

Part III. Administrative, Procedural, and Miscellaneous

Credit for New Qualified Alternative Motor Vehicles (Advanced Lean Burn Technology Motor Vehicles and Qualified Hybrid Motor Vehicles)

Notice 2006-9

SECTION 1. PURPOSE

This notice sets forth interim guidance, pending the issuance of regulations, relating to the new advanced lean burn technology motor vehicle credit under § 30B(a)(2) and (c) of the Internal Revenue Code and the new qualified hybrid motor vehicle credit under § 30B(a)(3) and (d). 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 passenger automobile or light truck of a particular make, model, and model year meets certain requirements that must be satisfied to claim the new advanced lean burn technology motor vehicle credit under § 30B(a)(2) and (c) or 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 passenger automobiles and light trucks 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)(2) provides for a credit determined under § 30B(c) for certain new advanced lean burn technology motor vehicles. Section 30B(a)(3) provides for a credit determined under § 30B(d) for certain new qualified hybrid motor vehicles. The new advanced lean burn technology

motor vehicle credit is the sum of: (1) a fuel economy amount that varies with the rated fuel economy of a qualifying vehicle compared to the 2002 model year city fuel economy for a vehicle in its weight class; and (2) a conservation credit based on the estimated lifetime fuel savings of the vehicle compared to fuel used by a vehicle in its weight class and with fuel economy equal to the 2002 model year city fuel economy. The new qualified hybrid motor vehicle credit for passenger automobiles and light trucks is computed under the same formula as the new advanced lean burn technology motor vehicle credit. Both the new advanced lean burn technology motor vehicle credit and the new qualified hybrid motor vehicle credit begin to phase out for a manufacturer's passenger automobiles and light trucks in the second calendar quarter after the calendar quarter in which at least 60,000 of the manufacturer's passenger automobiles and light trucks that qualify for either credit have been sold for use in the United States (determined on a cumulative basis for sales after December 31, 2005).

SECTION 3. SCOPE OF NOTICE

.01 *Vehicles Covered.* Both the new advanced lean burn technology motor vehicle credit and the new qualified hybrid motor vehicle credit apply to passenger automobiles and light trucks. The new qualified hybrid motor vehicle credit also applies to other vehicles, but the credit for vehicles that are not passenger automobiles and light trucks is computed under a different formula than that applicable to passenger automobiles and light trucks. This notice applies only to passenger automobiles and light trucks. Guidance regarding the credit for new qualified hybrid motor vehicles that are not passenger automobiles or light trucks will be provided in a separate notice. Guidance regarding the credits for other vehicles that are eligible for credits under § 30B (new qualified fuel cell motor vehicles and new qualified alternative fuel motor vehicles) will be provided in separate notices.

.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) *Passenger Automobile and Light Truck.* Section 30B provides that the terms "passenger automobile" and "light truck" have the meaning given in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of Title II of the Clean Air Act (42 U.S.C. 7521 *et seq.*). Those regulations currently do not include a definition of these terms, but § 30B(b)(2)(B) provides the 2002 model year city fuel economy tables that must be used to determine the amount of the credit for passenger automobiles and light trucks. Those tables do not prescribe the fuel economy for vehicles having a gross vehicle weight of more than 8,500 pounds. Accordingly, until either the Environmental Protection Agency issues regulations or future guidance issued by the Service provides otherwise (whichever occurs first), any vehicle having a gross vehicle weight of more than 8,500 pounds will not be treated as a passenger automobile or light truck for purposes of this notice.

(3) *City Fuel Economy.* The term "city fuel economy" has the meaning prescribed in 40 CFR § 600.002-85(11).

(4) *Gasoline-Gallon-Equivalent.* In the case of a motor vehicle that does not use gasoline, the 2002 model year city fuel economy is determined on a gasoline-gallon-equivalent basis. The gasoline-gallon-equivalents for the 2002 model year city fuel economy may be obtained from the Environmental Protection Agency, Office of Transportation and Air Quality at the following address:

Mailing Address
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 6401A
Washington, DC 20460

Courier Address
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Room 6502A
Washington, DC 20004

(5) *Vehicle Inertia Weight Class.* The term “vehicle inertia weight class” means, with respect to a motor vehicle, its inertia weight class determined under 40 CFR § 86.129–94. Under 40 CFR § 86.082–2, the inertia weight class is the class (a group of test weights) into which a vehicle is grouped based on its loaded vehicle weight in accordance with the provisions of 40 CFR part 86.

SECTION 5. MANUFACTURER’S CERTIFICATION AND QUARTERLY REPORTS

.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 passenger automobile or light truck 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 advanced lean burn technology motor vehicle credit or the new qualified hybrid motor vehicle credit, and the amount of the credit allowable under § 30B(a)(2) and (c) or § 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 passenger automobile or light truck 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, 2010.

(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 and the additional information required in section 5.03(2) or section 5.03(3), whichever applies.

(1) *All Vehicles.* For all vehicles, the certification must contain—

(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 motor vehicle;

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

(d) The type of credit for which the vehicle qualifies (that is, either the new advanced lean burn technology motor vehicle credit, or the new qualified hybrid motor vehicle credit for passenger automobiles and light trucks);

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

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

(g) The vehicle inertia weight class of the vehicle;

(h) The city fuel economy of the vehicle;

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

(j) A copy of the certificate that the vehicle meets or exceeds the applicable Bin 5 Tier II emission standard (if the vehicle has a gross vehicle weight rating of 6,000 pounds or less), or the applicable Bin 8 Tier II emission standard (if the vehicle has a gross vehicle weight rating of more than 6,000 pounds, but not more than 8,500 pounds) established in regulations prescribed by the Administrator of the Environmental Protection Agency under § 202(i) of the Clean Air Act for that make and model year vehicle;

(k) 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;

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

(m) 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.”

(2) *New Advanced Lean Burn Technology Motor Vehicles.* A certification relating to a new advanced lean burn technology motor vehicle must also contain a statement that the vehicle has an internal combustion engine that—

(a) Is designed to operate primarily using more air than is necessary for complete combustion of the fuel;

(b) Incorporates direct injection; and

(c) Achieves at least 125 percent of the 2002 model year city fuel economy.

(3) *New Qualified Hybrid Motor Vehicles.* A certification relating to a new qualified hybrid motor vehicle must also contain—

(a) 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;

(b) A copy of the certificate that the motor vehicle meets or exceeds the equivalent qualifying California low emission vehicle standard under § 243(e)(2) of the Clean Air Act for that make and model year; and

(c) Evidence that the maximum power available from the rechargeable energy storage system during a standard 10 second pulse power or equivalent test is at least 4 percent of the sum of the power and the SAE net power of the internal combustion or heat engine;

.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.

.05 Quarterly Reporting of Sales of Qualified Vehicles. A manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) that has received an acknowledgment of its certification from the Service must submit to the Service, in accordance with section 6 of this notice, a report of the number of qualified vehicles sold by the manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) to a retail dealer during the calendar quarter. For this purpose, a qualified vehicle is any passenger automobile or light truck that is a new advanced lean burn technology motor vehicle or a new qualified hybrid motor vehicle. The quarterly report must contain the following information:

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

(2) The number of qualified vehicles sold by the reporting entity to a retail dealer during the calendar quarter;

(3) The make, model, model year, and any other appropriate identifiers of the

qualified vehicles sold during the calendar quarter; and

(4) A declaration, applicable to the quarterly report 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 report, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of this report are true, correct, and complete.”

.06 Acknowledgment of Quarterly Report. The Service will review the original signed quarterly report 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 continue to rely on the certification.

.07 Effect of Erroneous Certification, Erroneous Quarterly Reports, or Failure to Make Timely Quarterly Reports.

(1) *Erroneous Certification or Quarterly Report.* 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 advanced lean burn technology motor vehicle or new 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, or in the event that the manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) makes an erroneous quarterly report, 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 advanced lean burn technology or 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 or an erroneous quarterly report 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).

(2) *Failure to Make Timely Quarterly Report.* If a manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) fails to make a quarterly report in accordance with section 5.05 of this notice and at the time specified in section 6.02 of this notice, the acknowledgment letter issued under section 5.04 of this notice may be withdrawn, and purchasers will not be entitled to rely on the related certification for quarters beginning after the date on which the Service publishes an announcement of the withdrawal (generally, quarters beginning after the due date of the report). If the quarterly report is filed subsequently, the Service may reissue the acknowledgment letter and retract the withdrawal announcement.

SECTION 6. TIME AND ADDRESS FOR FILING CERTIFICATION AND QUARTERLY REPORTS

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

.02 Time for Filing Quarterly Reports. A report of sales of qualified vehicles during a quarter must be filed with the Service

at the address specified in section 6.03 of this notice not later than the last day of the first calendar month following the quarter to which the report relates.

.03 *Address for Filing.* Certifications and quarterly reports 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 1545-1988.

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 advanced lean burn technology motor vehicle credit under § 30B(a)(2) and (c) or 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 280 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 and Special Industries). For further information regarding this notice, contact Ms. Cimino at (202) 622-3120 (not a toll-free call).