

## Clean Vehicle Credits

### Cross References

- Rev. Proc. 2022-42
- IRC §30D, §45W, and §25E

The IRS has released guidance concerning the new clean vehicle credit under IRC section 30D, the credit for qualified commercial clean vehicles under IRC section 45W, and the credit for previously-owned clean vehicles under IRC section 25E, as amended by the Inflation Reduction Act of 2022. These rules generally apply for vehicles placed in service after December 31, 2022 (with some exceptions).

**Clean Vehicle Credit (IRC §30D).** The new law requires any vehicle eligible for the credit to undergo final assembly in North America. Final assembly is 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.

### Author's Comment

The prior law electric vehicle credit under IRC section 30D still applies through the end of the 2022 tax year using the old rules and credit amounts. However, any vehicle placed in service as of August 17, 2022 must meet the new final assembly in North America rule.

Effective for vehicles placed in service after 2022 and before 2033, to qualify for the credit, a new clean vehicle must satisfy all of the following requirements.

- a) The original use of the motor vehicle must commence with the taxpayer.
- b) The motor vehicle must be acquired for use or lease by the taxpayer and not for resale.
- c) The motor vehicle must be made by a qualified manufacturer.
- d) The motor vehicle must be treated as a motor vehicle for purposes of Title II of the Clean Air Act.
- e) The motor vehicle must have a gross vehicle weight rating of less than 14,000 pounds.
- f) The motor vehicle must be propelled to a significant extent by an electric motor that draws electricity from a battery that has a capacity of not less than 7 kilowatt hours and is capable of being recharged from an external source of electricity.
- g) The final assembly of the motor vehicle must occur within North America.
- h) The person who sells any vehicle to the taxpayer must furnish a report to the taxpayer and to the IRS containing the following items.
  - i) The name and taxpayer identification number of the taxpayer,
  - ii) The vehicle identification number of the vehicle, unless (in accordance with applicable IRS guidance) 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 IRC section 30D allowable to a taxpayer with respect to the vehicle (without regard to the AGI limitation), and
- vi) In the case of a taxpayer who makes an election to transfer the credit to an eligible entity, any amount provided to such taxpayer in exchange for transferring the credit to the eligible entity.

A qualified manufacturer must enter into a written agreement with the IRS in which the manufacturer agrees to make periodic written reports to the IRS providing vehicle identification numbers and other information (as required by the IRS) that is related to each vehicle manufactured.

A new clean vehicle also includes any new qualified fuel cell motor vehicle, as defined under IRC section 30B(b)(3) that meets the requirements of IRC section 30D.

The new law contains a critical minerals requirement and a battery components requirement with respect to the battery from which the electric motor of a vehicle draws electricity (see Rev. Proc. 2022-42 for details).

The new law provides that no credit is allowed for a vehicle with a manufacturer's suggested retail price in excess of the following applicable limitations.

- \$80,000 in the case of a van, a sport utility vehicle, or a pickup truck,
- \$55,000 in the case of any other vehicle.

**Previously-Owned Clean Vehicles Credit (IRC §25E).** This is a new credit effective for vehicles acquired after December 31, 2022, and before January 1, 2033. In the case of a qualified buyer who during a tax year places in service a previously-owned clean vehicle, an income tax credit is allowed equal to the lesser of:

- 1) \$4,000, or
- 2) 30% of the sale price.

A previously-owned clean vehicle is a motor vehicle that satisfies the following requirements.

- a) The model year is at least two years earlier than the calendar year in which the taxpayer acquires the vehicle.
- b) The original use of the vehicle commences with a person other than the taxpayer.
- c) The vehicle is acquired by the taxpayer in a qualified sale.
- d) The vehicle:
  - i) Is made by a manufacturer, treated as a motor vehicle for purposes of Title II of the Clean Air Act, has a gross vehicle weight rating of less than 14,000 pounds, meets the electric motor battery capacity rules that apply to clean vehicles under IRC section 30D, meets the rules that require the dealership to furnish the taxpayer and IRS a report that identifies the taxpayer ID number, vehicle identification number, battery capacity, and the maximum credit allowed [the rules listed under IRC section 30D(d)(1)], or
  - ii) Satisfies the requirements as a qualified fuel cell clean vehicle under IRC section 30B(b)(3) and has a gross vehicle weight rating of less than 14,000 pounds.

A qualified sale means a sale by a dealer for a sale price that does not exceed \$25,000, and that is the first transfer since August 16, 2022 to a qualified buyer other than the person with whom the original use of such vehicle commenced.

A qualified buyer is a taxpayer:

- A) Who is an individual,
- B) Who purchases the vehicle for use and not for resale,
- C) Who is not a dependent of another taxpayer under IRC section 151, and
- D) Who has not been allowed an IRC section 25E credit for any sale during the 3-year period ending on the date of the sale of such vehicle.

The taxpayer must include the vehicle identification number of the vehicle on his or her tax return.

Rules similar to the rules that allow a taxpayer to elect to transfer the credit to an eligible entity under IRC section 30D also apply to IRC section 25E effective for vehicles acquired after 2023.

**Credit for Qualified Commercial Clean Vehicles (IRC §45W).** Effective for vehicles acquired after December 31, 2022, and before January 1, 2033, a taxpayer can claim a credit for purchasing and placing in service a qualified commercial clean vehicle during the tax year. The credit is the lesser of:

- 1) 15% of the taxpayer's basis in the vehicle (30% in the case of a vehicle not powered by a gasoline or diesel internal combustion engine), or
- 2) The incremental cost of the vehicle.

The incremental cost is an amount equal to the excess of the purchase price for the vehicle over the price of a comparable vehicle. A comparable vehicle is any vehicle which is powered solely by a gasoline or diesel internal combustion engine and which is comparable in size and use to the commercial clean vehicle.

The credit is limited to \$7,500 in the case of a vehicle that has a gross vehicle weight rating of less than 14,000 pounds, and \$40,000 for all other vehicles.

A qualified commercial clean vehicle means any vehicle which:

- 1) Is made by a qualified manufacturer and is acquired for use or lease by the taxpayer and not for resale,
- 2) Either:
  - A) Which is treated as a motor vehicle for purposes of Title II of the Clean Air Act 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 IRC 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 that satisfies the requirements as a qualified fuel cell motor vehicle under IRC section 30B(3), and
- 4) Is an asset of the taxpayer that is subject to the allowance for depreciation.

No double benefit is allowed for which a credit is allowed under IRC section 30D.

The taxpayer must include the vehicle identification number of the vehicle on the tax return to claim the credit.

**Qualified manufacturer's written agreement and reporting.** To meet certain statutory requirements of IRC sections 30D, 25E, and 45W, any manufacturer may enter into a written agreement with the IRS to become a qualified manufacturer by providing the IRS a statement signed by a person currently authorized to bind the taxpayer in these matters. See Section 4 of Rev. Proc. 2022-42 for the form of the statement and other content that must be included in the required written reports.

In addition, the written report must contain all of the following information for any vehicle that is eligible for the credits under IRC sections 30D, 25E, and 45W.

- a) The make, model, model year, and any other appropriate identifiers of the motor vehicle,
- b) Certification that the motor vehicle is made by a qualified manufacturer,
- c) Certification that the motor vehicle is treated as a motor vehicle for purposes of Title II of the Clean Air Act,
- d) The gross vehicle weight rating of the motor vehicle,
- e) The battery capacity of the motor vehicle,
- f) The motor vehicle's vehicle identification number, and
- g) Such other information as the IRS may provide on [irs.gov](https://www.irs.gov).

For purposes of the credit under IRC section 30D, the written report must contain:

- a) Certification that the motor vehicle is propelled to a significant extent by an electric motor that draws electricity from a battery that has a capacity of not less than 7 kilowatt hours and the battery is capable of being recharged from an external source of electricity, or the vehicle is a new qualified fuel cell motor vehicle.
- b) Certification that the motor vehicle is manufactured primarily for use on public streets, roads and highways (not including a vehicle operated exclusively on a rail or rails) and has at least four wheels.
- c) Certification that the final assembly of the motor vehicle occurred within North America.
- d) Certification of the percentage of the value of the applicable critical minerals contained in the battery from which the electric motor of the vehicle draws electricity that were extracted or processed in the US, or in any country with which the US has a free trade agreement in effect, or recycled in North America.
- e) Certification of the percentage of the value of the components contained in the battery from which the electric motor of the vehicle draws electricity that were manufactured or assembled in North America.
- f) Whether the motor vehicle is a van, sport utility vehicle, pickup truck, or other vehicle.
- g) The motor vehicle's manufacturer's suggested retail price.

For purposes of the credit under IRC section 25E, the written report must contain:

- a) Certification that the motor vehicle is either propelled to a significant extent by an electric motor that draws electricity from a battery that has a capacity of not less than 7 kilowatt hours and the battery is capable of being recharged from an external source of electricity, or is a new qualified fuel cell motor vehicle and has a gross vehicle weight rating of less than 14,000 pounds.
- b) Certification that the motor vehicle is manufactured primarily for use on public streets, roads and highways (not including a vehicle operated exclusively on a rail or rails) and has at least four wheels.

For purposes of the credit under IRC section 45W, the written report must contain:

- a) For motor vehicles, certification that the vehicle is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails), and is either a motor vehicle that is propelled to a significant extent by an electric motor that draws electricity from a battery that has a capacity of not less than 15 kilowatt hours (or, in the case of a vehicle that 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 is a new qualified fuel cell motor vehicle, or
- b) For mobile machinery, certification that the machinery meets the definition in IRC section 4053(8) (including vehicles that are not designed to perform a function of transporting a load over the public highways), and that the machinery is either propelled to a significant extent by an electric motor that draws electricity from a battery that has a capacity of not less than 15 kilowatt hours (or, in the case of a vehicle that 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 is a new qualified fuel cell motor vehicle.
- c) With respect to a motor vehicle with a gross vehicle weight rating of less than 14,000 pounds, the manufacturer's suggested retail price.

Each written report must include a declaration, applicable to the certification, statements, and any accompanying documents, signed by a person currently authorized to bind the qualified manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) in these matters. See Rev. Proc. 2022-42 for the form of the statement.

**Taxpayer's reliance.** A taxpayer who acquires a new clean vehicle, a previously-owned clean vehicle, or a qualified commercial clean vehicle and places it in service may rely on the manufacturer's certification concerning the manufacturer's status as a qualified manufacturer (including in cases in which the certification is received by the IRS after the purchase of the vehicle). A taxpayer also may rely on the information and certifications contained in the qualified manufacturer's written reports for the tax credit allowed.

**Seller's reports.** For purposes of the credits under IRC section 30D and 25E, the person who sells any vehicle to the taxpayer must furnish a report to the taxpayer and the IRS. For vehicles sold in calendar year 2023 or later, the seller must provide the report to the taxpayer not later than the date the vehicle is purchased and must submit the report to the IRS within 15 days of the end of the calendar year containing the following.

- 1) The name and taxpayer identification number of the seller,
- 2) The name and taxpayer identification number of the taxpayer (buyer),
- 3) The vehicle identification number of the vehicle, unless, in accordance with any applicable rules issued by the IRS, the vehicle is not assigned such a number,
- 4) The battery capacity of the vehicle,
- 5) Only for sales of new clean vehicles, verification that original use of the vehicle commences with the taxpayer,
- 6) The date of sale, sale price of the vehicle, and maximum credit allowed under IRC section 30D or 25E,
- 7) For sales after 2023, in the case of a taxpayer who makes an election to transfer the credit to an eligible entity, any amount paid or otherwise allowable as a partial payment or down payment to the taxpayer, and
- 8) A declaration applicable to the report signed by a person currently authorized to bind the seller in these matters, in the following form: "Under penalties of perjury, I declare that I have examined this report submitted to the IRS pursuant to Revenue Procedure 2022-42 by [insert name of seller], and to the best of my knowledge and belief I certify that this report is true, correct, and complete."

See Rev. Proc. 2022-42 for rules on the time and method for which a qualified manufacturer must file written agreements and reports.

For vehicles sold in calendar year 2023 and later, sellers must file reports with the IRS within 15 days after the end of the calendar year. Sellers must submit their reporting information in a format and method that the IRS provides. The first reports from sellers will be due on January 15, 2024.