

Credits for Clean Vehicles

IGAP Request for Comments Snapshot

October 13, 2022

Department: Treasury and the Internal Revenue Service (IRS)	Agency: N/A
Application Deadline: November 4, 2022	Docket Number: IRS-2022-0046

Summary

The Inflation Reduction Act is a historic investment in clean energy and climate action. Of the Inflation Reduction Act's \$369 billion investment in addressing climate change, \$270 billion will be delivered through tax incentives. These include tax incentives to encourage the adoption of clean vehicles.

Background

The Inflation Reduction Act includes two tax incentives for clean vehicles:

1. Clean Vehicle Credit: Non-refundable tax credit of up to \$7,500 for new electric vehicle purchases
2. Previously-Owned Clean Vehicle Credit: New, non-refundable tax credit for up to \$4000 or 30% of the sale price of the vehicle for purchases of previously-owned electric vehicles

These provisions are covered under § 30D and § 25E of the Internal Revenue Code, which are outlined in the Request for Comments.

Comments received in response to this notice will help to inform the development of guidance for implementation.

Who Should Respond The Request for Comments is open to all members of the public.

Response Guidelines There are no specific formatting requirements for submitted comments. Responses submitted are public record; stakeholders submitting comment should not include sensitive information.

You do not have to answer all questions in order to submit comments.

Key Questions

The Request for Comments provides specific questions for each provision of the IRS Code.

Clean Vehicles

- Definitions. Section 30D(d)(1)(B) of the Code defines a “new clean vehicle,” in part, as a motor vehicle which is acquired for use or lease by the taxpayer and not for resale. As used in this definition, what, if any, guidance is needed as to the meaning of the terms “acquired,” “use,” and “lease?”
- Critical Minerals. Section 30D(e)(1) provides the new critical minerals requirements, including the applicable percentage requirements to be phased in over several years.
 - What factors and definitions should be considered to determine the place of extracting or processing such critical minerals, and, in particular, to determine whether extracting or processing occurred in the United States or in any country with which the United States has a free trade agreement in effect?
 - What factors and definitions should be considered to determine the place of recycling such critical minerals and, in particular, to determine whether recycling occurred in North America?
 - What factors and definitions should be considered to determine (i) the total value of the critical minerals contained in a vehicle’s battery, and (ii) the percentage of that total value attributable to critical minerals (I) extracted or processed in the United States or a country with which the United States has a free trade agreement in effect, or (II) recycled in North America?
- Battery Components. Section 30D(e)(2) provides the new battery component requirements, including the applicable percentage requirements to be phased in over several years.
 - What factors should be considered in defining the components of a battery of a clean vehicle?
 - What factors and definitions should be considered to determine the place of manufacture or assembly of the components of a battery of a clean vehicle and, in particular, to determine whether manufacture or assembly occurred in North America?
 - What factors and definitions should be considered to determine (i) the total value of the components contained in the battery of a clean vehicle, and (ii) the percentage of that total value attributable to components that were manufactured or assembled in North America?
- Applicable Values. The new critical mineral and battery component requirements in § 30D(e) are based on value. What existing battery technology supply chain tracking methodologies or regulatory frameworks should be considered in determining applicable values?
- Foreign Entity of Concern. Section 30D(d)(7) provides that some vehicles are excluded from the availability of the credit, including when any of the applicable critical minerals contained in the battery were extracted, processed, or recycled by a foreign entity of concern (defined in 42 U.S.C. 18741(a)(5)), or if any of the components contained in the battery of such vehicle were manufactured or assembled by a foreign entity of concern.
 - Is guidance needed to clarify the definition of “foreign entity of concern”?
 - What existing regulatory or guidance frameworks for recordkeeping requirements or supply chain tracking methodologies may be useful for qualified manufacturers to verify that its vehicles are not excluded under § 30D(d)(7)?
- Recordkeeping and Reporting.
 - In addition to VIN numbers, what additional information should a qualified manufacturer provide to the Secretary to be considered a qualified manufacturer with respect to a particular vehicle, per § 30D(d)(3)?
 - What existing regulatory or guidance frameworks for recordkeeping requirements or information reporting or existing battery technology supply chain tracking methodologies may be useful for developing guidance for qualified manufacturers under § 30D(e)(3)?
 - What information should be included in the report furnished by the seller of the vehicle to the taxpayer and the Secretary under § 30D(d)(1)(H), including the election to transfer the credit under § 30D(g)?
- Tax-exempt Entities. Section 30D(f)(3) is stricken by § 13401(g) of the IRA with respect to vehicles placed in service after December 31, 2023. How should clean vehicles acquired and used by a tax-exempt entity after this statutory change becomes effective be treated for purposes of § 30D?

- Registered Dealer and Eligible Entity.
 - What guidance, if any, is needed to determine who is a licensed dealer who can be registered with the Secretary for purposes of the transfer of the credit under § 30D(g)(2), (7), and (8)?
 - What guidance, if any, is needed regarding what circumstances may lead to the revocation of such registration under § 30D(g)(4)?
- Final Assembly Requirement. Is guidance needed to clarify the definition of the term “final assembly” in § 30D(d)(5) or the area included in the term “North America” for purposes of § 30D(d)(1)(G)?
- Vehicle Classifications.
 - What, if any, guidance is needed to define how vehicles are classified as vans, sport utility vehicles, pickup trucks, or other designations of vehicles for purposes of the manufacturer’s suggested retail price limitation in § 30D(f)(11)?
 - What criteria employed by the Environmental Protection Agency and Department of Energy, or other factors (for example, Department of Transportation motor vehicle type classification) should be considered in determining the designation of such vehicles?
 - Is guidance needed to clarify how the manufacturer’s suggested retail price is calculated?
- Election to Transfer and Advance Payments.
 - What factors should be considered in determining the time and manner of the taxpayer’s election under § 30D(g) to transfer the § 30D credit to an eligible entity?
 - Is guidance needed regarding the definition of “taxpayer,” such as whether non-individual taxpayers are eligible for the credit under § 30D?
 - If an election to transfer the credit is made by the taxpayer, what issues should be considered regarding the transfer of the § 30D credit?
 - What considerations and factors should be taken into account in determining the time and manner of advance payments made pursuant to §30D(g)(7)(A)?
 - For purposes of § 30D(g), what guidance, if any, is needed regarding a determination by an eligible entity regarding whether a credit is allowable to the taxpayer?
- Recapture.
 - Is guidance needed to coordinate the application of the excess payment provision under § 30D(g)(7)(B) and the recapture provision under § 30D(g)(10) as between the transferors and transferees of the credit under § 30D(g)?
 - In the event of a recapture event, how should recapture be reported by the taxpayer?
- Please provide comments on any other terms that may require definition or additional guidance

Previously Owned Cleans Vehicle

- What, if any, guidance is needed to address how a taxpayer can verify that a vehicle qualifies as a “previously-owned clean vehicle” as defined in § 25E(c)(1)?
- Section 25E(e) provides that rules similar to the rules of § 30D(f) (without regard to paragraph (10) or (11) thereof) apply for purposes of the § 25E credit. What rules of § 30D(f) should be applied under § 25E(e) without any modification? What 20 rules of § 30D(f) should be applied in modified form for purposes of § 25E and in what way should they be modified?
- Section 25E(f) provides that rules similar to the rules of § 30D(g) apply for purposes of the § 25E credit. What rules of § 30D(g) should be applied under § 25E(f) without any modification? What rules of § 30D(g) should be applied in modified form for purposes of § 25E and in what way should they be modified?
- Please provide comments on any other terms that may require definition or additional guidance.

How to Submit

Comments should be submitted by Friday, November 4, 2022 in one of two ways:

1. Electronically via the Federal eRulemaking Portal at www.regulations.gov (using the document number IRS-2022-0046).
 2. Alternatively, by mail to: Internal Revenue Service, CC:PA:LPD:PR (Notice 2022-46), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, D.C., 20044.
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Resources

- [Request for Comments on Regulations.gov](#)