

Part III - Administrative, Procedural, and Miscellaneous

Qualified Plug-In Electric Vehicle Credit Under Section 30

Notice 2009-58

SECTION 1. PURPOSE

This notice sets forth interim guidance, pending the issuance of regulations, relating to the qualified plug-in electric vehicle credit under § 30 of the Internal Revenue Code. Specifically, this notice provides procedures for a vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) to certify to the Internal Revenue Service (“Service”) that a vehicle of a particular make, model, and model year meets the requirements that must be satisfied to claim the new specified plug-in electric vehicle credit under § 30.

This notice also provides guidance to taxpayers who purchase vehicles regarding the conditions under which they may rely on the vehicle manufacturer’s (or, in the case of a foreign vehicle manufacturer, its domestic distributor’s) certification in determining whether a credit is allowable with respect to the vehicle. The Service and the Treasury Department expect that the regulations will incorporate the rules set forth in this notice.

SECTION 2. BACKGROUND

Section 30 provides for a credit for qualified plug-in electric vehicles. The credit is an amount equal to 10 percent of the cost of a qualified plug-in electric vehicle placed in service by the taxpayer during the taxable year. Section 30(b) limits the amount of the credit allowed for a vehicle to \$2,500.

SECTION. SCOPE OF NOTICE

The qualified plug-in electric vehicle credit applies to new specified plug-in electric vehicles that are acquired after February 17, 2009, and before January 1, 2012, and that otherwise meet the requirements of § 30. No credit is allowed under § 30 for a vehicle that is acquired after February 17, 2009, and before January 1, 2010, if the credit for qualified plug-in electric drive motor vehicles under § 30D is allowable for that vehicle. The credit for qualified plug-in electric drive motor vehicles applies for vehicles placed in service in taxable years beginning after December 31, 2008. Guidance regarding the credit under § 30D for qualified plug-in electric drive motor vehicles that are acquired before January 1, 2010, is provided in Notice 2009-54, I.R.B. 2009-26. Guidance regarding the credit under § 30D for qualified plug-in electric drive motor vehicles that are acquired after December 31, 2009 will be provided in a separate notice.

SECTION 4. MEANING OF TERMS

The following definitions apply for purposes of this notice:

.01 *In General.* Terms used in this notice and not defined in this section 4 have the same meaning as when used in § 30.

.02 *Battery Capacity*. The term “battery capacity” means the quantity of electricity that the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a zero percent state of charge.

.03 *Specified Vehicle*. The term “specified vehicle” means any vehicle that:

- (a) Is a low-speed vehicle as defined in section 4.04 of this notice, or
- (b) Has two or three wheels.

.04 *Low Speed Vehicle*. The term “low speed vehicle” means a vehicle:

- (1) That has at least four wheels;
- (2) That is manufactured primarily for use on public streets, roads and highways (not including a vehicle operated exclusively on a rail or rails);

(3) That is not manufactured primarily for off-road use, such as primarily for use on a golf course;

(4) Whose speed attainable in one mile is more than 20 miles per hour and not more than 25 miles per hour on a paved level surface; and

- (5) Whose gross vehicle weight rating is less than 3,000 pounds.

.05 *Model Year*. The term “model year” means the model year determined under the Clean Air Act regulations (see 40 CFR § 86-082-2).

Section 5. MANUFACTURER'S CERTIFICATION

.01 *When Certification Permitted*. A vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) may certify to purchasers that a vehicle of a particular make, model, and (if applicable) model year meets all requirements (other than those listed in section 5.02 of this notice) that must be satisfied

to claim the qualified plug-in electric vehicle credit allowable under § 30 with respect to the vehicle, if the following requirements are met:

(1) The manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) has submitted to the Service, in accordance with this section 5, a certification with respect to the vehicle and the certification satisfies the requirements of section 5.03 of this notice; and

(2) The manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) has received an acknowledgment of the certification from the Service.

.02 *Purchaser's Reliance.* Except as provided in section 5.05 of this notice, a purchaser of a vehicle may rely on the manufacturer's (or, in the case of a foreign vehicle manufacturer, its domestic distributor's) certification concerning the vehicle (including cases in which the certification is received after the purchase of the vehicle). The purchaser may claim a credit with respect to a vehicle if the following requirements are satisfied:

(1) The vehicle is acquired after February 17, 2009, and on or before December 31, 2011;

(2) The original use of the vehicle commences with the taxpayer;

(3) The vehicle is acquired for use or lease by the taxpayer, and not for resale;

(4) The vehicle is used predominantly in the United States.

.03 *Content of Certification.* The certification must contain the information required in section 5.03(1) of this notice and any applicable additional information

required in section 5.03(2) of this notice.

(1) *All Vehicles*. For all vehicles, the certification must contain the following information:

- (a) The name, address, and taxpayer identification number of the certifying entity;
- (b) The make, model and (if applicable) model year, and any other appropriate identifiers of the vehicle;
- (c) A statement that the vehicle is made by a manufacturer;
- (d) The gross vehicle weight rating of the vehicle;
- (e) A statement that the vehicle is propelled to a significant extent by an electric motor which draws electricity from a battery;
- (f) The number of wheels that the vehicle has;
- (g) The kilowatt hour capacity of the battery;
- (h) A statement that the battery is capable of being recharged from an external source of electricity;
- (i) A statement that the vehicle is manufactured primarily for use on public streets, roads, and highways, and is not manufactured primarily for off-road use;
- (j) A description of the motor vehicle safety provisions of 49 C.F.R. Part 571 applicable to the vehicle and a statement that the vehicle complies with those provisions; and
- (k) A declaration, applicable to the certification, statements, and any accompanying documents, signed by a person currently authorized to bind the manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor)

in these matters, in the following form: “Under penalties of perjury, I declare that I have examined this certification, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of this certification are true, correct, and complete.”

(2) *Low Speed Vehicles.* A certification with respect to a low speed vehicle as defined in section 4.04 of this notice must also contain the following:

(a) A statement that the vehicle is a low speed vehicle within the meaning of section 571.3 of Title 49 of the Code of Federal Regulations (as in effect on February 17, 2009), and

(b) A specific statement that the maximum speed attainable by the vehicle in 1 mile is more than 20 miles per hour but not more than 25 miles per hour on a paved level surface.

.04 *Acknowledgement of Certification.* The Service will review the original signed certification and issue an acknowledgment letter to the vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) within 30 days of receipt of the request for certification. This acknowledgment letter will state whether purchasers may rely on the certification.

.05 *Effect of Erroneous Certification.* The acknowledgment that the Service provides for a certification is not a determination that a vehicle qualifies for the credit. If the Service, upon examination (and after any appropriate consultation with the Department of Transportation or the Environmental Protection Agency), determines that the vehicle is not a qualified plug-in electric vehicle, the manufacturer’s (or, in the case

of a foreign vehicle manufacturer, its domestic distributor's) right to provide a certification to future purchasers of plug-in electric vehicles will be withdrawn.

Purchasers who acquire vehicles after the date on which the Service publishes an announcement of the withdrawal may not rely on the certification. Purchasers may continue to rely on the certification for vehicles they acquired on or before the date on which the announcement of the withdrawal is published (including in cases in which the vehicle is not placed in service and the credit is not claimed until after that date), and the Service will not attempt to collect any understatement of tax liability attributable to such reliance. Manufacturers (or, in the case of foreign vehicle manufacturers, their domestic distributors) are reminded that an erroneous certification may result in the imposition of penalties, including, but not limited to, the following:

(1) Under § 7206 for fraud and making false statements; and

(2) Under § 6701 for aiding and abetting an understatement of tax liability in the amount of \$1,000 (\$10,000 in the case of understatements by corporations) per return on which a credit is claimed in reliance on the certification.

Section 6. TIME AND ADDRESS FOR FILING CERTIFICATION

.01 *Time for Filing Certification.* In order for a certification under section 5 of this notice to be effective for qualified plug-in electric vehicles placed in service during a calendar year, the certification must be received by the Service not later than December 31 of that calendar year.

.02 *Address for Filing.* Certifications under section 5 of this notice must be sent to:

Internal Revenue Service
Industry Director, LMSB, Heavy Manufacturing & Transportation
Metro Park Office Complex – LMSB
111 Wood Avenue, South
Iselin, New Jersey 08830

Section 7. PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-2150.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this notice are in sections 5 and 6. This information is required to be collected and retained in order to ensure that vehicles meet the requirements for the qualified plug-in electric vehicle credit under § 30. This information will be used to determine whether the vehicle for which the credit is claimed by a taxpayer is property that qualifies for the credit. The collection of information is voluntary to obtain a benefit. The likely respondents are corporations and partnerships.

The estimated total annual reporting burden is 250 hours.

The estimated annual burden per respondent varies from 6 hours to 12 hours, depending on individual circumstances, with an estimated average burden of 10 hours to complete the certification required under this notice. The estimated number of respondents is 25.

The estimated annual frequency of responses is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

SECTION 8. DRAFTING INFORMATION

The principal author of this notice is Patrick S. Kirwan of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice contact Mr. Kirwan at (202) 622-3110 (not a toll-free call).