

SUPPORTING STATEMENT
Internal Revenue Service (IRS)
Form 8936, Clean Vehicle Credits
OMB # 1545-2137

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The Energy Improvement and Extension Act of 2008 added § 30D of the Internal Revenue Code (IRC) to authorize a credit for new qualified plug-in electric drive motor vehicles. Section 30D has been amended several times since its enactment, most recently by § 13401 of Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA) and provides a credit for clean new vehicles. Section 13402 of the IRA added § 25E to the Code and provides a credit for previously owned clean vehicles. Section 13403(a) of the IRA added new § 45W to the Code and provides a credit for qualified commercial clean vehicles. This revenue procedure provides procedures for a vehicle manufacturer to certify that they are a qualified manufacturer of such vehicles and submit reports that a motor vehicle meets certain requirements for the clean vehicle credit(s) available under sections 30D, 45W, and/or 25E, to report the amount of the credit available with respect to the motor vehicle, and for sellers to report the sales of such vehicles. Revenue Procedure 2022-42 also provides guidance to taxpayers who purchase motor vehicles regarding the conditions under which they may rely on the vehicle manufacturer's certification.

Under the procedures prescribed in this revenue procedure, a manufacturer submits to the IRS, 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 clean vehicle credit, as well as the amount of the credit. After reviewing the original signed certification, the IRS will issue an acknowledgement letter stating whether purchasers may rely on the certification. The acknowledgment letter, however, will not constitute a determination by the IRS 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erroneous certification, the manufacturer's right to provide a certification to future purchasers of vehicles will be withdrawn.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).

For tax years beginning after 2008, Form 8936 is used to figure the credit for qualified plug-in electric drive motor vehicles placed in service during the tax year. The credit attributable to depreciable property (vehicles used for business or investment purposes) is treated as a general business credit. Any credit not attributable to depreciable property is treated as a personal credit. For tax year beginning after 2022, Form 8936-A and Schedule 1 (Form 8936-A) are used to figure the Qualified Commercial Clean Vehicle Credit.

IRS created Form 15400 to report the following:

- Sellers of new clean vehicles are required to file this completed with the IRS and furnish to the buyer/taxpayer for a vehicle to be eligible for a clean vehicle credit

under section 30D.

- Dealers selling previously-owned clean vehicles are required file a report the information to the Internal Revenue Service (IRS) and furnish to the buyer/taxpayer for a vehicle to be eligible for a clean vehicle credit under section 25E.

The likely respondents are individual, households, businesses, and other for-profits.

2. USE OF DATA

The data will be used by (1) manufacturers to certify that they are qualified manufacturers; (2) that a particular make, model, and model year and/or VIN of motor vehicle is a qualified vehicle that meets the requirements of §§ 30D, 45W, and/or 25E, and also the amount of the credit allowable with respect to the motor vehicle; (3) the data will be used to notify purchasers of these motor vehicles if the vehicles qualify for the credit and the amount of the credit.

The IRS will use the information to monitor and validate claims for the requirements for the clean vehicle credit(s).

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We are currently offering electronic filing of Form 8936 and 8936-A. For Revenue Procedure 2022-42 requirements, IRS provides email addresses where filers can submit their required reports. IRS is in the process to develop a submission portal for future tax years.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available or use or adaption from another source.

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

There is no burden on small businesses or entities by this collection due to the inapplicability of the authorizing statute to this type of entity.

Regarding Revenue Procedure 2022-42, the collection of information is not expected to have a burden on small businesses. Since sellers and dealers of new and previously owned clean vehicles are only required to report such sales once a year, the burden to a small business is minimal.

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

The information required is needed to verify compliance with the IRC and Treasury Regulations. A less frequent collection of taxes and tax information could adversely affect the government's effectiveness and would reduce the oversight of the public in ensuring

compliance with the IRC and hinder the IRS from meeting its mission.

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

The IRS is coordinating with the Department of Energy and Department of Transportation, particularly as it relates to qualified manufacturers reporting vehicle identification numbers.

In response to the Federal Register notice dated December 30, 2022, 87 FR 80578, IRS received 7090 comments from the public related to Form 8936, 8936-A and Rev. Proc. 2022-42. The full list of comments will be included with the submission to the Office of Management and Budget (OMB), see supporting documents. The summary of the comments and the IRS response are below.

I. Commenter Category - Broaden the Interpretation: SUV and Sedans

a. Summary of Comments

- i. Many commenters (~5,000) requested that the definition of sport utility vehicle (SUV), as well as sedan, be modified to allow more vehicles to be considered an SUV. The majority of these commenters specifically pointed to one of the Tesla Model Y trims that had five seats instead of seven, which under Notice 2022-1 was considered a sedan and thus subject to a lower manufacturer's suggested retail price (MSRP) limitation than if it had been considered an SUV.

b. IRS Response

- i. On February 3, 2023, the IRS and Treasury issued Notice 2023-16, which modified the vehicle classification definitions set forth in Notice 2023-1. These modifications had the effect of broadening the definition of what is considered an SUV. Pursuant to Notice 2023-16 the five-seat Tesla Model Y is considered an SUV and is subject to a higher MSRP limitation than if it were considered a sedan. These modified vehicle classification definitions were restated in the Notice of Proposed Rulemaking for Section 30D, available at: [Federal Register :: Public Inspection: Section 30D New Clean Vehicle Credit](#)

c. How Form 8936 or 8936-A is Affected

- i. Because the definitions are set forth in Notice 2023-16 and the Proposed Regulations, Forms 8936 and 8936-A do not need to be changed, but the instructions to such forms may include references to such guidance for reference.

II. Commenter Category - Broaden the Interpretation: Bicycles, Autocycles, Motorcycles, and 3-wheeled vehicles

- a. Summary of Comments
 - i. Many commenters (~261) requested that electric bicycles, autocycles, motorcycles, and other two- and three-wheeled vehicles should qualify for the clean vehicle credit. Some argued that these modes of transportation decreased reliance on internal combustion vehicles, and others pointed out that these vehicles often had smaller or more efficient batteries after factoring in the weight and range of the vehicles.
 - b. IRS Response
 - i. Under former section 30D(g), certain two- and three-wheeled vehicles qualified for a credit under section 30D. However, those provisions were not extended and expired effective January 1, 2022. Section 30D(d)(2), as amended by the Inflation Reduction Act (IRA) specifically defines a qualifying vehicle as one that has at least four (4) wheels, and the IRA did not include reference to electric bicycles, autocycles, motorcycles, or other three-wheeled electric vehicles. Because the Code is clear that two- and three-wheeled vehicles do not qualify for the clean vehicle credit under section 30D, the IRS and Treasury do not have discretion to allow them.
 - c. How Form 8936 or 8936-A is Affected
 - i. No changes will be made to Form 8936 nor 8936-A as a result of these comments.
- III. Commenter Category – Modified Adjusted Gross Income (Modified AGI)
- a. Summary of Comments
 - i. Approximately 30 commenters requested that the modified AGI limitation be increased or removed in determining what taxpayers may qualify to claim the credit. Some argued that the policy of the credit was to incentivize the uptake and use of clean vehicles and promote cleaner energy, so the personal income of the user should not be relevant.
 - ii. Other commenters, however, disagreed with the premise of credits for electric vehicles as a subsidy to those with higher incomes. Their main argument was that electric vehicles are expensive, and the taxpayer most able to afford an electric vehicle is a higher income taxpayer, likely with higher adjusted gross incomes. These commenters sought ways to make electric vehicles more affordable to lower- and middle-income taxpayers.
 - b. IRS Response
 - i. Congress set forth the Modified AGI requirements in Section 30D(f)(10). Because the Code is clear, the IRS and Treasury do not have discretion to change or disregard the limitations.
 - c. How Form 8936 or 8936-A is Affected
 - i. No changes will be made to Form 8936 nor 8936-A as a result of these comments.
- IV. Commenter Category – Manufacturer’s Suggested Retail Price (MSRP)
- a. Summary of Comments
 - i. Approximately twenty commenters submitted comments related to the MSRP limitations on certain classes of vehicles. Some thought the limitations would stifle a manufacturer’s willingness to make qualifying vehicles, and others suggested that the policy of getting more clean vehicles on the road should take priority over the price limit. Most

commenters wanted the MSRP limitation to be raised or eliminated entirely, particularly the \$55,000 cap on sedans when compared to the \$80,000 cap on vans, SUVs, and trucks. Other commenters suggested that a higher credit value should go to vehicles with lower MSRPs, with the credit value reducing as the MSRP increases to promote greater adoption of clean vehicles by drivers.

b. IRS Response

- i. Congress set forth the MSRP limitations in Section 30D(f)(11). Because the Code is clear, the IRS and Treasury do not have discretion to change or disregard the limitations. However, Notice 2023-16, as well as the Proposed Regulations under Section 30D, have provided definitions of vehicle classifications so manufacturers and purchasers of the vehicles will have greater confidence as to their vehicle's classification, and therefore its MSRP limitation.

c. How Form 8936 or 8936-A is Affected

- i. No changes will be made to Form 8936 nor 8936-A as a result of these comments.

V. Commenter Category – Hybrids and other Plug-In Vehicles

a. Summary of Comments

- i. Approximately 350 commenters provided comments regarding the eligibility of plug-in and other hybrid vehicles. The majority of these commenters suggested that because plug-in and other hybrid vehicles that were not fully electric but still had an internal combustion engine and therefore contribute to carbon emissions, they either not qualify for any tax credit, or alternatively qualify for a significantly reduced amount.

b. IRS Response

- i. Congress set forth the battery capacity requirement of 7 kilowatt hours in section 30D(d)(1)(F)(i). Because the Code is clear that the battery capacity of a vehicle must be at least 7 kilowatt hours and does not impose further requirements that a vehicle must be completely electric to qualify for the credit, the IRS and Treasury do not have discretion to impose a more rigorous requirement to establish entitlement to the credit.

c. How Form 8936 or 8936-A is Affected

- i. No changes will be made to Form 8936 nor 8936-A as a result of these comments.

VI. Commenter Category - Broaden the Interpretation: All Electric Vehicles

a. Summary of Comments

- i. Approximately 100 commenters submitted comments urging the allowance of the credit to all electric vehicles and not just those that satisfy the final assembly in North America requirement, MSRP limitations, or otherwise comply with the critical minerals and battery component requirements. They suggested that the underlying policy goals of increasing the adoption of clean vehicles and phasing out reliance on internal combustion vehicles should take priority. These commenters highlighted the fact that several of the purely electric vehicles may not qualify for the credits despite being cleaner or more efficient than hybrids or plug-in vehicles, and often suggested that hybrid or plug-in vehicles should not be entitled to a tax

credit, or sometimes half of the available credit.

- b. IRS Response
 - i. Congress set forth the requirements for final assembly in North America in section 30D(d)(1)(G), MSRP in section 30D(f)(11), and the critical minerals and battery components in section 30D(e). Because the Code is clear, the IRS and Treasury do not have the discretion to overlook, modify, or fail to enforce these requirements.
- c. How Form 8936 or 8936-A is Affected
 - i. No changes will be made to Form 8936 nor 8936-A as a result of these comments.

VII. Commenter Category – Individual Carryforward or Refundability of Credit

- a. Summary of Comments
 - i. Some commenters suggested that the clean vehicle credits should be allowed to be carried forward if the full amount is not able to be used in the year in which the qualifying vehicle is placed in service. They argued that this is especially helpful for low- and middle-income purchases who may not otherwise have a tax liability of at least \$7,500.
- b. IRS Response
 - i. Some Internal Revenue Code sections provide that a credit may be carried forward to future tax years, such as section 23(c), Adoption Expenses. Sections 30D and 25E do not provide a carryforward provision for individuals. Business taxpayers may carry the credit forward under sections 30D to the extent the property is of a character subject to an allowance for depreciation and is treated as a credit listed in section 38(b) and not allowed under section 30D(a). Consequently, these tax credits are not able to be carried forward by individuals.
 - ii. Some Internal Revenue Code sections provide that a credit may be refundable, such as section 24(d), Child Tax Credit. Sections 30D, 25E, and 45W do not provide refundability provisions. Accordingly, these tax credits are not refundable.
- c. How Form 8936 or 8936-A is Affected
 - i. No changes will be made to Form 8936 nor 8936-A as a result of these comments.

VIII. Commenter Category – Point of Sale

- a. Summary of Comments
 - i. Some commenters suggested that the credit should be available at the point of sale rather than requiring taxpayers to wait until they file their tax return, which may delay the receipt of the credit by a year or more after the date the vehicle is placed in service.
- b. IRS Response
 - i. For tax years beginning after December 31, 2023, taxpayers will be able to elect to transfer the credit to an eligible entity, such as a registered dealer. If such an election is made, the dealership may agree to lower the price of the vehicle such that the value of the credit would effectively be received by the purchasing taxpayer at the time of the sale.
- c. How Form 8936 or 8936-A is Affected
 - i. No changes will be made to Form 8936 nor 8936-A as a result of these

comments.

IX. Commenter Category – Pro-Union Comments

a. Summary of Comments

- i. One commenter praised the law for recognizing the importance of North American assembly and domestic manufacturing and listed various vehicles likely to qualify for a clean vehicle credit that are made at plants in the United States. The commenter suggested that labor law reform would be beneficial, though acknowledged this was beyond the scope of the Revenue Procedure and PRA estimates. The commenter noted wage and benefit differences between workers represented by a union and those who are not.

b. IRS Response

- i. This comment does not suggest any changes to the administration of the clean vehicle credits or Forms 8936 or 8936-A so the IRS makes no response

c. How Form 8936 or 8936-A is Affected

- i. No changes will be made to Form 8936 nor 8936-A as a result of these comments.

X. Commenter Category – The Law is Flawed

a. Summary of Comments

- i. Several commenters objected to the existence of the credit for clean vehicles as an inequitable subsidy for those with high enough income to be able to afford the vehicles in the first place. Some suggested other tax credits may be more beneficial, such as a childcare tax credit or a first-time homebuyer credit.

b. IRS Response

- i. Section 30D (as well as sections 25E and 45W) was passed into law by Congress. It is the IRS and Treasury's job to administer the law as enacted. The IRS does not have discretion to disallow legal tax credits or enact other tax credits outside of those enacted by Congress.

c. How Form 8936 or 8936-A is Affected

- i. No changes will be made to Form 8936 nor 8936-A as a result of these comments.

XI. Commenter Category – 2022 Tax Forms

a. Summary of Comments –

- i. One commenter requested The IRS modify Form 8936 to include specific instructions for Line 3 for tax year 2022 to specify that, unless covered by the Transition Rule, qualified plug-in electric drive motor vehicles placed in service between August 17, 2022, and December 31, 2022, must meet a North American final assembly requirement to be credit eligible.

b. IRS Response

- i. We agree that this comment will ease administration and consider will such recommendation to amend the Form 8936.

c. How Form 8936 or 8936-A is Affected

- i. IRS has updated the instructions to address the transition rule.

XII. Commenter Category – 2023 Tax Forms

a. Summary of Comments –

- i. One commenter requested the IRS eliminate Line 4a in the tax year 2023 and later Form 8936 and the corresponding information in the tax year 2023 and later Form 8936 Instructions pertaining to two-wheeled vehicles because the credit for such vehicles expired in 2022. The commenter also suggested the IRS eliminate Line 4b because manufacturer credit phaseouts/caps were eliminated by the IRA for New Clean Vehicles purchased and placed into service after 2022. Finally, the commenter recommended the IRS commensurately adjust its information collection burden estimates to reflect both a decline in Form 8936 filings associated with elimination of the two-wheeled vehicle credit, and an increase in section 30D claims resulting from elimination of the credit phaseouts/caps.
 - ii. One commenter recommended the IRS amend Form 8936-A, regarding credits under section 45W, to redesign Schedule 1 to allow for the reporting of at least two vehicle purchases in a manner akin to Form 8936 because commercial fleet and lessor purchasers are more likely to place multiple vehicles in service in a tax year than individuals or households will be with respect to the Section 30D or Section 25E credits. Further, the commenter recommended the Instructions for Line 9 of the Form 8936-A Schedule be amended to incorporate guidance issued by the IRS on incremental cost. Finally, the commenter suggested the IRS add “for tax-exempt entities” between the words “exception” and “discussed” in the second sentence of Question 4c on Schedule 1, as well as between “exception” and “applies” on the last line of Question 4c.
 - iii. One commenter recommended the IRS create a new Form 8936-B in respect of previously-owned clean vehicles eligible for a credit under section 25E, and that such form include the vehicle’s year, make, model, VIN, purchase price, and date placed in service, and other information such as a MAGI limitation worksheet. The commenter suggested that separate forms for credits under section 30D and 25E would prevent undue burdens and complexities compared to if both credits were claimed on the same form.
- b. IRS Response
 - i. We agree that this comment will ease administration and will consider such recommendation to amend the Form 8936 and related forms for 2023 and future years.
- c. How Form 8936 or 8936-A is Affected
 - i. IRS has taken these suggestions in consideration and partially adopted them in the 2023 Form 8936 and related forms.

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

No payment or gift has been provided to any respondents.

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

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Individual Master File (IMF)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under: IRS Treas/IRS 24.046 BMF, and Treas/IRS 34.047 audit trail and security records. The Internal Revenue Service PIAs can be found at <https://www.irs.gov/uac/Privacy-Impact-Assessments-PIA> .

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The time needed to complete and file the Form 8936 and Form 8936-A will vary depending on individual circumstances. The estimated burden for individual filers is capture under OMB control number 1545-0074 and business filers is capture under OMB control number 1545-0123. The estimated burden for estate and trust filers is captured under OMB control number 1545-2137.

The burden for Form 15400 for all filers is accounted for within 1545-2137.

Form	Description	# Respondents	# Responses	Total Annual Responses	Hours Per Response	Total Burden
Notice 2009-89	New Qualified Plug-in Electric Drive Motor Vehicle Credit	12	1	12	23.33 hr.	280 hrs.
8936 and Sch A	Qualified Plug-in Electric Drive Motor Vehicle Credit	500	1	500	6.14 hr.	3,070 hrs.
15400	New Clean Vehicle Seller Report (Rev Proc 2022-42)	52,165	4.7158	246,000	2.45 hr.	602,700 hrs.
8936-A and Sch 1	Qualified Commercial Clean Vehicle Credit	129	1	129	2.90 hr.	374 hrs.
Rev Proc 2022-42	Qualified Manufacturers and Sellers of Clean Vehicles – monthly reports	150	12	1,800	15 min (.25)	450 hrs.
TOTAL		52,806		248,441	varies	606,874 hrs.

The burden table includes the reporting, recordkeeping, and third-party disclosure requirements for each of these items.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The Federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized start-up expenses, operating and maintenance expenses, and distribution of the product that collects the information.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries, and other outlets. The result is the Government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

Product	Aggregate Cost per Product (factor applied)		Printing and Distribution		Government Cost Estimate per Product
Form 8936	60,356	+	0	=	60,356
Sch A (Form 8936)	60,356	+	0	=	60,356
Instr. Form 8936	10,059	+	0	=	10,059
Form 8936-A	55,326	+	0	=	55,326
Sch 1 (Form 8936-A)	55,326	+	0	=	55,326
Instr. Form 8936-A	7,544	+	0	=	7,544
Form 15400	17,730	+	0	=	17,730
Total	266,697	+	0	=	266,697

Table costs are based on 2021 actuals obtained from IRS Chief Financial Officer and Media and Publications

15. REASONS FOR CHANGE IN BURDEN

IRS created Form 15400 (Rev. Proc. 2022-42) to provide a template to filers for Clean Vehicles Sellers Reports. This template standardizes and simplifies the information to be the provide to the IRS and for third-party disclosures. These changes increase the burden by 193,835 responses and 589,659 burden hours due to Agency Estimates.

IRS also revised Form 8936 and Schedule A (Form 8936) which increase the burden by 395 hours due to Agency Discretion. The majority of the estimated burden for these forms continues to be capture under OMB control number 1545-0074 for individual filers and 1545-0123 for business filers.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	248,441	0	0	193,835	0	54,606
Annual Time Burden (Hr.)	606,479	0	395	589,659	0	16,820

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis, and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the form sunsets as of the expiration date. Taxpayers are not likely to be aware that the IRS 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 to the certification statement for this collection.

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.