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Prop. Reg. Section 1.30C-4(e)

Special rules

(a) No credit allowable in certain circumstance.

(1) Property used outside the United States. Except as provided in paragraph (a)(2) of this section, pursuant to sections 30C(e)(3) and 50(b)(1) of the Code, no section 30C credit is allowable with respect to any property placed in service for use predominantly outside the United States.

(2) Property placed in service in a United States territory. Pursuant to sections 30C(e)(3), 50(b)(1) and 168(g)(4)(G) of the Code, paragraph (a)(1) of this section does not apply to 30C property that is owned by a domestic corporation or by a United States citizen (other than a citizen entitled to the benefits of section 931 or 933 of the Code) and that is used predominantly in a territory of the United States by such a corporation or such a citizen, or by a corporation created or organized in, or under the law of, a territory of the United States.

(3) Section 179. No section 30C credit is allowable with respect to the portion of the cost of any property taken into account under section 179 of the Code.

(b) Recapture.

(1) In general. The rules in this paragraph (b) provide for recapturing the benefit of any allowable section 30C credit with respect to any property that ceases to be property eligible for such credit. If a recapture event occurs with respect to a taxpayer's 30C property, the taxpayer must include the recapture amount in taxable income under chapter 1 of the Code for the taxable year in which the recapture event occurs (recapture year).

(2) Recapture event. A recapture event occurs if, within three years of the property being placed in service--

(i) The taxpayer claiming the section 30C credit modifies the property such that the property no longer qualifies as 30C property;

(ii) Unless the property is subject to section 6417(d)(2)(B) of the Code, the depreciable property (other than apportioned-use property) ceases to be used predominantly in a trade or business (that is, 50 percent or more of the use of the 30C property in a taxable year is for use other than in a trade or business);

(iii) For apportioned-use property, the 30C property completely ceases to be used in a trade or business, but continues to be used for personal use; or

(iv) The taxpayer claiming the section 30C credit sells or disposes of the 30C property and the taxpayer knows or has reason to know that the property will be

used in a manner described in paragraph (b)(2)(i) or (ii) of this section. Any other sale or disposition (including a disposition by reason of an accident or other casualty) of 30C property is not a recapture event.

(3)Property placed in service in a location that ceases to be in a qualified census tract. 30C property is not subject to the recapture provisions of this paragraph (b) solely because it is placed in service in a location that subsequently ceases to be in a qualified census tract.

(4)Recapture amount.

(i) In general. The recapture amount is generally equal to the benefit of the section 30C credit allowable multiplied by a fraction, the numerator of which is three minus the number of years prior to, but not including, the recapture year, and the denominator of which is three.

(ii) Special rule for apportioned-use property. For purposes of the calculation described in paragraph (b)(4)(i) of this section with respect to apportioned-use property, the benefit of the section 30C credit is equal to the difference between the credit claimed by the taxpayer and the credit that would have been allowed if the apportioned-use property were used solely for personal use under § 1.30C-2(a)(2)(iii) (as limited by § 1.30C-2(a)(4)(i)(B)).

(5)Basis adjustment. As of the first day of the recapture year, the basis of the 30C property is increased by the recapture amount. For 30C property that is of a character that is subject to an allowance for depreciation, including property subject to section 6417(d)(2)(B), this increase in basis is recoverable over its remaining recovery period beginning as of the first day of the taxable year in which the recapture event occurs.

(c)Property used by a tax-exempt or governmental entity.

(1)In general. Except as provided in paragraph (c)(2) of this section, if a person sells 30C property, the use of which is described in section 50(b)(3) or (4) (generally, property used by certain tax-exempt organizations, governmental entities, or foreign persons or entities), such person or entity purchasing the property uses the property as described in section 50(b)(3) or (4), the property is not subject to a lease, and the seller clearly discloses to the person or entity using such property in a document the amount of any credit allowable under section 30C(a) with respect to such property (determined without regard to section 30C(d)) and that the seller intends to claim such credit, then the seller is treated as the taxpayer that placed such property in service. For purposes of section 30C(d), property to which this paragraph (c)(1) applies will be treated as of a character subject to an allowance for depreciation.

(2)Interaction with section 6417. If the person or entity using 30C property in a manner that would otherwise be considered as described in section 50(b)(3) or (4) notifies the seller in writing of an intent to make an elective payment election pursuant to section 6417(a) with respect to the section 30C credit, then the use of the 30C property is treated as not being described in section 50(b)(3) or (4) for purposes of paragraph (c)(1) of this section. As a result, paragraph (c)(1) will not apply, meaning that the seller will not be treated as having placed the 30C property in service and cannot claim any credit

allowable under section 30C(a) with respect to such property. The section 30C credit will only be allowed to one taxpayer for the same 30C property.

(d)Dual-use property.

(1)Dual use property used for dispensing or storing qualified alternative fuel and conventional fuel. In the case of dual-use property that is used to store and/or dispense both qualified alternative fuel and conventional fuel, the cost of the dual-use property is taken into account in computing a taxpayer's section 30C credit only to the extent such cost exceeds the cost of an equivalent conventional refueling property. For purposes of this paragraph (d)(1), equivalent conventional refueling property is conventional refueling property that is not used to store and/or dispense qualified alternative fuel but is otherwise comparable to the dual-use property and can store and/or dispense the same amount of conventional fuel as the dual-use property.

(2)Qualified alternative fuel storage. In the case of dual-use property that is used both to store qualified alternative fuel that is dispensed into the fuel tanks of motor vehicles at the location of the storage facility and to store fuel that is transported to other locations, the cost of the dual-use property is taken into account in computing a taxpayer's section 30C credit only to the extent such cost exceeds the cost of a storage facility that is equivalent to the dual-use property except that it is used for the sole purpose of storing qualified alternative fuel that is transported to other locations and can store the same amount of qualified alternative fuel as the dual-use property stores for transport to other locations.

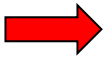
(3)Dual use property used to store or transmit electricity for charging a motor vehicle and for other purposes. In the case of dual-use property that is used to store or transmit electricity both to charge a motor vehicle and for purposes other than charging a motor vehicle, the cost of the dual-use property is taken into account in computing the section 30C credit only to the extent such cost exceeds the cost of equivalent property used for purposes other than charging a motor vehicle.

(4)Example.

(i) Facts. X, a qualified alternative fuel wholesaler and retailer, owns and operates retail qualified alternative fuel filling stations. X maintains a regional hub where it stores qualified alternative fuel that it transports to its retail filling stations, using tanker trucks, for sale to customers. In 2024, X places in service a new storage tank to store qualified alternative fuel and a new fuel dispenser at its regional hub. X uses the new fuel dispenser to fill the fuel tanks of its tanker trucks (meaning it uses the fuel to power the tanker trucks in addition to transporting the fuel to retail locations). Because the amount of fuel used to power the tanker trucks is minimal compared to the fuel transported to the retail locations, the storage tank has the same capacity as the tank that would have been used for the sole purpose of storing the qualified alternative fuel that is supplied to X's customers. X's regional hub is in a non-urban area census tract as described in §1.30C-2(c)(3).

(ii) Analysis. The storage tank and dispenser are 30C property within the meaning of §1.30C-1(b)(1). Specifically, they are refueling property within the meaning of §1.30C-1(b)(1)(i)(A) because they are used to store and dispense qualified alternative fuel into the fuel tanks of X's fuel tanker trucks. Additionally, the

storage tank and dispenser meet the other requirements under § 1.30C-1(b)(1)(iii) because they are of a character subject to an allowance for depreciation (because X uses them in its trade or business), the original use of the property began with X, and X placed the property in service in an eligible census tract. However, the storage tank is dual-use property described in paragraph (d)(2) of this section because it is used both to store qualified alternative fuel that is dispensed into the fuel tanks of motor vehicles at the location of the storage facility (that is, the fuel used to power the tanker trucks) and to store fuel that is transported to other locations. Under paragraph (d)(2), the cost of the storage tank is taken into account in computing the section 30C credit only to the extent that cost exceeds the cost of the storage tank that would have been used for the sole purpose of storing the qualified alternative fuel that is transported to X's retail filling stations. Because no increase in the capacity of the storage tank is needed, none of the storage tank's cost is taken into account in computing the amount of the section 30C credit.



(e)Applicability date. This section applies to property placed in service in taxable years ending after [date of publication of final regulations in the Federal Register].