

Part III - Administrative, Procedural, and Miscellaneous

Specified Plug-In Electric Vehicle Credit Under Section 30

Notice [XXXX-XX]

Section 1. PURPOSE

This notice sets forth interim guidance, pending the issuance of regulations, relating to the new specified plug-in electric vehicle credit under § 30 of the Internal Revenue Code. 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 vehicle of a particular make, model, and model year meets certain requirements that must be satisfied to claim the new specified plug-in electric vehicle credit under § 30; and
- (2) The amount of the credit allowable with respect to that vehicle.

This notice also provides guidance to taxpayers who purchase vehicles regarding the conditions under which they may rely on the vehicle manufacturer’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 30 provides for a credit for certain new specified plug-in electric vehicles. The credit is an amount equal to 10 percent of the cost of a specified plug-in electric vehicle placed in service by the taxpayer during the taxable year. Section 30(b) limits the amount of the credit allowed for a vehicle to \$2,500.

Section 3. SCOPE OF NOTICE

.01 Vehicles Covered. The new specified plug-in electric vehicle credit applies to plug-in electric vehicles that are acquired after February 17, 2009, and before January 1, 2012, and meet the requirements of section 5 of this notice. No credit is allowed under § 30 for any vehicle that is acquired after February 17, 2009, and before January 1, 2010, if the credit for qualified electric-drive motor vehicles under § 30D is allowable for that vehicle. Guidance regarding the credit under § 30D will be provided in a separate notice.

.02 Rules Not Covered. This notice does not address recapture of the credit; or the rules under which lessors may claim the credit allowable under § 30. For an explanation of the rules relating to leased vehicles see FS-2007-9 (<http://www.irs.gov/newsroom/article/0,,id=165649,00.html>), relating to the alternative motor vehicle credit provided in § 30B.

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 4 of this notice have the same meaning as when used in § 30.

(2) *Battery Capacity*. Battery capacity is the quantity of electricity that the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a zero percent state of charge.

(3) *Specified Vehicle*. Section 30(d)(2) provides that the term “specified vehicle” means any vehicle that :

(a) Is a low-speed vehicle within the meaning of section 571.3 of Title 49 of the Code of Federal Regulations (as in effect on February 17, 2009), or

(b) Has two or three wheels.

(5) *Model Year*. The term “model year” means

(a) the vehicle manufacturer’s annual production period (determined under regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II to the Clean Air Act (42 U.S.C. 7521 et seq.), or

(b) the calendar year in which the vehicle is manufactured, if the vehicle manufacturer has no annual production period for that make and model of 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 new specified plug-in electric 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 specified plug-in electric vehicle credit allowable under § 30 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 this section 5 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 new specified plug-in electric 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 acquired after February 17, 2009, and on or before December 31, 2011.

(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 (1) *All Vehicles.*

For all vehicles, the certification must contain the following information:

- (a) The name, address, and taxpayer identification number of the certifying entity;
 - (b) The make, model, model year, and any other appropriate identifiers of the vehicle;
 - (c) A statement that the vehicle is made by a manufacturer;
 - (d) The amount of the credit for the vehicle (showing computations);
 - (e) The gross vehicle weight rating of the vehicle;
 - (f) A statement that the vehicle is propelled to a significant extent by an electric motor which draws electricity from a battery;
 - (g) The number of wheels that the vehicle has;
 - (h) The kilowatt hour capacity of the battery;
 - (i) A statement that the battery is capable of being recharged from an external source of electricity;
 - (j) A statement that the vehicle complies with the appropriate motor vehicle safety provisions of 49 U.S.C. Part 571;
 - (k) A statement that the vehicle is manufactured primarily for use on public streets, roads, and highways, and is not manufactured primarily for off-road use.
- (2) *Low Speed Vehicles.* If the manufacturer (or, in the case of a foreign manufacturer, its domestic distributor) is certifying that the vehicle is a low speed vehicle, the certification must also contain the following
- (a) The minimum and maximum speeds the vehicle can attain in one mile on a

paved level road, and

(b) A statement that the vehicle otherwise meets the requirements of section 571.3 of Title 49 of the Code of Federal Regulations (as in effect on February 17, 2009).

(13) A declaration, applicable to the certification, statements, 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 Acknowledgement 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.

.05 Effect of 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 specified plug-in electric 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 new specified plug-in electric drive vehicles will be withdrawn, and purchasers who acquire vehicles 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, including, but not limited to, the following:

- 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 specified plug-in electric vehicles placed in service during

a calendar year, the certification must be received by the Service not later than December 31 of that calendar year.

.02 *Address for Filing.* Certifications under this section 6 of this notice must be sent to:

Internal Revenue Service
Industry Director, LMSB, Heavy Manufacturing & Transportation
Metro Park Office Complex – LMSB
111 Wood Avenue, South
Iselin, New Jersey 08830

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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 [_____].

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 sections 5 and 6. This information is required to be collected and retained in order to ensure that vehicles meet the requirements for the new specified plug-in electric vehicle credit under § 30. 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 voluntary to obtain a benefit. The likely respondents are corporations and partnerships.

The estimated total annual reporting burden is 250 hours.

The estimated annual burden per respondent varies from 8 hours to 15 hours, depending on individual circumstances, with an estimated average burden of 10 hours to complete the certification required under this notice. The estimated number of respondents is 10 and the total estimated number of certifications is 25.

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 10. DRAFTING INFORMATION

The principal author of this notice is Patrick S. Kirwan of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice contact Mr. Kirwan at (202) 622-3110 (not a toll-free call).