

## Clean Vehicles Tax Credit Summary

### Enactment of the Inflation Reduction Act of 2022

August 18, 2022

The current IRS Code Section 30D EV tax credit is claimed by the purchaser, applies to EVs, and has no income or MSRP limits. Individual OEMs are capped at 200,000 vehicles per manufacturer before the credit begins to phase out.

Under the Inflation Reduction Act of 2022 (IRA), the newly revamped and renamed “clean vehicle” tax credit can be transferred to the dealer by the purchaser (beginning 1/1/24), applies to battery electric vehicles, plug-in hybrid and hydrogen and fuel cell vehicles, and includes new income and MSRP limits, as well as critical mineral and battery component requirements meant to secure a domestic supply chain. The OEM vehicle cap is eliminated beginning 1/1/23.

#### **General Provisions of the New Clean Vehicle Credit (Section 30D)**

- Immediately limits availability of the EV tax credit to vehicles assembled in North America (i.e., in the United States, Canada and Mexico).
  - [Treasury and the IRS released guidance](#) and [FAQs](#) regarding vehicles eligible under this new requirement. Dealers can enter a Vehicle Identification Number (VIN) into a [site provided by DOT](#) to determine such eligibility.
  - In addition, the Department of Energy published a [list of Model Year 2022 and early Model Year 2023 electric vehicles that are likely meet the final assembly requirement](#).
  - Individuals who entered into a written binding contract to purchase a new qualifying EV before 8/16/22, but do not take possession of the vehicle until on or after 8/16/22 (for example, because the vehicle has not been delivered), can claim the EV credit based on the rules in effect before the IRA’s enactment. These earlier rules did not include the requirement that the vehicle be assembled in North America. The IRS provided new guidance for its [definition of “a written binding contract” here](#).
- Except for the final assembly requirement described above, preserves the existing Section 30D tax credit for all vehicles placed into service on or before 12/31/22.
- Beginning on 1/1/23, creates a revised tax credit for purchases of new plug-in electric motor vehicles; sets the base credit amount at \$3,750 each for clean vehicles meeting the critical minerals requirements and another \$3,750 each for clean vehicles meeting the battery components requirements, for a potential total of \$7,500 in tax credits for vehicles placed in service beginning on 1/1/22 and ending on 12/31/32.
- Disallows the credit for vehicles with a **manufacturer’s suggested retail price** that exceeds:
  - \$80,000 for vans, SUVs and pickup trucks, and
  - \$55,000 for any other vehicle.

- Disallows the credit for buyers with a **modified adjusted gross income** of more than \$150,000 (\$300,000 for married couples filing jointly and \$225,000 for head of household filers) in both the year before and the year of the purchase.
- Requires dealers to report to the buyer and the IRS the following information:
  - Name and taxpayer ID number of the buyer;
  - VIN of the vehicle;
  - Battery capacity of the vehicle;
  - Verification that the original use of the vehicle commences with the buyer; and
  - The amount of the credit (either \$3,750 or \$7,500).
- Requires OEMs to provide “periodic written reports” to the IRS providing VINs and “other information the [IRS] may require.” (This provision is intended to ensure that dealers and the IRS have information on what specific vehicles qualify for the credit.)
- Extends application of the tax credit to fuel cell vehicles.

### **Critical Minerals and Battery Components Requirements**

The contents of these provisions are often reported incorrectly by the press. There are two related but separate requirements. The first is the critical minerals requirement which requires that a certain minimum percentage of the value of the critical minerals contained in the vehicle’s battery be either (1) extracted or processed in the U.S. or a U.S. free trade agreement partner or (2) recycled in North America. The amount of this minimum percentage increases over time, starting at 40% in 2023 and increasing to 80% by 2027.

The battery components requirement requires that a certain minimum percentage of the value of the components contained in the vehicle’s battery be manufactured or assembled in North America. As with the critical minerals requirement, the amount of the minimum percentage under the battery components requirement increases over time, starting at 50% in 2023 and increasing to 100% in 2029.

The critical minerals and battery component requirements both only apply after the IRS issues proposed guidance on them. The IRS is required to issue such proposed guidance by 12/31/22, but the requirements do not start until the guidance is actually issued, possibly even if it is late.

These requirements are significant as few vehicles that currently qualify for the credit would qualify after these requirements are effective unless drastic manufacturing and supply chain changes were implemented by their OEMs.

In addition to the foregoing, there are two eligibility limitations related to vehicles containing parts sourced from a “foreign entity of concern.” (A “foreign entity of concern” is the term designed to cover businesses from countries such as China and Russia.) Specifically, beginning on 1/1/24, vehicles are not eligible for the tax credit if any battery components are manufactured or assembled by a “foreign entity of concern.” And beginning on 1/1/25, if any critical minerals contained in the battery were

extracted, processed or recycled by a “foreign entity of concern,” the vehicle would not be eligible for the credit.

### **Transfer of the Credit to the Dealer**

For dealers, a significant change brought about by the IRA is a new program beginning 1/1/24 which allows the purchaser to transfer the credit to the dealer at the time of the sale. NADA was instrumental in both advocating for the inclusion of this provision to allow the tax credit to be transferable to the dealer and eliminating problematic language found in the BBB bill, such as provisions that would have held the dealer liable for consumer post-transaction actions.

Under the new law:

- To participate, a dealer must register with the IRS. The IRS will prescribe rules describing the manner in which a dealer can register.
- The purchaser has the option to transfer the value of the EV credit to the dealer.
- Prior to the purchaser making such an election, the dealer must disclose to the purchaser:
  - the subject vehicle’s MSRP;
  - the value of the credit and “any other incentive available for the purchase of such vehicle”; and
  - the amount provided by the dealer to the purchaser as a condition of the purchaser’s election to transfer the value of the credit.
- At the time of the sale, the dealer must have “made payment” to the purchaser in an amount equal to the credit.
- The dealer must ensure, with respect to any rebate, discount, or other incentive available for the purchase of the vehicle, both that (1) the availability of such incentive does not limit the purchaser’s ability to transfer the value of the credit and (2) the election to transfer does “not limit the value or use” of such incentive.
- The IRS will establish a program to reimburse dealers. Because of the rules governing the reconciliation process, this bill can only include provisions affecting taxes or spending; accordingly, the bill could not furnish details on the parameters of such a program. However, it is anticipated that the IRS will establish an exclusive computer portal for registered dealers to facilitate dealer reimbursement. NADA will participate in the IRS’ process for establishing this portal and will report on relevant developments.
- Dealer is defined as a person “licensed by a State...to engage in the sale of vehicles.”
- If the purchaser improperly transfers the credit (e.g., the taxpayer’s MAGI exceeds the limitation described above), the purchaser’s taxes are increased by the amount of the credit.

- The transferred credit is protected from being reduced under budget sequestration, meaning the IRS cannot reimburse the dealer less than the credit amount should there be automatic across the board budget cuts (i.e., budget sequestration) in the future.

### **Effective Dates**

- As noted above, most of the provisions of the IRA apply to vehicles “placed in service” beginning 1/1/23. The two exceptions are as follows:
  - The final assembly requirements are effective the day after enactment of the legislation (8/17/22).
  - Depending on when the IRS actually issues its proposed guidance for the critical minerals and battery components requirements, the application of those provisions may be delayed until that guidance is issued.
- The “transfer to the dealer” program begins 1/1/24, meaning the IRS has 16 months to establish such a program.
- The entire program ends on 12/31/32.

### **Credit for Previously Owned Clean Vehicles**

- Creates a new credit for the purchase of used clean vehicles through 2032.
- Sets the base credit amount at the lesser of \$4,000 or 30% of the sale price.
- Applies to the first resale of a used clean vehicle which has a gross vehicle weight rating under 14,000 pounds, is sold by a dealer, and is purchased only for personal use.
- Limits the credit to one used vehicle purchase every three years.
- Applies to qualifying electric and fuel cell vehicles priced at \$25,000 or less and with a model year at least two years old at the time of sale.
- Disallows the credit for buyers with a modified adjusted gross income of more than \$75,000 (\$150,000 for married couples filing jointly and \$112,500 for head of household filers) in both the year before and the year of the purchase.
- Requires disclosures by the selling dealer similar to those required for credits for new EVs.
- Beginning in 2024, allows the purchaser to transfer the credit to the dealer, similar to the rules for new clean vehicles.

### **Credit for Qualified Commercial Clean Vehicles (Section 45W)**

- Creates a new tax credit for certain commercial clean vehicles.
- The amount of the credit is the lesser of (1) 15% (or 30% in the case of a commercial vehicle that does not run on gasoline or diesel fuel) of the basis of such vehicle or (2) the incremental cost of the qualified commercial EV. The “incremental cost” is the excess of the price of the commercial EV over that of a comparable gasoline- or diesel-powered vehicle.
- Credit is capped at \$7,500 for vehicles less than 14,000 pounds and \$40,000 for all other vehicles.
- Vehicle may be leased and must be “a character subject to the allowance for depreciation.”
- Credit starts 1/1/23 and ends 12/31/32.

### **Alternative Fuel Refueling Property Credit (Section 30C)**

- Extends the credit for alternative fuel vehicle refueling property placed in service after 2022 through 2032. (retroactive extension since 12/31/21 credit expiration)
- Expands the commercial credit for zero-emissions charging and refueling infrastructure which is currently equal to 30% of installation cost limited to \$30,000 per business.
- The new tax credit for business property would be extended at a base credit of 6% of expenses the maximum 30% tax credit can only be fully realized if prevailing wage and registered apprenticeship requirements for installation are met, with the credit limit increased up to \$100,000.
- Starting in 2023 limits the credit to property located in a qualifying census tract (i.e., low-income communities under the New Markets Tax Credit or non-urban areas) to incentivize the construction of EV refueling property in low-income communities and non-urban areas.
- Expands the list of eligible property to include electric charging stations for electric two- and three-wheel vehicles and clarifies the eligibility of bidirectional charging equipment.