

Tax Notes Federal Shares Brandon Hadley's Insights on Commercial EV Credit

February 13, 2025

Transactional Tax Planning Partner Brandon Hadley spoke with *Tax Notes Federal* regarding the proposed commercial clean vehicles credit regulations under section 45W, introduced by the US Treasury Department and the Internal Revenue Service (IRS). The credit amount is 30 percent of the basis of the electric vehicle (EV) (15 percent for hybrid vehicles) or the vehicle's incremental cost. Incremental cost is the excess of the purchase price for the electric vehicle over the cost of a comparable internal combustion engine (ICE) vehicle. The credit is capped at $7,500 for vehicles under 14,000 pounds and $40,000 for heavier vehicles.

Regarding the inclusion of incremental costs, Brandon explains that the purpose is to address the higher costs associated with EVs compared to ICE vehicles. He states, "Congress was giving a credit to EVs because they are more expensive than ICE vehicles, and the point was to make them more on par with ICE so that consumers will consider buying EVs instead."

Brandon also discusses the 18-month recapture period included in the proposed regulations, which aims to prevent abuse of the credit through short-term leasing practices. He notes that some in the EV industry encouraged individuals to lease a vehicle and immediately buy it off lease to obtain a credit that wouldn't have been available under section 30D. He comments, "That should have fallen under the intent-to-sell exclusion, but some were offering that as a way of getting a credit that wouldn't have otherwise been available under section 30D." He also emphasizes that the recapture rules should address exclusions for common situations, such as collisions resulting in casualty losses and returns under the Servicemembers Civil Relief Act, stating, "Nobody is trying to get a credit as a windfall in those situations."

For the reporting requirements, Brandon appreciates the clarity in treating grantor trusts and partnerships and the accurate explanations of how automobile leasing businesses are owned and structured. He states, "The reporting requirements in the proposed rules are generally straightforward to apply" and adds that the explanations in the preamble are "generally accurate."

"Proposed Section 45W Regs Rev Up Commercial Clean Vehicles," *Tax Notes Federal*, February 10, 2025

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