New and Revised Tax Credits for New and Used, Personal and Commercial Clean Vehicles as Added and Modified by the Inflation Reduction Act of 2022 (P.L. 117-169; 8/16/22)

Produced below:

- Revised §30D with track changes to show the significant changes from the prior version for qualified plug-in electric drive vehicles to the post-2022 version for "clean vehicles."
    - Includes transition and effective date information + information from the IRS, Treasury, and EPA. Transition information is needed because one of the requirements for the §30D credit (assembly in North America) is effective after the enactment date of 8/16/22, while the rest of this heavily revised credit is effective for vehicles acquired after 12/31/22.
    - Two terms used in revised §30D are defined outside of §30D (critical minerals and foreign entity of concern). These definitions are provided here following the track changes version of revised §30D, effective date and conforming amendments.
- New §25E, Previously-Owned Clean Vehicles (refers to the §30D definition of clean vehicle).
- New §45W, Credit for Qualified Commercial Clean Vehicles (refers to the §30D definition of clean vehicle).

§30D - ~~New qualified plug-in electric drive motor vehicles~~Clean Vehicle Credit

As modified by Sec. 13401 of the Inflation Reduction Act of 2022

(a) ALLOWANCE OF CREDIT There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each ~~new qualified plug-in electric drive motor vehicle~~clean vehicle placed in service by the taxpayer during the taxable year.

(b) PER VEHICLE DOLLAR LIMITATION

(1) IN GENERAL The amount determined under this subsection with respect to any new ~~qualified plug-in electric drive motor vehicle~~clean vehicle is the sum of the amounts determined under paragraphs (2) and (3) with respect to such vehicle.

(2) CRITICAL MINERALS.—In the case of a vehicle with respect to which the requirement described in subsection (e)(1)(A) is satisfied, the amount determined under this paragraph is $3,750. ~~BASE AMOUNT The amount determined under this paragraph is $2,500.~~

(3) BATTERY COMPONENTS.—In the case of a vehicle with respect to which the requirement described in subsection (e)(2)(A) is satisfied, the amount determined under this paragraph is $3,750. ~~BATTERY CAPACITY In the case of a vehicle which draws propulsion energy from a battery with not less than 5 kilowatt hours of capacity, the amount determined under this paragraph is $417, plus $417 for each kilowatt hour of capacity in excess of 5 kilowatt hours. The amount determined under this paragraph shall not exceed $5,000.~~

(c) APPLICATION WITH OTHER CREDITS

(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

(2) PERSONAL CREDIT For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

(d) NEW ~~QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR~~ CLEAN VEHICLE For purposes of this section—

(1) IN GENERAL The term "~~new qualified plug-in electric drive motor vehicle~~clean vehicle" means a motor vehicle—

(A) the original use of which commences with the taxpayer,

(B) which is acquired for use or lease by the taxpayer and not for resale,

(C) which is made by a qualified manufacturer,

(D) which is treated as a motor vehicle for purposes of title II of the Clean Air Act,

(E) which has a gross vehicle weight rating of less than 14,000 pounds, ~~and~~

(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

(i) has a capacity of not less than ~~4~~ 7 kilowatt hours, and

(ii) is capable of being recharged from an external source of electricity~~,~~.

(G) the final assembly of which occurs within North America, and

(H) for which the person who sells any vehicle to the taxpayer furnishes a report to the taxpayer and to the Secretary, at such time and in such manner as the Secretary shall provide, containing—

(i) the name and taxpayer identification number of the taxpayer,

(ii) the vehicle identification number of the vehicle, unless, in accordance with any applicable rules promulgated by the Secretary of Transportation, the vehicle is not assigned such a number,

(iii) the battery capacity of the vehicle,

(iv) verification that original use of the vehicle commences with the taxpayer,

(v) the maximum credit under this section allowable to the taxpayer with respect to the vehicle, and

(vi) in the case of a taxpayer who makes an election under subsection (g)(1), any amount described in subsection (g)(2)(C) which has been provided to such taxpayer.

(2) MOTOR VEHICLE The term "motor vehicle" means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

(3) QUALIFIED MANUFACTURER ~~The term "manufacturer" has the meaning given such term in~~ The term "qualified manufacturer" means any manufacturer (within the meaning of the regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.)) which enters into a written agreement with the Secretary under which such manufacturer agrees to make periodic written reports to the Secretary (at such times and in such manner as the Secretary may provide) providing vehicle identification numbers and such other information related to each vehicle manufactured by such manufacturer as the Secretary may require.

(4) BATTERY CAPACITY The term "capacity" means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

(5) FINAL ASSEMBLY.—For purposes of paragraph (1)(G), the term 'final assembly' means the process by which a manufacturer produces a new clean vehicle at, or through the use of, a plant, factory, or other place from which the vehicle is delivered to a dealer or importer with all component parts necessary for the mechanical operation of the vehicle included with the vehicle, whether or not the component parts are permanently installed in or on the vehicle.

(6) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this section, the term "new clean vehicle" shall include any new qualified fuel cell motor vehicle (as defined in section 30B(b)(3)) which meets the requirements under subparagraphs (G) and (H) of paragraph (1).

(7) EXCLUDED ENTITIES.—For purposes of this section, the term 'new clean vehicle' shall not include—

(A) any vehicle placed in service after December 31, 2024, with respect to which any of the applicable critical minerals contained in the battery of such vehicle (as described in subsection (e)(1)(A)) were extracted, processed, or recycled by a foreign entity of concern (as defined in section 40207(a)(5) of the Infrastructure Investment and Jobs Act (42 U.S.C. 18741(a)(5))), or

(B) any vehicle placed in service after December 31, 2023, with respect to which any of the components contained in the battery of such vehicle (as described in subsection (e)(2)(A)) were manufactured or assembled by a foreign entity of concern (as so defined).

~~(e) LIMITATION ON NUMBER OF NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE FOR CREDIT~~

~~(1) IN GENERAL In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.~~

~~(2) PHASEOUT PERIOD For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of new qualified plug-in electric drive motor vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after December 31, 2009, is at least 200,000.~~

~~(3) APPLICABLE PERCENTAGE For purposes of paragraph (1), the applicable percentage is—~~

~~(A) 50 percent for the first 2 calendar quarters of the phaseout period,~~

~~(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and~~

~~(C) 0 percent for each calendar quarter thereafter.~~

~~(4) CONTROLLED GROUPS Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.~~

(e) CRITICAL MINERAL AND BATTERY COMPONENT REQUIREMENTS

(1) CRITICAL MINERALS REQUIREMENT—

(A) IN GENERAL—The requirement described in this subparagraph with respect to a vehicle is that, with respect to the battery from which the electric motor of such vehicle draws electricity, the percentage of the value of the applicable critical minerals (as defined in section 45X(c)(6)) contained in such battery that were—

(i) extracted or processed—

(I) in the United States, or

(II) in any country with which the United States has a free trade agreement in effect, or

(ii) recycled in North America,

is equal to or greater than the applicable percentage (as certified by the qualified manufacturer, in such form or manner as prescribed by the Secretary).

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be—

(i) in the case of a vehicle placed in service after the date on which the proposed guidance described in paragraph (3)(B) is issued by the Secretary and before January 1, 2024, 40 percent,

(ii) in the case of a vehicle placed in service during calendar year 2024, 50 percent,

(iii) in the case of a vehicle placed in service during calendar year 2025, 60 percent,

(iv) in the case of a vehicle placed in service during calendar year 2026, 70 percent, and

(v) in the case of a vehicle placed in service after December 31, 2026, 80 percent.

(2) BATTERY COMPONENTS.—

(A) IN GENERAL.—The requirement described in this subparagraph with respect to a vehicle is that, with respect to the battery from which the electric motor of such vehicle draws electricity, the percentage of the value of the components contained in such battery that were manufactured or assembled in North America is equal to or greater than the applicable percentage (as certified by the qualified manufacturer, in such form or manner as prescribed by the Secretary).

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be—

(i) in the case of a vehicle placed in service after the date on which the proposed guidance described in paragraph (3)(B) is issued by the Secretary and before January 1, 2024, 50 percent,

ii) in the case of a vehicle placed in service during calendar year 2024 or 2025, 60 percent,

(iii) in the case of a vehicle placed in service during calendar year 2026, 70 percent,

(iv) in the case of a vehicle placed in service during calendar year 2027, 80 percent,

(v) in the case of a vehicle placed in service during calendar year 2028, 90 percent,

(vi) in the case of a vehicle placed in service after December 31, 2028, 100 percent.

(3) REGULATIONS AND GUIDANCE.—

(A) IN GENERAL.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of administering the requirements of this subsection.

(B) DEADLINE FOR PROPOSED GUIDANCE.—Not later than December 31, 2022, the Secretary shall issue proposed guidance with respect to the requirements under this subsection.

(f) SPECIAL RULES

(1) BASIS REDUCTION For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (c)).

(2) NO DOUBLE BENEFIT The amount of any deduction or other credit allowable under this chapter for a vehicle for which a credit is allowable under subsection (a) shall be reduced by the amount of credit allowed under such subsection for such vehicle (determined without regard to subsection (c)).

~~(3) PROPERTY USED BY TAX-EXEMPT ENTITY In the case of a vehicle the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (c)). For purposes of subsection (c), property to which this paragraph applies shall be treated as of a character subject to an allowance for depreciation.~~

(4) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1).

(5) RECAPTURE The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

(6) ELECTION NOT TO TAKE CREDIT No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

(7) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS A vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

(8) ONE CREDIT PER VEHICLE.—In the case of any vehicle, the credit described in subsection (a) shall only be allowed once with respect to such vehicle, as determined based upon the vehicle identification number of such vehicle, including any vehicle with respect to which the taxpayer elects the application of subsection (g).

(9) VIN REQUIREMENT.—No credit shall be allowed under this section with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year.

(10) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any taxable year if—

(i) the lesser of—

(I) the modified adjusted gross income of the taxpayer for such taxable year, or

(II) the modified adjusted gross income of the taxpayer for the preceding taxable year, exceeds

(ii) the threshold amount.

(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A)(ii), the threshold amount shall be—

(i) in the case of a joint return or a surviving spouse (as defined in section 2(a)), $300,000,

(ii) in the case of a head of household (as defined in section 2(b)), $225,000, and

(iii) in the case of a taxpayer not described in clause (i) or (ii), $150,000.

(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

(11) MANUFACTURER'S SUGGESTED RETAIL PRICE LIMITATION.—

(A) IN GENERAL.—No credit shall be allowed under subsection (a) for a vehicle with a manufacturer's suggested retail price in excess of the applicable limitation.

(B) APPLICABLE LIMITATION.—For purposes of subparagraph (A), the applicable limitation for each vehicle classification is as follows:

(i) VANS.—In the case of a van, $80,000.

(ii) SPORT UTILITY VEHICLES.—In the case of a sport utility vehicle, $80,000.

(iii) PICKUP TRUCKS.—In the case of a pickup truck, $80,000.

(iv) OTHER.—In the case of any other vehicle, $55,000.

(C) REGULATIONS AND GUIDANCE.—For purposes of this paragraph, the Secretary shall prescribe such regulations or other guidance as the Secretary determines necessary for determining vehicle classifications using criteria similar to that employed by the Environmental Protection Agency and the Department of the Energy to determine size and class of vehicles.

~~(g) CREDIT ALLOWED FOR 2- AND 3-WHEELED PLUG-IN ELECTRIC VEHICLES~~

~~(1) IN GENERAL In the case of a qualified 2- or 3-wheeled plug-in electric vehicle—~~

~~(A) there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the applicable amount with respect to each such qualified 2- or 3-wheeled plug-in electric vehicle placed in service by the taxpayer during the taxable year, and~~

~~(B) the amount of the credit allowed under subparagraph (A) shall be treated as a credit allowed under subsection (a).~~

~~(2) APPLICABLE AMOUNT For purposes of paragraph (1), the applicable amount is an amount equal to the lesser of—~~

~~(A) 10 percent of the cost of the qualified 2- or 3-wheeled plug-in electric vehicle, or~~

~~(B) $2,500.~~

~~(3) QUALIFIED 2- OR 3-WHEELED PLUG-IN ELECTRIC VEHICLE The term "qualified 2- or 3-wheeled plug-in electric vehicle" means any vehicle which—~~

~~(A) has 2 or 3 wheels,~~

~~(B) meets the requirements of subparagraphs (A), (B), (C), (E), and (F) of subsection (d)(1) (determined by substituting "2.5 kilowatt hours" for "4 kilowatt hours" in subparagraph (F)(i)),~~

~~(C) is manufactured primarily for use on public streets, roads, and highways,~~

~~(D) is capable of achieving a speed of 45 miles per hour or greater, and~~

~~(E) is acquired—~~

~~(i) after December 31, 2011, and before January 1, 2014, or~~

~~(ii) in the case of a vehicle that has 2 wheels, after December 31, 2014, and before January 1, 2022.~~

(g) TRANSFER OF CREDIT—

(1) IN GENERAL.—Subject to such regulations or other guidance as the Secretary determines necessary, if the taxpayer who acquires a new clean vehicle elects the application of this subsection with respect to such vehicle, the credit which would (but for this subsection) be allowed to such taxpayer with respect to such vehicle shall be allowed to the eligible entity specified in such election (and not to such taxpayer).

(2) ELIGIBLE ENTITY.[1]—For purposes of this subsection, the term 'eligible entity' means, with respect to the vehicle for which the credit is allowed under subsection (a), the dealer which sold such vehicle to the taxpayer and has—

(A) subject to paragraph (4), registered with the Secretary for purposes of this paragraph, at such time, and in such form and manner, as the Secretary may prescribe,

(B) prior to the election described in paragraph (1) and not later than at the time of such sale, disclosed to the taxpayer purchasing such vehicle—

(i) the manufacturer's suggested retail price,

(ii) the value of the credit allowed and any other incentive available for the purchase of such vehicle, and

(iii) the amount provided by the dealer to such taxpayer as a condition of the election described in paragraph (1),

(C) not later than at the time of such sale, made payment to such taxpayer (whether in cash or in the form of a partial payment or down payment for the purchase of such vehicle) in an amount equal to the credit otherwise allowable to such taxpayer, and

(D) with respect to any incentive otherwise available for the purchase of a vehicle for which a credit is allowed under this section, including any incentive in the form of a rebate or discount provided by the dealer or manufacturer, ensured that—

(i) the availability or use of such incentive shall not limit the ability of a taxpayer to make an election described in paragraph (1), and

(ii) such election shall not limit the value or use of such incentive.

(3) TIMING.—An election described in paragraph (1) shall be made by the taxpayer not later than the date on which the vehicle for which the credit is allowed under subsection (a) is purchased.

(4) REVOCATION OF REGISTRATION.—Upon determination by the Secretary that a dealer has failed to comply with the requirements described in paragraph (2), the Secretary may revoke the registration (as described in subparagraph (A) of such paragraph) of such dealer.

(5) TAX TREATMENT OF PAYMENTS.—With respect to any payment described in paragraph (2)(C), such payment—

(A) shall not be includible in the gross income of the taxpayer, and

(B) with respect to the dealer, shall not be deductible under this title.

(6) APPLICATION OF CERTAIN OTHER REQUIREMENTS.—In the case of any election under paragraph (1) with respect to any vehicle—

[1] SEC. 13401(j) with non-Code text provides: "(j) GROSS-UP OF DIRECT SPENDING.—Beginning in fiscal year 2023 and each fiscal year thereafter, the portion of any credit allowed to an eligible entity (as defined in section 30D(g)(2) of the Internal Revenue Code of 1986) pursuant to an election made under section 30D(g) of the Internal Revenue Code of 1986 that is direct spending shall be increased by 6.0445 percent.

(A) the requirements of paragraphs (1) and (2) of subsection (f) shall apply to the taxpayer who acquired the vehicle in the same manner as if the credit determined under this section with respect to such vehicle were allowed to such taxpayer,

(B) paragraph (6) of such subsection shall not apply, and

(C) the requirement of paragraph (9) of such subsection (f) shall be treated as satisfied if the eligible entity provides the vehicle identification number of such vehicle to the Secretary in such manner as the Secretary may provide.

(7) ADVANCE PAYMENT TO REGISTERED DEALERS.—

(A) IN GENERAL.—The Secretary shall establish a program to make advance payments to any eligible entity in an amount equal to the cumulative amount of the credits allowed under subsection (a) with respect to any vehicles sold by such entity for which an election described in paragraph (1) has been made.

(B) EXCESSIVE PAYMENTS.—Rules similar to the rules of section 6417(d)(6) shall apply for purposes of this paragraph.

(C) TREATMENT OF ADVANCE PAYMENTS.—For purposes of section 1324 of title 31 United States Code, the payments under subparagraph (A) shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(8) DEALER.—For purposes of this subsection, the term 'dealer' means a person licensed by a State, the District of Columbia, the Commonwealth of Puerto Rico, any other territory or possession of the United States, an Indian tribal government, or any Alaska Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)) to engage in the sale of vehicles.

(9) INDIAN TRIBAL GOVERNMENT.—For purposes of this subsection, the term 'Indian tribal government' means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this subsection pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

(10) RECAPTURE.—In the case of any taxpayer who has made an election described in paragraph (1) with respect to a new clean vehicle and received a payment described in paragraph (2)(C) from an eligible entity, if the credit under subsection (a) would otherwise (but for this subsection) not be allowable to such taxpayer pursuant to the application of subsection (f)(10), the tax imposed on such taxpayer under this chapter for the taxable year in which such vehicle was placed in service shall be increased by the amount of the payment received by such taxpayer.

(h) TERMINATION—No credit shall be allowed under this section with respect to any vehicle placed in service after December 31, 2032.

Effective date of changes to §30D + transition rule for certain 2022 purchases:

- Generally, the changes apply to vehicles placed in service after 12/31/22.
- The changes to §30D(d) on final assembly in North America apply to vehicles sold after the enactment date (8/16/22).
    - Thus, if purchase vehicle that qualified under pre-IRA 2022 version of §30D credit (the one with the 200,000 vehicle phase-out rule) after 8/16/22 but before 1/1/23, the old version applies except that the vehicle must have final assembly in North America.
    - Per Treasury FAQs, "to identify whether a specific vehicle's final assembly occurred in North America, dealers and consumers should enter the 17-character Vehicle Identification Number (VIN) into the National Highway Traffic Safety Administration's VIN Decoder tool, available here: https://vpic.nhtsa.dot.gov/decoder/. Dealers and consumers can refer to the "Plant Information" field at the bottom of the page result, which expressly lists the build plant and country for the searched vehicle." Also check this Energy Department website: https://afdc.energy.gov/laws/inflation-reduction-act.
    - See transition relief election rule below. If applicable, the taxpayer uses the §30D credit as it existed before 8/16/22 (with no requirement for assembly in North America).
- The changes on the per vehicle dollar limitation and critical minerals and battery requirements (§30D(e)) apply to vehicles placed in service after the date proposed guidance described in §30D(e)(3)(B) is issued. New §30D(e)(3) requires IRS to issue regulations or other guidance to on the requirements and guidance "necessary to carry out the purposes of" §30D(e) no later than 12/31/22.
- The changes to §30D(g) on transfer of credit apply to vehicles placed in service after 12/31/23.
- The changes that removed old §30D(e) on a manufacturer limitation applies to vehicles sold after 12/31/22.
- Transition relief – if after 12/31/21 and before the enactment date (8/16/22), a taxpayer purchased, or entered into a written binding contract to purchase, a new qualified plug-in electric drive motor vehicles (per §30D(d)(1) as in effect before the IRA changes, and placed that vehicle in service on or after the enactment date, the taxpayer may elect (per IRS guidance) to treat such vehicle as having been placed in service on the day before the enactment date.
    - Information from the IRS on the transition rule for vehicles purchased before 8/16/22 and vehicles purchased and delivered between 8/16 and 12/31/22.
- Watch for changes to Form 8936, Qualified Plug-In Electric Drive Motor Vehicle Credit for both 2022 (from 2021, due to the North America assembly requirement if purchased after 8/16/22 but before 1/1/23) and for 2023 when the entire new version of the credit goes into effect (with new name of Clean Vehicle Credit).

Information from the IRS and EPA on the new credit and vehicles that *may* meet the requirement of final assembly in North America.

- IRS: https://www.irs.gov/businesses/plug-in-electric-vehicle-credit-irc-30-and-irc-30d
- Treasury FAQs: https://home.treasury.gov/system/files/136/EV-Tax-Credit-FAQs.pdf
- Treasury press release of 8/16/22 including links to above: https://home.treasury.gov/news/press-releases/jy0923
- EPA: https://afdc.energy.gov/laws/inflation-reduction-act

Conforming Amendments:

§30B - Alternative motor vehicle credit

(a) ALLOWANCE OF CREDIT There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

(2) the new advanced lean burn technology motor vehicle credit determined under subsection (c),

(3) the new qualified hybrid motor vehicle credit determined under subsection (d),

(4) the new qualified alternative fuel motor vehicle credit determined under subsection (e), and

(5) the plug-in conversion credit determined under subsection (i).

…

(h) OTHER DEFINITIONS AND SPECIAL RULES For purposes of this section—

(1) MOTOR VEHICLE The term "motor vehicle" means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

(2) CITY FUEL ECONOMY The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

(3) OTHER TERMS The terms "automobile", "passenger automobile", "medium duty passenger vehicle", "light truck", and "manufacturer" have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

(4) REDUCTION IN BASIS For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (g)).

(5) NO DOUBLE BENEFIT The amount of any deduction or other credit allowable under this chapter—

(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (e) shall be reduced by the amount of such credit attributable to such cost, and

(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year (determined without regard to subsection (g)).

(6) PROPERTY USED BY TAX-EXEMPT ENTITY In the case of a vehicle whose use is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (g)). For purposes of subsection (g), property to which this paragraph applies shall be treated as of a character subject to an allowance for depreciation.

(7) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

(8) RECAPTURE The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle)~~, except that no benefit shall be recaptured if such property ceases to be eligible for such credit by reason of conversion to a qualified plug-in electric drive motor vehicle~~.

(9) ELECTION TO NOT TAKE CREDIT No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

(10) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

~~(i) PLUG-IN CONVERSION CREDIT~~

~~(1) IN GENERAL For purposes of subsection (a), the plug-in conversion credit determined under this subsection with respect to any motor vehicle which is converted to a qualified~~

~~plug-in electric drive motor vehicle is 10 percent of so much of the cost of the converting such vehicle as does not exceed $40,000.~~

~~(2) QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE For purposes of this subsection, the term "qualified plug-in electric drive motor vehicle" means any new qualified plug-in electric drive motor vehicle (as defined in section 30D, determined without regard to whether such vehicle is made by a manufacturer or whether the original use of such vehicle commences with the taxpayer).~~

~~(3) CREDIT ALLOWED IN ADDITION TO OTHER CREDITS The credit allowed under this subsection shall be allowed with respect to a motor vehicle notwithstanding whether a credit has been allowed with respect to such motor vehicle under this section (other than this subsection) in any preceding taxable year.~~

~~(4) TERMINATION This subsection shall not apply to conversions made after December 31, 2011.~~

§6213 - Restrictions applicable to deficiencies; petition to Tax Court

(g)(2) on defining mathematical or clerical error is amended by adding at the end:

(T) an omission of a correct vehicle identification number required under section 30D(f)(9) (relating to credit for new clean vehicles) to be included on a return.

(U) an omission of a correct vehicle identification number required under section 25E(d) (relating to credit for previously-owned clean vehicles) to be included on a return, and

(V) an omission of a correct vehicle identification number required under section 45W(e) (relating to commercial clean vehicle credit) to be included on a return.

[(U) added by SEC. 13402(c) relates to new §25E (see below) and (V) added by SEC. 13403(b)(2) relates to new §45W (see below).]

§6501 - Limitations on assessment and collection

(m) DEFICIENCIES ATTRIBUTABLE TO ELECTION OF CERTAIN CREDITS The period for assessing a deficiency attributable to any election under section 30B(h)(9), 30C(e)(4), 30D~~(e)(4)~~(f)(6), 35(g)(11), 40(f), 43, 45B, 45C(d)(4), 45H(g), or 51(j) (or any revocation thereof) shall not expire before the date 1 year after the date on which the Secretary is notified of such election (or revocation).

Terms Used in §30D That Are Defined Elsewhere

1. **Critical minerals** – Used at §30D(b)(2), (d)(7), and (e), and is defined at new IRC §45X(c)(6) as follows:

   APPLICABLE CRITICAL MINERALS.—The term 'applicable critical mineral' means any of the following:

   (A) ALUMINUM.—Aluminum which is—(i) converted from bauxite to a minimum purity of 99 percent alumina by mass, or (ii) purified to a minimum purity of 99.9

percent aluminum by mass.

(B) ANTIMONY.—Antimony which is—(i) converted to antimony trisulfide concentrate with a minimum purity of 90 percent antimony trisulfide by mass, or (ii) purified to a minimum purity of 99.65 percent antimony by mass.

(C) BARITE.—Barite which is barium sulfate purified to a minimum purity of 80 percent barite by mass.

(D) BERYLLIUM.—Beryllium which is—(i) converted to copper-beryllium master alloy, or (ii) purified to a minimum purity of 99 percent beryllium by mass.

(E) CERIUM.—Cerium which is—(i) converted to cerium oxide which is purified to a minimum purity of 99.9 percent cerium oxide by mass, or (ii) purified to a minimum purity of 99 percent cerium by mass.

(F) CESIUM.—Cesium which is—(i) converted to cesium formate or cesium carbonate, or (ii) purified to a minimum purity of 99 percent cesium by mass.

(G) CHROMIUM.—Chromium which is—(i) converted to ferrochromium consisting of not less than 60 percent chromium by mass, or (ii) purified to a minimum purity of 99 percent chromium by mass.

(H) COBALT.—Cobalt which is—(i) converted to cobalt sulfate, or (ii) purified to a minimum purity of 99.6 percent cobalt by mass.

(I) DYSPROSIUM.—Dysprosium which is—(i) converted to not less than 99 percent pure dysprosium iron alloy by mass, or (ii) purified to a minimum purity of 99 percent dysprosium by mass.

(J) EUROPIUM.—Europium which is—(i) converted to europium oxide which is purified to a minimum purity of 99.9 percent europium oxide by mass, or (ii) purified to a minimum purity of 99 percent by mass.

(K) FLUORSPAR.—Fluorspar which is—(i) converted to fluorspar which is purified to a minimum purity of 97 percent calcium fluoride by mass, or (ii) purified to a minimum purity of 99 percent fluorspar by mass.

(L) GADOLINIUM.—Gadolinium which is—(i) converted to gadolinium oxide which is purified to a minimum purity of 99.9 percent gadolinium oxide by mass, or (ii) purified to a minimum purity of 99 percent gadolinium by mass.

(M) GERMANIUM.—Germanium which is—(i) converted to germanium tetrachloride, or ‘(ii) purified to a minimum purity of 99.99 percent germanium by mass.

(N) GRAPHITE.—Graphite which is purified to a minimum purity of 99.9 percent graphitic carbon by mass.

(O) INDIUM.—Indium which is—(i) converted to—(I) indium tin oxide, or (II) indium oxide which is purified to a minimum purity of 99.9 percent indium oxide by mass, or (ii) purified to a minimum purity of 99 percent indium by mass.

(P) LITHIUM.—Lithium which is—(i) converted to lithium carbonate or lithium hydroxide, or (ii) purified to a minimum purity of 99.9 percent lithium by mass.

(Q) MANGANESE.—Manganese which is— (i) converted to manganese sulphate, or (ii) purified to a minimum purity of 99.7 percent manganese by mass.

(R) NEODYMIUM.—Neodymium which is— (i) converted to neodymium-praseodymium oxide which is purified to a minimum purity of 99 percent neodymium-praseodymium oxide by mass, (ii) converted to neodymium oxide which is purified to a minimum purity of 99.5 percent neodymium oxide by mass (iii) purified to a minimum purity of 99.9 percent neodymium by mass.

(S) NICKEL.—Nickel which is—(i) converted to nickel sulphate, or (ii) purified to a minimum purity of 99 percent nickel by mass.

(T) NIOBIUM.—Niobium which is—(i) converted to ferronibium, or (ii) purified to a minimum purity of 99 percent niobium by mass.

(U) TELLURIUM.—Tellurium which is—(i) converted to cadmium telluride, or (ii) purified to a minimum purity of 99 percent tellurium by mass.

(V) TIN.—Tin which is purified to low alpha emitting tin which—(i) has a purity of greater than 99.99 percent by mass, and (ii) possesses an alpha emission rate of not greater than 0.01 counts per hour per centimeter square.

(W) TUNGSTEN.—Tungsten which is converted to ammonium paratungstate or ferrotungsten.

(X) VANADIUM.—Vanadium which is converted to ferrovanadium or vanadium pentoxide.

(Y) YTTRIUM.—Yttrium which is—(i) converted to yttrium oxide which is purified to a minimum purity of 99.999 percent yttrium oxide by mass, or (ii) purified to a minimum purity of 99.9 percent yttrium by mass.

(Z) OTHER MINERALS.—Any of the following minerals, provided that such mineral is purified to a minimum purity of 99 percent by mass: (i) Arsenic. (ii) Bismuth. (iii) Erbium. (iv) Gallium. (v) Hafnium. (vi) Holmium. (vii) Iridium. (viii) Lanthanum. (ix) Lutetium. (x) Magnesium. (xi) Palladium. (xii) Platinum. (xiii) Praseodymium. (xiv) Rhodium. (xv) Rubidium. (xvi) Ruthenium. (xvii) Samarium. (xviii) Scandium. (xix) Tantalum. (xx) Terbium. (xxi) Thulium. (xxii) Titanium. (xxiii) Ytterbium. (xxiv) Zinc. (xxv) Zirconium.

Observation: Likely, this definition of critical minerals at §45X(c)(6) at 809 words is the longest definition in the IRC!

2. **Foreign entity of concern** – Used at §30D(d)(7) and defined in section 40207(a)(5) of the Infrastructure Investment and Jobs Act (P.L. 117-58 (11/15/21) (42 USC 18741(a)(5).

FOREIGN ENTITY OF CONCERN.—The term ‘‘foreign entity of concern’’ means a foreign entity that is—

(A) designated as a foreign terrorist organization by the Secretary of State under section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a));

(B) included on the list of specially designated nationals and blocked persons

maintained by the Office of Foreign Assets Control of the Department of the Treasury (commonly known as the ''SDN list'');

(C) owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation (as defined in section 2533c(d) of title 10, United States Code);

(D) alleged by the Attorney General to have been involved in activities for which a conviction was obtained under—

(i) chapter 37 of title 18, United States Code (commonly known as the ''Espionage Act'');

(ii) section 951 or 1030 of title 18, United States Code;

(iii) chapter 90 of title 18, United States Code (commonly known as the ''Economic Espionage Act of 1996'');

(iv) the Arms Export Control Act (22 U.S.C. 2751 et seq.);

(v) section 224, 225, 226, 227, or 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2276, 2277, and 2284);

(vi) the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.); or

(vii) the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); or

(E) determined by the Secretary, in consultation with the Secretary of Defense and the Director of National Intelligence, to be engaged in unauthorized conduct that is detrimental to the national security or foreign policy of the United States.

§25E, Previously-Owned Clean Vehicles

Added by SEC. 13402 of the Inflation Reduction Act of 2022

(a) ALLOWANCE OF CREDIT.—In the case of a qualified buyer who during a taxable year places in service a previously-owned clean vehicle, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of—

(1) $4,000, or

(2) the amount equal to 30 percent of the sale price with respect to such vehicle.

(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

(1) IN GENERAL.—No credit shall be allowed under subsection

(a) for any taxable year if—

(A) the lesser of—

(i) the modified adjusted gross income of the taxpayer for such taxable year, or

(ii) the modified adjusted gross income of the taxpayer for the preceding taxable year, exceeds

(B) the threshold amount.

(2) THRESHOLD AMOUNT.—For purposes of paragraph (1)(B), the threshold amount shall be—

(A) in the case of a joint return or a surviving spouse (as defined in section 2(a)), $150,000,

(B) in the case of a head of household (as defined in section 2(b)), $112,500, and

(C) in the case of a taxpayer not described in subparagraph (A) or (B), $75,000.

(3) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

(c) DEFINITIONS.—For purposes of this section—

(1) PREVIOUSLY-OWNED CLEAN VEHICLE.—The term 'previously-owned clean vehicle' means, with respect to a taxpayer, a motor vehicle—

(A) the model year of which is at least 2 years earlier than the calendar year in which the taxpayer acquires such vehicle,

(B) the original use of which commences with a person other than the taxpayer,

(C) which is acquired by the taxpayer in a qualified sale, and

(D) which—

(i) meets the requirements of subparagraphs (C), (D), (E), (F), and (H) (except for clause (iv) thereof) of section 30D(d)(1), or

(ii) is a motor vehicle which—

(I) satisfies the requirements under subparagraphs (A) and (B) of section 30B(b)(3), and

(II) has a gross vehicle weight rating of less than 14,000 pounds.

(2) QUALIFIED SALE.—The term 'qualified sale' means a sale of a motor vehicle—

(A) by a dealer (as defined in section 30D(g)(8)),

(B) for a sale price which does not exceed $25,000, and

(C) which is the first transfer since the date of the enactment of this section to a qualified buyer other than the person with whom the original use of such vehicle commenced.

(3) QUALIFIED BUYER.—The term 'qualified buyer' means, with respect to a sale of a motor vehicle, a taxpayer—

(A) who is an individual,

(B) who purchases such vehicle for use and not for resale,

(C) with respect to whom no deduction is allowable with respect to another taxpayer under section 151, and

(D) who has not been allowed a credit under this section for any sale during the 3-year period ending on the date of the sale of such vehicle.

(4) MOTOR VEHICLE; CAPACITY.—The terms 'motor vehicle' and 'capacity' have the meaning given such terms in paragraphs (2) and (4) of section 30D(d), respectively.

(d) VIN NUMBER REQUIREMENT.—No credit shall be allowed under subsection (a) with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year.

(e) APPLICATION OF CERTAIN RULES.—For purposes of this section, rules similar to the rules of section 30D(f) (without regard to paragraph (10) or (11) thereof) shall apply for purposes of this section.

(f) TRANSFER OF CREDIT.—Rules similar to the rules of section 30D(g) shall apply.

(g) TERMINATION.—No credit shall be allowed under this section with respect to any vehicle acquired after December 31, 2032.

Effective Date: Applies to vehicles acquired after 12/31/22. Section 25E(f) on transfer of credit applies to vehicles acquired after 1/31/23.

§45W, Credit for Qualified Commercial Clean Vehicles

Added by SEC. 13403 of the Inflation Reduction Act of 2022

(a) IN GENERAL.—For purposes of section 38, the qualified commercial clean vehicle credit for any taxable year is an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each qualified commercial clean vehicle placed in service by the taxpayer during the taxable year.

(b) PER VEHICLE AMOUNT.—

(1) IN GENERAL.—Subject to paragraph (4), the amount determined under this subsection with respect to any qualified commercial clean vehicle shall be equal to the lesser of—

(A) 15 percent of the basis of such vehicle (30 percent in the case of a vehicle not powered by a gasoline or diesel internal combustion engine), or

(B) the incremental cost of such vehicle.

(2) INCREMENTAL COST.—For purposes of paragraph (1)(B), the incremental cost of any qualified commercial clean vehicle is an amount equal to the excess of the purchase price for such vehicle over such price of a comparable vehicle.

(3) COMPARABLE VEHICLE.—For purposes of this subsection, the term 'comparable vehicle' means, with respect to any qualified commercial clean vehicle, any vehicle which is powered solely by a gasoline or diesel internal combustion engine and which is comparable in size and use to such vehicle.

(4) LIMITATION.—The amount determined under this subsection with respect to any qualified commercial clean vehicle shall not exceed—

(A) in the case of a vehicle which has a gross vehicle weight rating of less than 14,000 pounds, $7,500, and

(B) in the case of a vehicle not described in subparagraph (A), $40,000.

(c) QUALIFIED COMMERCIAL CLEAN VEHICLE.—For purposes of this section, the term 'qualified commercial clean vehicle' means any vehicle which—

(1) meets the requirements of section 30D(d)(1)(C) and is acquired for use or lease by the taxpayer and not for resale,

(2) either—

(A) meets the requirements of subparagraph (D) of section 30D(d)(1) and is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails), or

(B) is mobile machinery, as defined in section 4053(8) (including vehicles that are not designed to perform a function of transporting a load over the public highways),

(3) either—

(A) is propelled to a significant extent by an electric motor which draws electricity from a battery which has a capacity of not less than 15 kilowatt hours (or, in the case of a vehicle

which has a gross vehicle weight rating of less than 14,000 pounds, 7 kilowatt hours) and is capable of being recharged from an external source of electricity, or

(B) is a motor vehicle which satisfies the requirements under subparagraphs (A) and (B) of section 30B(b)(3), and

(4) is of a character subject to the allowance for depreciation.

(d) SPECIAL RULES.—

(1) IN GENERAL.—Rules similar to the rules under subsection (f) of section 30D (without regard to paragraph (10) or (11) thereof) shall apply for purposes of this section.

(2) VEHICLES PLACED IN SERVICE BY TAX-EXEMPT ENTITIES.— Subsection (c)(4) shall not apply to any vehicle which is not subject to a lease and which is placed in service by a tax-exempt entity described in clause (i), (ii), or (iv) of section 168(h)(2)(A).

(3) NO DOUBLE BENEFIT.—No credit shall be allowed under this section with respect to any vehicle for which a credit was allowed under section 30D.

(e) VIN NUMBER REQUIREMENT.—No credit shall be determined under subsection (a) with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year.

(f) REGULATIONS AND GUIDANCE.—The Secretary shall issue such regulations or other guidance as the Secretary determines necessary to carry out the purposes of this section, including regulations or other guidance relating to determination of the incremental cost of any qualified commercial clean vehicle.

(g) TERMINATION.—No credit shall be determined under this section with respect to any vehicle acquired after December 31, 2032.

Effective date: For vehicles acquired after 12/31/22.