PARTNERS BEYOND BOUNDARIES

IRS released guidance on clean vehicle credits under the Inflation Reduction Act

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Under the Inflation Reduction Act, the IRS released several guidance on the new clean vehicle credits enacted or revised in 2022. Among the credits discussed in the guidance are those under IRC Section 30D (clean vehicles), IRC Section 45W (clean commercial vehicles), and IRC Section 25E (previously-owned clean vehicles). Generally, this guidance applies starting in 2023 to vehicles sold or purchased.

According to the Treasury and IRS, the following information has been released:

- IRC Sections 30D, 45W, and 25E credit guidelines for manufacturers and sellers of clean vehicles are addressed in Revenue Procedure 2022-42. A clean vehicle manufacturer can qualify for clean vehicle (EV) credits by entering into a written agreement with the IRS that requires them to provide periodic written reports about each clean vehicle that is manufactured, as well as the requirements of the sellers.
- FS-2022-42, addressing the IRC Sections 30D, 45W, and 25E: eligibility rules, income and price limitations, when to claim the clean vehicle credits, and how to claim them. Additionally, the FAQs include the list of vehicles that qualify for the credits in 2023.
- In Notice 2023-1, addressing IRC Section 30D credits, Treasury and the IRS announced their intention to propose regulations on the definitions of the relevant terms under Section 30D for new clean vehicles entering service after December 31, 2022, and the requirements under Section 30D(e) for critical minerals and batteries.
- For purposes of the new credit for qualified commercial clean vehicles under IRC Section 45W, Notice 2023-9 addresses credits under IRC Section 45W: Safe harbor regarding the incremental cost of some qualified commercial clean vehicles placed in service in 2023.

Background

Clean vehicle credit under IRC Section 30D

IRC Section 30D of the Internal Revenue Code was changed to "clean vehicle credit" by the Inflation Reduction Act (IRA). New clean vehicles placed in service by a taxpayer before January 1, 2033, qualify for a dollar-for-dollar reduction in federal income taxes of up to $7,500.

Taxpayers must meet the following conditions to be eligible for the credit:

- Clean vehicles must be used for the first time by the taxpayer
- Taxpayers cannot acquire clean vehicles for resale
- A qualified manufacturer must manufacture clean vehicles
- It is imperative that the clean vehicle is assembled in North America

Definitions of IRC Section 30D terms proposed by the IRS

According to Notice 2023-1, the IRS and Treasury intend to issue regulations on the definitions under IRC Section 30D for new clean vehicles after December 31, 2022. As part of the proposed regulations, guidance will be provided regarding the requirements for critical minerals and battery components under IRC Section 30D(e), which will be released in March 2023.

Conclusions

Several issues related to the new and revised credits have been clarified in this guidance. Taxpayers eagerly await more advice for problems that have yet to be addressed, such as the critical mineral and battery components. To qualify for the tax credit, taxpayers should be able to trust the reporting and certification provided by the manufacturer/seller. By putting this documentation requirement on manufacturers/sellers, end users have greater access to these incentives.

However, it may still be difficult to fully take advantage of credits because of their relatively complex qualification process. For example, manufacturer reporting requirements indicate that credits may be assigned based on vehicle type. Hence, vehicles of the same make and model year may qualify for other credits depending on the location of critical minerals, battery components, and assembly. These issues may be clarified by additional guidance regarding battery components and required mineral certification.

In addition, there may be instances when the retail price limitations imposed on sedans, vans, SUVs, and pickup trucks prevent some vehicles from being credit eligible. In addition, vehicles that are not classified as vans, SUVs, or pickup trucks may be limited to the $55,000 sedan retail price limit. A taxpayer can consult the IRS website's model and manufacturer listings before assuming which vehicles qualify and their associated MSRPs.

For federal income tax purposes, the entity deemed to own the vehicle can claim the tax credit for leased cars. For eligible clean vehicles, leasing agreements need to include the appropriate clauses to determine whether the lessor or lessee is suitable for the credit.

Furthermore, the guidance explains how incremental costs are calculated. Finally, it determines that the cumulative cost restriction in IRC Section 45W will not limit credit availability for street vehicles (other than compact car PHEVs) placed in service in the calendar year 2023 with a gross vehicle weight rating below 14,000 pounds.

For queries, please contact

Shishir Lagu

Partner,

US Tax Services

Kavit Sanghvi

Associate Partner,

US Tax Services

markets@knavcpa.com

www.knavcpa.com

India Offices:

Mumbai
7th floor, Godrej BKC, Bandra Kurla Complex, Mumbai 400051

Bangalore
306, 3rd Floor, Embassy Square, 148, Infantry Road, Bangalore 560001

Other offices: USA | Singapore | Canada | UK | Netherlands

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