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Part III - Administrative, Procedural, and Miscellaneous

Section 45W Commercial Clean Vehicles and Incremental Cost for 2024

Notice 2024-5

SECTION 1. PURPOSE

This notice provides a safe harbor regarding the incremental cost of certain qualified commercial clean vehicles placed in service in calendar year 2024 for purposes of the credit for qualified commercial clean vehicles under § 45W of the Internal Revenue Code (Code).¹ This notice also requests comments regarding additional types or classes of vehicles that should be included in the safe harbor in the future.

SECTION 2. BACKGROUND

Section 13403(a) of Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022, added § 45W to the Code to allow a credit for qualified commercial clean vehicles (§ 45W credit), which is effective for vehicles acquired after December 31, 2022, and before January 1, 2033.

For purposes of § 38, § 45W(a) allows a taxpayer a § 45W credit for the purchase of each qualified commercial clean vehicle, as defined in § 45W(c), placed in

¹ Unless otherwise specified, all “Section” or “§” references are to sections of the Code.

service by the taxpayer during the taxable year. The amount of the § 45W credit for each qualified commercial clean vehicle is the *lesser* of (1) 30 percent of the taxpayer's basis in the vehicle in the case of a vehicle not powered by a gasoline or diesel internal combustion engine (15 percent in any other case), or (2) the incremental cost of the vehicle. See § 45W(b)(1). Under § 45W(b)(4), the maximum credit allowed is \$7,500 in the case of a qualified commercial clean vehicle that has a gross vehicle weight rating of less than 14,000 pounds, and \$40,000 for all other vehicles.

Section 45W(b)(2) provides that the incremental cost of a qualified commercial clean vehicle is the excess of the purchase price of such vehicle over the price of a comparable vehicle. A comparable vehicle with respect to any qualified commercial clean vehicle is any vehicle that is powered solely by a gasoline or diesel internal combustion engine and is comparable in size and use to such qualified commercial clean vehicle. See § 45W(b)(3).

A qualified commercial clean vehicle under § 45W(c) means (1) a street vehicle and (2) mobile machinery as defined in § 4053(8). For purposes of § 45W(c), a *street vehicle* is a vehicle that is: (a) treated as a motor vehicle for purposes of title II of the Clean Air Act; (b) manufactured primarily for use on public streets, roads, and highways; and (c) not a vehicle operated exclusively on a rail or rails.

On December 29, 2022, the Internal Revenue Service (IRS) released Notice 2023-9, 2023-3 I.R.B. 402 (January 17, 2023), which provides a safe harbor regarding the incremental cost of certain qualified commercial clean vehicles for purposes of the §45W credit for qualified commercial clean vehicles placed in service in calendar year 2023, based on an incremental cost analysis by the U.S. Department of Energy (DOE)

across classes of street vehicles conducted in December 2022 (DOE Analysis).² The DOE Analysis modeled the costs of representative electric vehicles, which include street electric vehicles, and comparable street internal combustion engine vehicles. For this purpose, *street electric vehicles* include battery electric, plug-in hybrid electric, fuel cell electric cars, SUVs, minivans, and pickup trucks.

The DOE has amended the DOE Analysis in December 2023 to incorporate minor modifications. The minor modifications did not change the results of the analysis conducted in December 2022. For qualified commercial clean vehicles placed in service in calendar year 2024, the Department of the Treasury (Treasury Department) and the IRS have concluded it is appropriate for the IRS to rely on the DOE Analysis, as amended.³

Results of the DOE Analysis show that the modeled incremental cost of all street electric vehicles, other than compact car PHEVs,⁴ that have a gross vehicle weight rating of less than 14,000 pounds will be greater than \$7,500.

SECTION 3. SAFE HARBOR

² U.S. Department of Energy, “2022 Incremental Purchase Cost Methodology and Results for Clean Vehicles,” December 2022, available at <https://www.energy.gov/sites/default/files/2022-12/2022.12.23%202022%20Incremental%20Purchase%20Cost%20Methodology%20and%20Results%20for%20Clean%20Vehicles.pdf>.

³ U.S. Department of Energy, “Incremental Purchase Cost Methodology and Results for Clean Vehicles,” originally published December 2022 and amended December 2023, available at https://www.energy.gov/sites/default/files/2023-12/2023.12.18%20Incremental%20Purchase%20Cost%20Methodology%20and%20Results%20for%20Clean%20Vehicles%20pub%2012-2022%20amd%2012-2023%20Final_2.pdf.

⁴ Compact cars are defined as those with an interior volume index of less than 110 cubic feet, and for the purpose of the DOE analysis also include minicompact cars, subcompact cars, and compact cars as described in 40 CFR 600.315-08(a)(1)(ii), (iii), and (iv). PHEVs are defined as commercial clean vehicles that use a gasoline or diesel internal combustion engine and are propelled to a significant extent by an electric motor that draws electricity from a battery that has a capacity of not less than 7 kilowatt hours (15 kilowatt hours in the case of a vehicle with a gross vehicle weight rating of 14,000 pounds or more) and are capable of being recharged from an external source of electricity. See § 45W(b)(1) and (c).

The DOE Analysis calculated the incremental cost for compact car PHEVs, which include minicompact and subcompact cars, to be less than \$7,500. For compact car PHEVs, the modeled incremental cost is \$7,000. The IRS will accept a taxpayer's use of the modeled incremental cost published in the DOE Analysis to calculate the § 45W credit amount for compact car PHEVs placed in service during calendar year 2024.

In addition, the DOE Analysis provided an incremental cost analysis of current costs for several representative classes of street electric vehicles with a gross vehicle weight rating of 14,000 pounds or more. The IRS will accept a taxpayer's use of the incremental cost published in the DOE Analysis for the appropriate class of street electric vehicle to calculate the § 45W credit amount for clean vehicles placed in service during calendar year 2024.

For all street electric vehicles (other than compact, including minicompact and subcompact, car PHEVs) with a gross vehicle weight rating of less than 14,000 pounds, the results of the DOE Analysis lead the Treasury Department and the IRS to conclude that incremental cost will not limit the available § 45W credit amount for such vehicles placed in service in calendar year 2024. Accordingly, the IRS will accept a taxpayer's use of \$7,500 as the incremental cost for all street electric vehicles (other than compact, including minicompact and subcompact, car PHEVs) with a gross vehicle weight rating of less than 14,000 pounds to calculate the § 45W credit amount for vehicles placed in service during calendar year 2024.

SECTION 4. REQUEST FOR COMMENTS

The Treasury Department and the IRS request comments regarding additional classes or types of vehicles that should be considered for future safe harbors, in

addition to the safe harbor described in this notice. In particular, the Treasury Department and the IRS request comments on classes or types of vehicles that are not adequately represented by the existing classes or types of vehicles listed in the DOE Analysis.

Written comments should be submitted by **[insert date 60 days after release]**.

The subject line for the comments should include a reference to Notice 2024-5.

Comments may be submitted electronically via the Federal eRulemaking Portal at

<https://www.regulations.gov> (type IRS-2023-0061 in the search field on the

regulations.gov homepage to find this notice and submit comments). Alternatively,

comments may be submitted by mail to: Internal Revenue Service, CC:PA:LPD:PR

(Notice 2024-5), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC

20044. All commenters are strongly encouraged to submit comments electronically.

The Treasury Department and the IRS will publish for public availability any comment submitted electronically, or on paper, to the IRS's public docket on

<https://www.regulations.gov>.

SECTION 5. EFFECT ON OTHER DOCUMENTS

This notice amplifies Notice 2023-9 by applying the safe harbor provisions that applied to vehicles placed in service in calendar year 2023 to vehicles placed in service in calendar year 2024.

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 contact Chief Counsel on (202) 317-5254 (not a toll-free call).