

IRS Issues Guidance on “Qualified Manufacturer” Requirements for New Electric Vehicle Tax Credits

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The Inflation Reduction Act of 2022, Public Law 117-169, created three new electric vehicle (EV) tax credits:

- the clean vehicle tax credit (Section 30D) for consumers;
- the commercial clean vehicle tax credit (Section 45W) for businesses; and
- the previously owned clean vehicle tax credit (Section 25E).

All of these new EV tax credits begin in 2023, with the clean vehicle tax credit replacing the current “qualified plug-in electric drive motor vehicle tax credit” which will continue through the end of 2022, to the extent such credit has not phased out for a particular EV manufacturer.

To qualify for the new EV tax credits, the EV must be made by a “qualified manufacturer.” For an EV manufacturer to be a “qualified manufacturer,” the manufacturer must enter into a written agreement with the Secretary of the Treasury under which it agrees to make periodic written reports providing vehicle identification numbers (VINs) and other required vehicle information to the Secretary of the Treasury. Recently the Internal Revenue Service (IRS) issued Revenue Procedure 2022-42 setting forth the procedures for a manufacturer to enter into such an agreement.

Revenue Procedure 2022-42 provides that any manufacturer may enter into a written agreement with the Secretary of the Treasury to become a “qualified manufacturer” by providing to the IRS a signed statement that the manufacturer will provide to the IRS the VINs and other information required for each EV manufactured by the manufacturer on a monthly (or more frequent) basis. The prescribed form of the agreement, which should be signed and sent to the IRS electronically, is as follows:

“For purposes of establishing [insert legal name of the manufacturer] as a qualified manufacturer as described in § 30D(d)(3) of the Internal Revenue Code, [insert legal name of the manufacturer] hereby agrees to make periodic written reports to the Internal Revenue Service providing vehicle identification numbers and such other information as described in any guidance that may be issued by the Secretary of the Treasury or the Secretary’s delegate (Secretary), including section 4.02 of Revenue Procedure 2022-42, related to each vehicle manufactured by such manufacturer at such times and in such manner as described in any guidance that may be issued by the Secretary, including section 6.02 of Revenue Procedure 2022-42.”

Pursuant to this agreement, the manufacturer will agree to provide monthly (or more frequent, at the manufacturer’s discretion) written reports to the IRS that include the name, address, and taxpayer identification number of the qualified manufacturer, as well as the following information for each eligible EV:

- the make, model, model year, and any other appropriate identifiers of the EV;
 - certification that the EV is made by a qualified manufacturer;
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- certification that the EV is a motor vehicle for purposes of title II of the Clean Air Act;
- the gross vehicle weight rating of the EV;
- the battery capacity of the EV;
- the EV's VIN; and
- any other information the IRS may require, as posted on IRS.gov.

To qualify for the clean vehicle tax credit, the manufacturer also must include on such report other information, including critical mineral and components information, the location of final assembly, and the manufacturer's suggested retail price. The IRS will post any changes to the content and format of the qualified manufacturer agreement on its website and qualified manufacturers will be notified to enter into a revised written agreement when necessary.

Additional guidance from the IRS on the new EV tax credits still is pending. For example, Revenue Procedure 2022-42 does not include guidance with respect to the critical minerals or battery components requirements for the clean vehicle tax credit, or for the meaning of "comparable size and use" for the commercial clean vehicle tax credit.

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