

Part III - Administrative, Procedural, and Miscellaneous

Credit for New Medium-Duty and Heavy-Duty Hybrid Motor Vehicles

Notice [XXXX-XX]

SECTION 1. PURPOSE

This notice sets forth interim guidance, pending the issuance of regulations, relating to the new qualified hybrid motor vehicle credit under § 30B(a)(3) and (d) of the Internal Revenue Code for qualified medium-duty and heavy-duty hybrid motor vehicles. Specifically, this notice provides procedures for a vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) to certify to the Internal Revenue Service (Service) both:

(1) that a particular make, model, and model year of vehicle meets certain requirements that must be satisfied to claim the new qualified hybrid motor vehicle credit under § 30B(a)(3) and (d); and

(2) the amount of the credit allowable with respect to that vehicle.

This notice also provides guidance to taxpayers who purchase qualified vehicles

regarding the conditions under which they may rely on the vehicle manufacturer's (or, in the case of a foreign vehicle manufacturer, its domestic distributor's) certification in determining whether a credit is allowable with respect to the vehicle and the amount of the credit. The Service and the Treasury Department expect that the regulations will incorporate the rules set forth in this notice.

## SECTION 2. BACKGROUND

Section 30B(a)(3) provides for a credit determined under § 30B(d) for certain new qualified hybrid motor vehicles. Section 30B(d)(2)(B) provides for a credit for qualified hybrid motor vehicles that are not passenger automobiles and light trucks (medium-duty and heavy-duty hybrid motor vehicles) in an amount equal to the applicable percentage of the qualified incremental hybrid cost of the vehicle. The qualified incremental cost is the excess of the manufacturer's suggested retail price for the qualified vehicle over the manufacturer's suggested retail price for a comparable vehicle. However, the qualified incremental cost of a vehicle is limited depending upon the gross vehicle weight rating of the vehicle. The applicable percentage varies depending upon the increase in the city fuel economy of the qualified vehicle relative to a comparable vehicle.

## SECTION 3. SCOPE OF NOTICE.

.01 *Vehicles Covered.* This notice applies only to qualified medium-duty and heavy-duty motor vehicles, as defined in section 4 of this notice. Guidance concerning the new qualified hybrid motor vehicle credit for passenger automobiles and light trucks is provided in Notice 2006-9, 2006-6 I.R.B. 413.

*.02 Rules Common to All Qualifying Vehicles.* This notice does not address a number of rules that are common to all motor vehicles that qualify for credits under § 30B. These rules include: (1) rules under which lessors may claim the credits allowable under § 30B; (2) the rule preventing the credits from being used to reduce alternative minimum tax liability; and (3) rules relating to recapture of the credit. The Service and Treasury Department expect to issue separate guidance relating to these rules.

#### SECTION 4. MEANING OF TERMS.

The following definitions apply for purposes of this notice:

(1) *In General.* Terms used in this notice and not defined in this section have the same meaning as when used in § 30B.

(2) *Qualified Medium-Duty Hybrid Motor Vehicle.* For purposes of this notice, the term “qualified medium-duty hybrid motor vehicle” means any qualified hybrid motor vehicle that has a gross vehicle weight rating of more than 8,500 pounds. This term includes medium-duty passenger vehicles (as defined in 40 C.F.R. § 86, as in effect on August 8, 2005) that are not passenger automobiles or light trucks.

(3) *Qualified Heavy-Duty Hybrid Motor Vehicles.* For purposes of this notice, the term “qualified heavy-duty hybrid motor vehicle” means any qualified hybrid motor vehicle that has a gross vehicle weight rating of 10,000 or more pounds.

(3) *City Fuel Economy.* The term “city fuel economy” means the fuel economy measured in a manner that is substantially similar to the manner in which city fuel economy is measured in accordance with procedures under 40 C.F.R. § 600, as in

effect on August 8, 2005.

(4) *Comparable Vehicle*. The term "comparable vehicle" means any vehicle that is powered solely by a gasoline or diesel internal combustion engine that is comparable in weight, size, and use to the qualified vehicle, and is the same model year as the qualified vehicle or is manufactured in the same year as the qualified vehicle.

## SECTION 5. MANUFACTURER'S CERTIFICATION

.01 *When Certification Permitted*. A vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) may certify to purchasers that a medium-duty or heavy-duty vehicle of a particular make, model, and model year meets all requirements (other than those listed in section 5.02 of this notice) that must be satisfied to claim the new qualified hybrid motor vehicle credit, and the amount of the credit allowable under § 30B(a)(3) and (d) with respect to the vehicle, if the following requirements are met:

(1) The manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) has submitted to the Service, in accordance with section 6 of this notice, a certification with respect to the vehicle and the certification satisfies the requirements of section 5.03 of this notice;

(2) The manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) has received an acknowledgment of the certification from the Service.

.02 *Purchaser's Reliance*. Except as provided in section 5.07 of this notice, a purchaser of a medium-duty or heavy-duty motor vehicle may rely on the

manufacturer's (or, in the case of a foreign vehicle manufacturer, its domestic distributor's) certification concerning the vehicle and the amount of the credit allowable with respect to the vehicle (including cases in which the certification is received after the purchase of the vehicle). The purchaser may claim a credit in the certified amount with respect to the vehicle if the following requirements are satisfied:

(1) The vehicle is placed in service by the taxpayer after December 31, 2005, and is purchased on or before December 31, 2009.

(2) The original use of the vehicle commences with the taxpayer.

(3) The vehicle is acquired for use or lease by the taxpayer, and not for resale.

(4) The vehicle is used predominantly in the United States.

*.03 Content of Certification.* The certification must contain the information required in section 5.03(1) of this notice.

(1) The name, address, and taxpayer identification number of the certifying entity;

(2) The make, model, model year or year the vehicle is manufactured, and any other appropriate identifiers of the motor vehicle;

(3) A statement that the vehicle is made by a manufacturer;

(4) The amount of the credit for the vehicle (showing computations);

(5) The manufacturer's suggested retail price of the vehicle;

(6) The manufacturer's suggested retail price of a comparable vehicle;

(7) The make and model year, or year the vehicle was manufactured

(whichever is applicable) of a comparable vehicle;

(8) The gross vehicle weight rating of the vehicle;

(9) The city fuel economy of the vehicle and evidence that the city fuel economy was measured in a manner that is substantially similar to the manner in which city fuel economy is measured in accordance with procedures under 40 C.F. R § 600.

(10) A statement that the vehicle complies with the applicable provisions of the Clean Air Act;

(11) Evidence that the maximum power available from the rechargeable energy storage system during a standard 10 second pulse power or equivalent test is—

(a) at least 10 percent of the vehicle's total traction power, in the case of a vehicle that has a gross vehicle weight rating of more than 8,500 pounds and not more than 14,000 pounds, and

(b) at least 15 percent of the vehicle's total traction power, in the case of a vehicle that has a gross vehicle weight rating in excess of 14,000 pounds;

(9) A statement that the vehicle complies with the applicable air quality provisions of state law of each state that has adopted the provisions under a waiver under § 209(b) of the Clean Air Act or a list identifying each state that has adopted applicable air quality provisions with which the vehicle does not comply;

(10) A statement that the vehicle complies with the motor vehicle safety provisions of 49 U.S.C. §§ 30101 through 30169;

(11) A statement that the motor vehicle draws propulsion energy from onboard sources of stored energy that are both an internal combustion or heat engine

using consumable fuel, and a rechargeable energy storage system;

(12) A certificate of conformity under the Clean Air Act as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2004 through 2007 model year diesel heavy-duty engines or ottocycle heavy-duty engines, as applicable; and

(c) Evidence that the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power.

(13) A declaration, applicable to the certification and any accompanying documents, signed by a person currently authorized to bind the manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) in these matters, in the following form:

“Under penalties of perjury, I declare that I have examined this certification, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of this certification are true, correct, and complete.”

*.04 Acknowledgment of Certification.* The Service will review the original signed certification and issue an acknowledgment letter to the vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) within 30 days of receipt of the request for certification. This acknowledgment letter will state whether purchasers may rely on the certification.

*.07 Effect of Erroneous Certification.*

(1) *Erroneous Certification.* The acknowledgment that the Service provides

for a certification is not a determination that a vehicle qualifies for the credit, or that the amount of the credit is correct. The Service may, upon examination (and after any appropriate consultation with the Department of Transportation or the Environmental Protection Agency), determine that the vehicle is not a new medium-duty or heavy-duty qualified hybrid motor vehicle or that the amount of the credit determined by the manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) to be allowable with respect to the vehicle is incorrect. In either event, the manufacturer's (or, in the case of a foreign vehicle manufacturer, its domestic distributor's) right to provide a certification to future purchasers of the medium-duty or heavy-duty hybrid motor vehicles will be withdrawn, and purchasers who acquire a vehicle after the date on which the Service publishes an announcement of the withdrawal may not rely on the certification. Purchasers may continue to rely on the certification for vehicles they acquired on or before the date on which the announcement of the withdrawal is published (including in cases in which the vehicle is not placed in service and the credit is not claimed until after that date), and the Service will not attempt to collect any understatement of tax liability attributable to such reliance. Manufacturers (or, in the case of foreign vehicle manufacturers, their domestic distributors) are reminded that an erroneous certification may result in the imposition of penalties:

(a) under § 7206 for fraud and making false statements; and

(b) under § 6701 for aiding and abetting an understatement of tax

liability in the amount of \$1,000 (\$10,000 in the case of understatements by



corporations) per return on which a credit is claimed in reliance on the certification).

## SECTION 6. TIME AND ADDRESS FOR FILING CERTIFICATION

*.01 Time for Filing Certification.* In order for a certification under section 5 of this notice to be effective for new qualified hybrid motor vehicles placed in service during a calendar year, the certification must be received by the Service not later than December 31<sup>st</sup> of that calendar year.

*.02 Address for Filing.* Certifications under section 5 of this notice must be sent to:

Internal Revenue Service,  
Industry Director, Large and Mid-Size Business, Heavy Manufacturing  
and Transportation,  
Metro Park Office Complex - LMSB,  
111 Wood Avenue, South,  
Iselin, New Jersey 08830.

## SECTION 7. PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-XXXX.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this notice are in section 5. This information is

required to be collected and retained in order to ensure that vehicles meet the requirements for the new qualified hybrid motor vehicle credit under § 30B(a)(3) and (d). This information will be used to determine whether the vehicle for which the credit is claimed by a taxpayer is property that qualifies for the credit. The collection of information is required to obtain a benefit. The likely respondents are corporations and partnerships.

The estimated total annual reporting burden is XX hours.

The estimated annual burden per respondent varies from 35 hours to 45 hours, depending on individual circumstances, with an estimated average burden of 40 hours to complete the certification required under this notice. The estimated number of respondents is 7.

The estimated annual frequency of responses is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

#### SECTION 8. DRAFTING INFORMATION

The principal author of this notice is Nicole R. Cimino of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice contact Ms. Cimino at (202) 622-3120 (not a toll-free call).