

INTERNAL REVENUE BULLETIN



HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2023-8
February 21, 2023

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

Notice 2023-16, page 479.

This notice modifies Notice 2023-1, 2023-1 I.R.B. 373, by changing the vehicle classification standard by which vans, sport utility vehicles, pickup trucks, and other vehicles are defined.

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned

against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

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Part III

Certain Definitions of Terms in Section 30D Clean Vehicle Credit

Notice 2023-16

SECTION 1. PURPOSE

This notice modifies Notice 2023-1, 2023-3 I.R.B. 373, by revising the vehicle classification standard that the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to propose in regulations under § 30D of the Internal Revenue Code (Code) for classifying vehicles as vans, sport utility vehicles, pickup trucks, and other vehicles for purposes of the clean vehicle credit (§ 30D credit).¹

SECTION 2. BACKGROUND

Section 30D(f)(11)(A) provides that no § 30D credit is allowed for a vehicle with a manufacturer's suggested retail price in excess of the applicable limitation. Section 30D(f)(11)(B) provides that the "applicable limitation" for each vehicle classification is as follows: (i) in the case of a van, \$80,000; (ii) in the case of a sport utility vehicle, \$80,000; (iii) in the case of a pickup truck, \$80,000; and (iv) in the case of any other vehicle, \$55,000. Section 30D(f)(11)(C) authorizes the Secretary of Treasury or her delegate (Secretary) to prescribe such regulations or other guidance as the Secretary determines necessary to determine vehicle classifications using criteria similar to that employed by the Environmental Protection Agency (EPA) and the Department of Energy to determine size and class of vehicles.

On December 29, 2022, the Treasury Department and the IRS issued Notice 2023-1, which describes the expected definitions of certain terms to be included

in the forthcoming proposed regulations announced in Notice 2023-1.

Section 3.04 of Notice 2023-1 states that, for purposes of § 30D(f)(11)(B), the proposed regulations are expected to provide that (1) a vehicle's vehicle classification is to be determined consistent with the rules and definitions provided in 40 CFR 600.002 for vans, sport utility vehicles, and pickup trucks, and (2) a vehicle described in § 30D(f)(11)(B) (iv) is a vehicle that is not considered a van, sport utility vehicle, or pickup truck consistent with the rules and definitions provided in 40 CFR 600.002. As described in section 3 of this notice, the Treasury Department and the IRS have determined that a different vehicle classification standard should be used for purposes of § 30D(f)(11)(B).

SECTION 3. MODIFICATION TO NOTICE 2023-1

This notice modifies the expected vehicle classification standard set forth in Notice 2023-1 for determining whether a vehicle is a van, sport utility vehicle, pickup truck, or other vehicle for purposes of the § 30D credit. Instead of the standard described in Notice 2023-1, the proposed regulations are expected to provide that, for purposes of § 30D(f)(11)(B), a vehicle's vehicle classification is to be determined consistent with the fuel economy labeling regime described in 40 CFR 600.315-08 for vans, sport utility vehicles, pickup trucks, and passenger vehicles, as classified by the Administrator of the EPA. Accordingly:

(i) "Van" means a vehicle classified as a van or minivan under 40 CFR 600.315-08(a)(2)(iii) and (iv), or otherwise so classified by the Administrator of the EPA pursuant to 40 CFR 600.315-08(a)(3)(ii).

(ii) "Sport utility vehicle" means a vehicle classified as a small sport utility vehicle or standard sport utility vehicle

under 40 CFR 600.315-08(a)(2)(v) and (vi), or otherwise so classified by the Administrator of the EPA pursuant to 40 CFR 600.315-08(a)(3)(ii).

(iii) "Pickup truck" means a vehicle classified as a small pickup truck or standard pickup truck under 40 CFR 600.315-08(a)(2)(i) and (ii), or otherwise so classified by the Administrator of the EPA pursuant to 40 CFR 600.315-08(a)(3)(ii).

(iv) "Other vehicle" means any vehicle classified in one of the classes of passenger automobiles listed in 40 CFR 600.315-08(a)(1), or otherwise so classified by the Administrator of the EPA pursuant to 40 CFR 600.315-08(a)(3)(ii).

SECTION 4. APPLICABILITY DATE

Until the date of issuance of the forthcoming proposed regulations under §30D, taxpayers may rely on the expected definitions described in section 3 of Notice 2023-1, as modified by section 3 of this notice, for new clean vehicles placed in service on or after January 1, 2023.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Notice 2023-1 is modified as provided in this notice. Except as explicitly provided in section 3 of this notice, this notice does not otherwise affect the guidance provided in Notice 2023-1.

SECTION 6. DRAFTING INFORMATION

The principal author of this notice is the Office of Associate Chief Counsel (Passthroughs & Special Industries). However, other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this notice, call the energy security guidance contact number at (202) 317-5254 (not a toll-free number).

¹ Unless otherwise specified, all "section" or "§" references are to sections of the Code.

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as “rulings”) that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the

new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.

ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
FR—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel’s Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.

PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

Numerical Finding List¹

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2022–27 through 2022–52 is in Internal Revenue Bulletin 2022–52, dated December 27, 2022.

Finding List of Current Actions on Previously Published Items¹

Bulletin 2023–8

¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2022–27 through 2022–52 is in Internal Revenue Bulletin 2022–52, dated December 27, 2022.

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INTERNAL REVENUE BULLETIN

The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletins are available at www.irs.gov/irb/.

We Welcome Comments About the Internal Revenue Bulletin

If you have comments concerning the format or production of the Internal Revenue Bulletin or suggestions for improving it, we would be pleased to hear from you. You can email us your suggestions or comments through the IRS Internet Home Page (www.irs.gov) or write to the Internal Revenue Service, Publishing Division, IRB Publishing Program Desk, 1111 Constitution Ave. NW, IR-6230 Washington, DC 20224.