

Request for Comments on Credits for Clean Vehicles

Notice 2022-46

SECTION 1. PURPOSE

The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) plan to issue guidance under § 30D and § 25E of the Internal Revenue Code (Code), as amended by §§ 13401 and 13402, respectively, of Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA). This notice requests general comments on questions under § 25E and the amendments to § 30D, as well as specific comments involving questions described in section 3 of this notice. Comments received in response to this notice will help to inform development of guidance implementing §§ 30D and 25E.

SECTION 2. BACKGROUND

.01 Section 30D, Clean Vehicle Credit

Section 30D of the Code was originally enacted by § 205(a) of the Energy Improvement and Extension Act of 2008, Division B of Public Law 110-343, 122 Stat. 3765, 3835 (October 3, 2008), to provide a credit for purchasing and placing in service of new qualified plug-in electric drive motor vehicles. Section 30D of the Code has been amended several times since its enactment, most recently by § 13401 of the IRA. In general, the amendments made by § 13401 of the IRA to § 30D of the Code apply to

vehicles placed in service after December 31, 2022, except as provided in § 13401(k)(2) through (5) of the IRA.

Section 13401(a) of the IRA amends § 30D(b) of the Code to provide a maximum credit of \$7,500 per vehicle, consisting of \$3,750 in the case of a vehicle that meets certain critical minerals requirements and \$3,750 in the case of a vehicle that meets certain battery components requirements. The amendments made by § 13401(a) of the IRA are applicable to vehicles placed in service after the date on which the Secretary of the Treasury or her delegate (Secretary) issues proposed guidance described in new § 30D(e)(3)(B) of the Code (proposed battery guidance date) relating to new critical minerals requirements described in new § 30D(e)(1)(A) and new battery components requirements described in new § 30D(e)(2)(A). See § 13401(k)(3) of the IRA.

Section 13401(b) of the IRA amends § 30D(d) of the Code by adding new § 30D(d)(1)(G) and new § 30D(d)(5) applicable to vehicles sold after the date of enactment of the IRA (that is, August 16, 2022). See § 13401(k)(2) of the IRA. Section 30D(d)(1)(G) requires any vehicle eligible for the credit under § 30D to undergo final assembly in North America. For purposes of new § 30D(d)(1)(G), new § 30D(d)(5) defines “final assembly” as the process by which a manufacturer produces a new clean vehicle at, or through the use of, a plant, factory, or other place from which the vehicle is delivered to a dealer or importer with all component parts necessary for the mechanical operation of the vehicle included with the vehicle, whether or not the component parts are permanently installed in or on the vehicle.

Section 13401(c) of the IRA further amends § 30D(d) of the Code by making the credit applicable to “new clean vehicles,” instead of “new qualified plug-in electric drive

motor vehicles,” for vehicles placed in service after December 31, 2022. As amended by § 13401(c) and (g)(2) of the IRA, § 30D(d)(1) of the Code defines a “new clean vehicle” as a motor vehicle that satisfies the following eight requirements set forth in § 30D(d)(1)(A) through (H) of the Code:

(A) The original use of the motor vehicle must commence with the taxpayer.

(B) The motor vehicle must be acquired for use or lease by the taxpayer and not for resale.

(C) The motor vehicle must be made by a qualified manufacturer.

(D) The motor vehicle must be treated as a motor vehicle for purposes of title II of the Clean Air Act.

(E) The motor vehicle must have a gross vehicle weight rating of less than 14,000 pounds.

(F) The motor vehicle must be propelled to a significant extent by an electric motor which draws electricity from a battery that has a capacity of not less than 7 kilowatt hours, and is capable of being recharged from an external source of electricity.

(G) The final assembly of the motor vehicle must occur within North America.

(H) The person who sells any vehicle to the taxpayer must furnish a report to the taxpayer and to the Secretary containing the following six items:

(i) The name and taxpayer identification number of the taxpayer.

(ii) The vehicle identification number of the vehicle, unless, in accordance with any applicable rules promulgated by the Secretary of Transportation, the vehicle is not assigned such a number.

(iii) The battery capacity of the vehicle.

(iv) Verification that original use of the vehicle commences with the taxpayer.

(v) The maximum credit under § 30D allowable to the taxpayer with respect to the vehicle.

(vi) In the case of a taxpayer who makes an election to transfer the credit under § 30D(g)(1) (described below), any amount described in § 30D(g)(2)(C) which has been provided to such taxpayer. The Secretary may prescribe the time and manner of the report.

Section 13401(c) of the IRA further amends § 30D(d)(3) of the Code to replace the term “manufacturer” with “qualified manufacturer” applicable to vehicles placed in service after December 31, 2022. As amended by the IRA, § 30D(d)(3) of the Code defines a “qualified manufacturer” as any manufacturer (within the meaning of the 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.)) that enters into a written agreement with the Secretary under which such manufacturer agrees to make periodic written reports to the Secretary (at such times and in such manner as the Secretary may provide) providing vehicle identification numbers and such other information related to each vehicle manufactured by such manufacturer as the Secretary may require.

Section 13401(c) of the IRA adds new § 30D(d)(6) to the Code, which includes in the definition of the term “new clean vehicle” applicable to vehicles placed in service after December 31, 2022, any “new qualified fuel cell motor vehicle” (as defined in § 30B(b)(3)) that meets the requirements under § 30D(d)(1)(G) and (H). Section 13401(c) of the IRA also makes conforming amendments to § 30D(a) and (b)(1) of the

Code to allow a credit for the taxable year with respect to each “new clean vehicle” placed in service by a taxpayer during the taxable year and after December 31, 2022.

Section 13401(d) of the IRA eliminates the manufacturer limitation on the number of vehicles eligible for the § 30D credit by striking former § 30D(e) applicable to vehicles sold after December 31, 2022. See § 13401(k)(5) of the IRA.

Section 13401(e) of the IRA provides new critical minerals requirements and new battery components requirements in new § 30D(e) applicable to vehicles placed in service after the proposed battery guidance date. New § 30D(e)(1)(A) provides that the critical minerals requirement with respect to the battery from which the electric motor of a vehicle draws electricity is satisfied if the percentage of the value of the applicable critical minerals (as defined in § 45X(c)(6)) contained in such battery that were (i) extracted or processed in the United States, or in any country with which the United States has a free trade agreement in effect, or (ii) recycled in North America, is equal to or greater than the applicable percentage (as certified by the qualified manufacturer, in such form or manner as prescribed by the Secretary). The applicable percentage for the critical minerals requirement is set forth in § 30D(e)(1)(B)(i) through (v) of the Code and varies based on when the vehicle is placed in service. In the case of a vehicle placed in service after the proposed battery guidance date and before January 1, 2024, the applicable percentage is 40 percent. In the case of a vehicle placed in service during calendar year 2024, 2025, and 2026, the applicable percentage is 50 percent, 60 percent, and 70 percent, respectively. In the case of a vehicle placed in service after December 31, 2026, the applicable percentage is 80 percent.

Section 13401(e) of the IRA amends § 30D(e)(2)(A) of the Code applicable to vehicles placed in service after the proposed battery guidance date to provide that the battery components requirement with respect to the battery from which the electric motor of a vehicle draws electricity is satisfied if the percentage of the value of the components contained in such battery that were manufactured or assembled in North America is equal to or greater than the applicable percentage (as certified by the qualified manufacturer, in such form or manner as prescribed by the Secretary). The applicable percentage for the battery components requirement is set forth in § 30D(e)(2)(B)(i) through (vi) of the Code and varies based on when the vehicle is placed in service. In the case of a vehicle placed in service after the proposed battery guidance date and before January 1, 2024, the applicable percentage is 50 percent. In the case of a vehicle placed in service during calendar year 2024 or 2025, the applicable percentage is 60 percent. In the case of a vehicle placed in service during calendar year 2026, 2027, and 2028, the applicable percentage is 70 percent, 80 percent, and 90 percent, respectively. In the case of a vehicle placed in service after December 31, 2028, the applicable percentage is 100 percent.

New § 30D(e)(3)(A) of the Code authorizes the Secretary to issue such regulations or other guidance as the Secretary determines necessary to carry out the purposes of new § 30D(e), including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of administering the new critical minerals requirements and new battery components requirements of new § 30D(e). New § 30D(e)(3)(B) of the Code requires the issuance of proposed

guidance with respect to the new critical minerals requirements and new battery components requirements under new § 30D(e) not later than December 31, 2022.

As amended by § 13401(e) of the IRA, § 30D(d)(7) of the Code excludes, after certain specified dates, vehicles placed in service with batteries containing certain critical minerals or battery components from a foreign entity of concern from the definition of the term “new clean vehicle.” In particular, amended § 30D(d)(7) provides that the term “new clean vehicle” does not include (A) any vehicle placed in service after December 31, 2024, with respect to which any of the applicable critical minerals contained in the battery of such vehicle (as described in § 30D(e)(1)(A)) were extracted, processed, or recycled by a foreign entity of concern (as defined in § 40207(a)(5) of the Infrastructure Investment and Jobs Act (42 U.S.C. 18741(a)(5))), or (B) any vehicle placed in service after December 31, 2023, with respect to which any of the components contained in the battery of such vehicle (as described in § 30D(e)(2)(A)) were manufactured or assembled by a foreign entity of concern (as so defined).

Section 13401(f) of the IRA adds four new special rules under § 30D(f) applicable to vehicles placed in service after December 31, 2022. New § 30D(f)(8) provides that the § 30D credit is only allowed once with respect to a vehicle, as determined based upon the vehicle identification number of a vehicle, including any vehicle with respect to which the taxpayer elects the application of § 30D(g) (described below). New § 30D(f)(9) provides that no credit is allowed with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year.

New § 30D(f)(10)(A) provides that no credit is allowed for any taxable year if (i) the lesser of (I) the modified adjusted gross income of the taxpayer for such taxable year, or (II) the modified adjusted gross income of the taxpayer for the preceding taxable year, exceeds (ii) the threshold amount. New § 30D(f)(10)(B) provides that the threshold amount shall be (i) in the case of a joint return or a surviving spouse (as defined in § 2(a) of the Code), \$300,000, (ii) in the case of a head of household (as defined in § 2(b) of the Code), \$225,000, and (iii) in the case of any other taxpayer, \$150,000. New § 30D(f)(10)(C) defines “modified adjusted gross income” as adjusted gross income increased by any amount excluded from gross income under § 911, 931, or 933.

New § 30D(f)(11)(A) provides that no credit is allowed for a vehicle with a manufacturer's suggested retail price in excess of the applicable limitation. New § 30D(f)(11)(B) provides that the applicable limitation for each vehicle classification is as follows: in the case of a van, \$80,000; in the case of a sport utility vehicle, \$80,000; in the case of a pickup truck, \$80,000; and in the case of any other vehicle, \$55,000. New § 30D(f)(11)(C) authorizes the Secretary to prescribe such regulations or other guidance as the Secretary determines necessary to determine vehicle classifications using criteria similar to that employed by the Environmental Protection Agency and the Department of the Energy to determine size and class of vehicles.

Section 13401(g) of the IRA amends § 30(D)(g) of the Code applicable to vehicles placed in service after December 31, 2023, to provide that, subject to such regulations or other guidance as the Secretary determines necessary, a taxpayer may elect under § 30D(g) to “transfer” a § 30D credit with respect to a new clean vehicle to

an eligible entity (transfer election). If the taxpayer who acquires a new clean vehicle makes a transfer election under § 30D(g) with respect to such vehicle, the § 30D credit that would otherwise be allowed to such taxpayer with respect to such vehicle is allowed to the eligible entity specified in such election (and not the taxpayer). Section 30D(g)(2) defines an “eligible entity” with respect to the vehicle for which the credit is allowed as the dealer that sold such vehicle to the taxpayer and that satisfies the following four requirements set forth in § 30D(g)(2)(A) through (D):

(A) The dealer, subject to § 30D(g)(4), must be registered with the Secretary for purposes of § 30D(g)(2), at such time, and in such form and manner, as the Secretary prescribes.

(B) The dealer, prior to the transfer election and not later than at the time of sale, must have disclosed to the taxpayer purchasing such vehicle (i) the manufacturer's suggested retail price, (ii) the value of the credit allowed and any other incentive available for the purchase of such vehicle, and (iii) the amount provided by the dealer to such taxpayer as a condition of the transfer election.

(C) The dealer, not later than at the time of sale, must have paid the taxpayer (whether in cash or in the form of a partial payment or down payment for the purchase of such vehicle) an amount equal to the credit otherwise allowable to such taxpayer.

(D) The dealer with respect to any incentive otherwise available for the purchase of a vehicle for which a credit is allowed under § 30D, including any incentive in the form of a rebate or discount provided by the dealer or manufacturer, must have ensured that (i) the availability or use of such incentive does not limit the ability of a taxpayer to make a transfer election and (ii) such election does not limit the value or use of such incentive.

Amended § 30D(g)(3) provides that any transfer election cannot be made by the taxpayer any later than the date on which the vehicle for which the § 30D credit is allowed is purchased. Amended § 30D(g)(4) provides that upon determination by the Secretary that a dealer has failed to comply with the requirements described in § 30D(g)(2), the Secretary may revoke the dealer's registration.

Amended § 30D(g)(5) provides that with respect to any payment described in § 30D(g)(2)(C), such payment (A) is not includible in the gross income of the taxpayer, and (B) with respect to the dealer, is not deductible under the Code. Section 30D(g)(6) provides that, in the case of any transfer election with respect to any vehicle (A) the requirements of § 30D(f)(1) and (2) apply to the taxpayer who acquired the vehicle in the same manner as if the § 30D credit determined with respect to such vehicle were allowed to such taxpayer, (B) § 30D(f)(6) does not apply, and (C) the requirement of § 30D(f)(9) is treated as satisfied if the eligible entity provides the vehicle identification number of such vehicle to the Secretary in such manner as the Secretary may provide.

Amended § 30D(g)(7)(A) provides for the establishment of a program to make advance payments to any eligible entity in an amount equal to the cumulative amount of the credits allowed with respect to any vehicles sold by such entity for which a transfer election described in § 30D(g)(1) has been made. Amended § 30D(g)(7)(B) details that rules similar to the rules of § 6417(d)(6) apply for purposes of any excessive payments.

Amended § 30D(g)(8) defines the term "dealer" as a person licensed by a State, the District of Columbia, the Commonwealth of Puerto Rico, any other territory or possession of the United States, an Indian tribal government, or any Alaska Native

Corporation (as defined in § 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)) to engage in the sale of vehicles.

Amended § 30D(g)(9) defines the term “Indian tribal government” as the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of § 30D(g) (that is, August 16, 2022) pursuant to § 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

Amended § 30D(g)(10) provides that in the case of any taxpayer who has made a transfer election with respect to a new clean vehicle and received a payment from an eligible entity, if the §30D credit would otherwise (but for § 30D(g)) not be allowable to such taxpayer pursuant to the application of § 30D(f)(10), the income tax imposed on such taxpayer under chapter 1 of the Code for the taxable year in which such vehicle was placed in service must be increased by the amount of the payment received by such taxpayer.

Amended § 30D(h) provides that no credit is allowed with respect to any vehicle placed in service after December 31, 2032.

Section 13401(k) of the IRA provides the effective date for the amendments to § 30D of the Code. As noted above, except as provided in § 13401(k)(2) through (5) of the IRA, the amendments made by § 13401 of the IRA apply to vehicles placed in service after December 31, 2022. Section 13401(k)(2) of the IRA provides that the amendments made by § 13401(b) of the IRA relating to final assembly apply to vehicles sold after the date of enactment of the IRA (August 16, 2022). Section 13401(k)(3) of

the IRA provides that the amendments made by § 13401(a) and (e) of the IRA relating to the per vehicle dollar limitation and related requirements apply to vehicles placed in service after the date on which the proposed guidance described in new § 30D(e)(3)(B) is issued by the Secretary. Section 13401(k)(4) of the IRA provides that the amendments made by § 13401(g) of the IRA relating to transfers of the § 30D credit apply to vehicles placed in service after December 31, 2023. Section 13401(k)(5) of the IRA provides that the amendment made by § 13401(d) of the IRA eliminating the manufacturer limitation applies to vehicles sold after December 31, 2022.

Section 13401(l) of the IRA provides a transition rule for a taxpayer who purchased or entered into a written binding contract to purchase a new qualified plug-in electric drive motor vehicle (as defined in § 30D(d)(1) of the Code, as in effect on the day before the date of enactment of the IRA (August 15, 2022)) after December 31, 2021 and before the date of enactment of the IRA (August 16, 2022), and placed such vehicle in service on or after the date of enactment of the IRA. The transition rule provides that such a taxpayer may elect (at such time, and in such form and manner as the Secretary may prescribe) to treat such vehicle as having been placed in service on the day before the date of enactment of the IRA.

.02 Section 25E, Previously Owned Clean Vehicles

New § 25E of the Code was enacted by § 13402 of the IRA. Section 25E(a) provides that in case of a qualified buyer who during a taxable year, places in service a previously-owned clean vehicle, an income tax credit is allowed for the taxable year equal to the lesser of (1) \$4,000, or (2) the amount equal to 30 percent of the sale price with respect to such vehicle (§ 25E credit).

Section 25E(b)(1) sets a limitation based on modified adjusted gross income and provides that no credit is allowed for any taxable year if (A) the lesser of (i) the modified adjusted gross income of the taxpayer for such taxable year, or (ii) the modified adjusted gross income of the taxpayer for the preceding taxable year, exceeds (B) the threshold amount. The threshold amount is set forth in § 25E(b)(2) and varies based on a taxpayer's filing status. In the case of a taxpayer filing a joint return or who is a surviving spouse (as defined in § 2(a) of the Code), the threshold amount is \$150,000. In the case of a taxpayer who is a head of household (as defined in § 2(b) of the Code), the threshold amount is \$112,500. In the case of any other taxpayer, the threshold amount is \$75,000. Section 25E(b)(3) defines modified adjusted gross income as adjusted gross income increased by any amount excluded from gross income under § 911, 931, or 933.

Section 25E(c) defines certain terms for purposes of the § 25E credit. Section 25E(c)(1) defines "previously-owned clean vehicle" as, with respect to a taxpayer, a motor vehicle that satisfies the following four requirements set forth in § 25E(c)(1)(A) through (D) of the Code:

(A) The model year of the motor vehicle is at least 2 years earlier than the calendar year in which the taxpayer acquires such vehicle.

(B) The original use of the motor vehicle commences with a person other than the taxpayer.

(C) The motor vehicle is acquired by the taxpayer in a qualified sale.

(D) The motor vehicle (i) meets the requirements of § 30D(d)(1)(C), (D), (E), (F), and (H) (except for § 30D(d)(1)(H)(iv)), or (ii) is a motor vehicle which (I) satisfies the

requirements under § 30B(b)(3)(A) and (B), and (II) has a gross vehicle weight rating of less than 14,000 pounds.

Section 25E(c)(2) defines a “qualified sale” as a sale of a motor vehicle (A) by a dealer (as defined in § 30D(g)(8)), (B) for a sale price which does not exceed \$25,000, and (C) which is the first transfer since the date of enactment to a qualified buyer other than the person with whom the original use of such vehicle commenced.

Section 25E(c)(3) defines “qualified buyer” as, with respect to a sale of a motor vehicle, a taxpayer (A) who is an individual, (B) who purchases such vehicle for use and not for resale, (C) with respect to whom no deduction is allowable with respect to another taxpayer under § 151, and (D) who has not been allowed a credit under § 25E for any sale during the 3-year period ending on the date of the sale of such vehicle.

Section 25E(c)(4) defines “motor vehicle” and “capacity” to have the meaning given such terms in § 30D(d)(2) and (4), respectively. Section 25E(d) provides that no credit is allowed under § 25(a) with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on the return of tax for the taxable year. Section 25E(e) and (f) provide that rules similar to the rules of § 30D(f) (without regard to paragraph (10) or (11) thereof) and the rules of § 30D(g) apply for purposes of § 25E. Section 25E(g) provides that no credit is allowed with respect to any vehicle acquired after December 31, 2032.

Section 13402(e) of the IRA provides the effective date for the amendments made by § 13402 of the IRA. In general, except as provided in § 13402(e)(2) of the IRA, the amendments made by § 13402 of the IRA apply to vehicles acquired after December 31, 2022. The amendments made by § 13402(b) of the IRA relating to

transfers of the § 25E credit apply to vehicles placed in service after December 31, 2023.

SECTION 3. REQUEST FOR COMMENTS

The Treasury Department and the IRS request comments on any questions arising from the IRA amendments to § 30D and the enactment of § 25E that should be addressed in guidance. Commenters are encouraged to specify the issues on which guidance is needed most quickly as well as the most important issues on which guidance is needed. In addition to general comments regarding these provisions, the Treasury Department and the IRS request comments that address the following specific questions:

.01 Clean Vehicles (§ 30D)

(1) Definitions. Section 30D(d)(1)(B) of the Code defines a “new clean vehicle,” in part, as a motor vehicle which is acquired for use or lease by the taxpayer and not for resale. As used in this definition, what, if any, guidance is needed as to the meaning of the terms “acquired,” “use,” and “lease?”

(2) Critical Minerals. Section 30D(e)(1) provides the new critical minerals requirements, including the applicable percentage requirements to be phased in over several years.

(a) What factors and definitions should be considered to determine the place of extracting or processing such critical minerals, and, in particular, to determine whether extracting or processing occurred in the United States or in any country with which the United States has a free trade agreement in effect?

(b) What factors and definitions should be considered to determine the place of recycling such critical minerals and, in particular, to determine whether recycling

occurred in North America?

(c) What factors and definitions should be considered to determine (i) the total value of the critical minerals contained in a vehicle's battery, and (ii) the percentage of that total value attributable to critical minerals (I) extracted or processed in the United States or a country with which the United States has a free trade agreement in effect, or (II) recycled in North America?

(3) Battery Components. Section 30D(e)(2) provides the new battery component requirements, including the applicable percentage requirements to be phased in over several years.

(a) What factors should be considered in defining the components of a battery of a clean vehicle?

(b) What factors and definitions should be considered to determine the place of manufacture or assembly of the components of a battery of a clean vehicle and, in particular, to determine whether manufacture or assembly occurred in North America?

(c) What factors and definitions should be considered to determine (i) the total value of the components contained in the battery of a clean vehicle, and (ii) the percentage of that total value attributable to components that were manufactured or assembled in North America?

(4) Applicable Values. The new critical mineral and battery component requirements in § 30D(e) are based on value. What existing battery technology supply chain tracking methodologies or regulatory frameworks should be considered in determining applicable values?

(5) Foreign Entity of Concern. Section 30D(d)(7) provides that some vehicles are

excluded from the availability of the credit, including when any of the applicable critical minerals contained in the battery were extracted, processed, or recycled by a foreign entity of concern (defined in 42 U.S.C. 18741(a)(5)), or if any of the components contained in the battery of such vehicle were manufactured or assembled by a foreign entity of concern.

(a) Is guidance needed to clarify the definition of “foreign entity of concern”?

(b) What existing regulatory or guidance frameworks for recordkeeping requirements or supply chain tracking methodologies may be useful for qualified manufacturers to verify that its vehicles are not excluded under § 30D(d)(7)?

(6) Recordkeeping and Reporting.

(a) In addition to VIN numbers, what additional information should a qualified manufacturer provide to the Secretary to be considered a qualified manufacturer with respect to a particular vehicle, per § 30D(d)(3)?

(b) What existing regulatory or guidance frameworks for recordkeeping requirements or information reporting or existing battery technology supply chain tracking methodologies may be useful for developing guidance for qualified manufacturers under § 30D(e)(3)?

(c) What information should be included in the report furnished by the seller of the vehicle to the taxpayer and the Secretary under § 30D(d)(1)(H), including the election to transfer the credit under § 30D(g)?

(7) Tax-exempt Entities. Section 30D(f)(3) is stricken by § 13401(g) of the IRA with respect to vehicles placed in service after December 31, 2023. How should clean vehicles acquired and used by a tax-exempt entity after this statutory change becomes

effective be treated for purposes of § 30D?

(8) Registered Dealer and Eligible Entity.

(a) What guidance, if any, is needed to determine who is a licensed dealer who can be registered with the Secretary for purposes of the transfer of the credit under § 30D(g)(2), (7), and (8)?

(b) What guidance, if any, is needed regarding what circumstances may lead to the revocation of such registration under § 30D(g)(4)?

(9) Final Assembly Requirement. Is guidance needed to clarify the definition of the term “final assembly” in § 30D(d)(5) or the area included in the term “North America” for purposes of § 30D(d)(1)(G)?

(10) Vehicle Classifications.

(a) What, if any, guidance is needed to define how vehicles are classified as vans, sport utility vehicles, pickup trucks, or other designations of vehicles for purposes of the manufacturer’s suggested retail price limitation in § 30D(f)(11)?

(b) What criteria employed by the Environmental Protection Agency and Department of Energy, or other factors (for example, Department of Transportation motor vehicle type classification) should be considered in determining the designation of such vehicles?

(c) Is guidance needed to clarify how the manufacturer’s suggested retail price is calculated?

(11) Election to Transfer and Advance Payments.

(a) What factors should be considered in determining the time and manner of the taxpayer’s election under § 30D(g) to transfer the § 30D credit to an eligible entity?

(b) Is guidance needed regarding the definition of “taxpayer,” such as whether non-individual taxpayers are eligible for the credit under § 30D?

(c) If an election to transfer the credit is made by the taxpayer, what issues should be considered regarding the transfer of the § 30D credit?

(d) What considerations and factors should be taken into account in determining the time and manner of advance payments made pursuant to §30D(g)(7)(A)?

(e) For purposes of § 30D(g), what guidance, if any, is needed regarding a determination by an eligible entity regarding whether a credit is allowable to the taxpayer?

(12) Recapture.

(a) Is guidance needed to coordinate the application of the excess payment provision under § 30D(g)(7)(B) and the recapture provision under § 30D(g)(10) as between the transferors and transferees of the credit under § 30D(g)?

(b) In the event of a recapture event, how should recapture be reported by the taxpayer?

(13) Please provide comments on any other terms that may require definition or additional guidance.

.02 Previously Owned Cleans Vehicle (§ 25E)

(1) What, if any, guidance is needed to address how a taxpayer can verify that a vehicle qualifies as a “previously-owned clean vehicle” as defined in § 25E(c)(1)?

(2) Section 25E(e) provides that rules similar to the rules of § 30D(f) (without regard to paragraph (10) or (11) thereof) apply for purposes of the § 25E credit. What rules of § 30D(f) should be applied under § 25E(e) without any modification? What

rules of § 30D(f) should be applied in modified form for purposes of § 25E and in what way should they be modified?

(3) Section 25E(f) provides that rules similar to the rules of § 30D(g) apply for purposes of the § 25E credit. What rules of § 30D(g) should be applied under § 25E(f) without any modification? What rules of § 30D(g) should be applied in modified form for purposes of § 25E and in what way should they be modified?

(4) Please provide comments on any other terms that may require definition or additional guidance.

SECTION 4. SUBMISSION OF COMMENTS

.01 Written comments should be submitted by Friday, November 4, 2022. Consideration will be given, however, to any written comment submitted after Friday, November 4, 2022, if such consideration will not delay the issuance of guidance. The subject line for the comments should include a reference to Notice 2022-46. Comments may be submitted in one of two ways:

(1) Electronically via the Federal eRulemaking Portal at www.regulations.gov (type IRS-2022-0046 in the search field on the regulations.gov homepage to find this notice and submit comments).

(2) Alternatively, by mail to: Internal Revenue Service, CC:PA:LPD:PR (Notice 2022-46), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, D.C., 20044.

.02 All commenters are strongly encouraged to submit comments electronically. The Treasury Department and the IRS will publish for public availability any comment submitted electronically and on paper to its public docket on regulations.gov.

SECTION 5. RELIANCE ON NOTICE 2009-89

Notice 2009-89, 2009-48 I.R.B. 714 was modified Notice 2016-51, 2016-37 I.R.B.

344, by updating section 6.03 of Notice 2009-89, updating the address to which a manufacturer (or, in the case of a foreign manufacturer, its domestic distributor) sends quarterly reports and/or certifications. Taxpayers may rely on Notice 2009-89, as modified by Notice 2016-51, until additional guidance on these issues is issued.

SECTION 6. PROPOSED GUIDANCE FOR CRITICAL MINERAL AND BATTERY COMPONENT REQUIREMENTS

For purposes of § 30D(e)(3)(B), the publication of this notice requesting comments is not the publication of proposed guidance with respect to the critical mineral and battery component requirements under § 30D(e). The Treasury Department and the IRS will explicitly identify when they have published proposed guidance with respect to the critical mineral and battery component requirements under § 30D(e).

SECTION 6. DRAFTING INFORMATION

The principal author of this notice is the Office of Associate Chief Counsel (Passthroughs & Special Industries). However, other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this notice, call the energy security guidance contact number at (202) 317-5254 (not a toll-free call).