

## **SUPPORTING STATEMENT**

OMB # 1545-2150

Notice 2009-58

### **Manufacturers' Certification of Specified Plug-in Electric Vehicles**

#### **1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

The American Recovery and Reinvestment Act of 2009 provides, under § 30 of the Internal Revenue Code, a credit for certain new specified plug-in electric drive vehicles. Section 30 was repealed by section 221 of PL 113-295, effective 12/19/2014. Notice 2009-58 has not been obsoleted; while 2009-58 related to the qualified vehicles that were described in section 30, a portion of those vehicles are now subject to a credit described in section 30D(g) (extended by section 183 of Protecting Americans from Tax Hikes Act of 2015) and the procedures in the notice are being used for those qualified vehicles. This notice provides procedures for a vehicle manufacturer to certify that a vehicle meets the statutory requirements for the credit, and to certify the amount of the credit available with respect to the vehicle. The notice also provides guidance to taxpayers who purchase vehicles regarding the conditions under which they may rely on the vehicle manufacturer's certification.

Under the procedures prescribed in this notice, a manufacturer submits to the Service, under penalties of perjury, a certification containing certain information relevant to the determination that a particular make, model, and model year of motor vehicle qualifies for the new specified plug-in electric drive vehicle credit, as well as the amount of the credit. After reviewing the original signed certification, the Service will issue an acknowledgement letter stating whether purchasers may rely on the certification. The acknowledgment letter, however, will not constitute a determination by the Service that a vehicle qualifies for a credit, or that the amount of the credit is correct. If a manufacturer files an erroneous certification, the manufacturer's right to provide a certification to future purchasers of vehicles will be withdrawn. However, purchasers may continue to rely on the certification for vehicles they acquired before the date of withdrawal (including in cases in which the vehicle is not placed in service and the credit is not claimed until after the withdrawal).

#### **2. USE OF DATA**

The data will be used by (1) manufacturers to certify both that a particular make, model, and model year of vehicle is a new specified plug-in electric drive vehicle that meets the requirements, and also the amount of the credit allowable with respect to the motor vehicle; and (2) the data will be used to notify purchasers of these vehicles if the vehicles qualify for the credit and the amount of the credit.

#### **3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

We have attempted to minimize burden on small businesses and other small entities.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

With a less frequent collection the manufacturers are unable to file the amount of the credit allowable with respect to the motor vehicle.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Periodic meetings are held between IRS personnel and representatives of various professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding IRS collection requirements.

A notices was published in the *Federal Register* on February 25, 2016, at 81 FR 9587, soliciting comments from the public. Two (2) comments were received. Copies of the comments and responses are posted in this Information Collection Request (ICR).

Comment #1:

Commenter asked if the manufacturer certification process for the electric vehicle credit under Section 30 intended to apply to the new plug-in electric vehicle credit under Section 30D (notice 2009-89) as well? As Section 30 has been repealed.

Chief Council attorney provided response as follows:

Section 30 was repealed by section 221 of PL 113-295, effective 12/19/2014. Notice 2009-58 has not been obsoleted; while 2009-58 related to the qualified vehicles that were described in section 30, a portion of those vehicles are now subject to a credit described in section 30D(g) (extended by section 183 of Protecting Americans from Tax

Hikes Act of 2015) and the procedures in the notice are being used for those qualified vehicles.

Notice 2009-89 related to vehicles described in section 30D, not section 30, and thus did not supersede or replace 2009-58 (2009-89 did supersede 2009-54).

Comment #2

Commenter provided support for the Notice 2009-58 renewal and extension of the \$7,500 tax credit for 100% Plug-in Electric Vehicles under Section 30 of the Internal Revenue Code.

Commenter also requested IRS guidance on the following questions: Our Leasing company (“Lessor”) is seeking IRS guidance in regard to Federal contract opportunities to lease 100% plug-in electric vehicles to Federal Government Agencies.

1a) Can the IRS Form 8936 tax credits be transferred by a Business Lessor-Owner to a 3<sup>rd</sup> Party and/or a Lessee?

1b) If yes, what is IRS form or letter (if necessary) that needs to be submitted in order for a 3<sup>rd</sup> Party/Lessee to receive the beneficial interest in available \$7500 electric vehicle tax credits?

1c) For example, can the “Lessor” of 100% plug-in electric vehicles that are leased to a Federal Government, transfer the beneficial interest in \$7500 EV tax credits to a 3<sup>rd</sup> Party and/or Lessee?

Chief Council attorney provided the following response:

It would be more appropriate for you to consult Notice 2009-89 concerning the 30D credit.

When a Leasing Business (Lessor) offers a qualified vehicle for lease, that constitutes placing the vehicle in service and the lessor is entitled to take the credit once they have begun to depreciate the vehicle (under 30D(f), the lessor reduces the depreciable basis of the vehicle by the amount of the credit). The credit may not be transferred to a taxpayer other than the person placing the vehicle in service except as described in section 30D(f) (3) concerning a sale of a qualified vehicle to a tax-exempt entity. Therefore, a lessor may not transfer the credit to any third party, including the lessee.

In the situation posed by question 1c, the lessor is entitled to the credit, not the US government lessee; if the transaction were a sale to the US or other tax-exempt entity, the seller could claim the credit by following the procedure described in section 30D(f)(3) but the credit may not be transferred to a third party.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payments or gifts are being provided.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No Personally Identifiable Information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

It is estimated that the total annual average reporting burden will be 250 hours. The estimated average annual burden per respondent will be 10 hours to complete the requests for certification required under this notice. This estimated burden is based upon the approximated amount of time it will take the average respondent to gather the necessary data and mail that data to the IRS. The estimated number of respondents is 10, and the estimated total annual submission is 25. This estimate is based upon the approximated number of manufacturers of the different specified plug-in electric drive vehicles and the estimated number of vehicles for which certification will be sought.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There is no estimated total annual cost burden to respondents.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no estimated annualized cost to the Federal government.

15. REASONS FOR CHANGE IN BURDEN

This is an extension without change of the currently approved collection.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the credit sunsets as of the expiration date.

Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions.

Note: The following paragraph applies to all of the collections of information in this submission:

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. 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.