mailto:IESC@alpha-ir.com)

*Certain statements in this release may be deemed "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, all of which are based upon various estimates and assumptions that the Company believes to be reasonable as of the date hereof. In some cases, you can identify forward-looking statements by terminology such as "may," "will," "could," "should," "expect," "plan," "project," "intend," "anticipate," "believe," "seek," "estimate," "predict," "potential," "pursue," "target," "continue," the negative of such terms or other comparable terminology. These statements involve risks and uncertainties that could cause the Company's actual future outcomes to differ materially from those set forth in such statements. Such risks and uncertainties include, but are not limited to, the impact of the COVID-19 outbreak or future epidemics on our business, including the potential for job site closures or work stoppages, supply chain disruptions, construction delays, reduced demand for our services, or our ability to collect from our customers; the ability of our controlling shareholder to take action not aligned with other shareholders; the possibility that certain tax benefits of our net operating losses may be restricted or reduced in a change in ownership or a change in the federal tax rate; the potential recognition of valuation allowances or write-downs on deferred tax assets; the inability to carry out plans and strategies as expected, including our inability to identify and complete acquisitions that meet our investment criteria in furtherance of our corporate strategy, or the subsequent underperformance of those acquisitions; competition in the industries in which we operate, both from third parties and former employees, which could result in the loss of one or more customers or lead to lower margins on new projects; fluctuations in operating activity due to downturns in levels of construction or the housing market, seasonality and differing regional economic conditions; and our ability to successfully manage projects, as well as other risk factors discussed in this document, in the Company's annual report on Form 10-K for the year ended September 30, 2020 and in the Company's other reports on file with the SEC. You should understand that such risk factors could cause future outcomes to differ materially from those experienced previously or those expressed in such forward-looking statements. The Company undertakes no obligation to publicly update or revise any information, including information concerning its controlling shareholder, net operating losses, borrowing availability, or cash position, or any forward-looking statements to reflect events or circumstances that may arise after the date of this release.*

*Forward-looking statements are provided in this press release pursuant to the safe harbor established under the Private Securities Litigation Reform Act of 1995 and should be evaluated in the context of the estimates, assumptions, uncertainties, and risks described herein.*



General information about IES Holdings, Inc. can be found at <http://www.ies-co.com> under "Investor Relations." The Company's annual report on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K, as well as any amendments to those reports, are available free of charge through the Company's website as soon as reasonably practicable after they are filed with, or furnished to, the SEC.