



December 3, 2022

Internal Revenue Service (IRS)  
CC:PA:LPD:PR (Notice 2022-56)  
Room 5203  
P.O. Box 7604, Ben Franklin Station  
Washington, DC 20044

Re: Notice 2022-56, Request for Comments on Section 45W Credit for Qualified Commercial Clean Vehicles and Section 30C Alternative Fuel Vehicle Refueling Property Credit

To Whom it May Concern:

On behalf of the members of the Novogradac Renewable Energy Working Group (the RE Working Group), we appreciate the opportunity to comment on Notice 2022-56, Request for Comments on Section 45W Credit for Qualified Commercial Clean Vehicles and Section 30C Alternative Fuel Vehicle Refueling Property Credit (the Notice). The RE Working Group was founded to identify and address technical and administrative issues that arise around the Inflation Reduction Act (IRA) of 2022. The group counts among its members attorneys, investors, syndicators, lenders, for-profit and nonprofit developers, sponsors, consultants, and other renewable energy professionals interested in working together to coalesce around solutions to technical renewable energy issues and make the renewable energy tax credit programs more efficient in providing benefits.

**Attached please find the RE Working Group's comments include requests for guidance, responses to questions and recommendations regarding the Notice. Our comments are meant to provide the Treasury and IRS with information needed to help guide their decisions as they make plans to implement the IRA's energy provisions.**

Please do not hesitate to contact us if you have any questions regarding our comments or if we can be of further assistance. We would be happy to discuss our comments in further detail. Thank you in advance for your time and consideration.

Yours very truly,

Novogradac & Company LLP

By

Tony Grappone, Partner

Attachment: RE Working Group Comments on Notice 2022-56



40 Shattuck Road, Suite 310, Andover, MA 01810  
617.449.3030 | tony.grappone@novoco.com

Response to Notice 2022-56, Request for Comments on Section 45W Credit for Qualified Commercial Clean Vehicles and Section 30C Alternative Fuel Vehicle Refueling Property Credit

.01 Credit for Qualified Commercial Clean Vehicles (§ 45W)

- (1) **What factors should be considered, and what data sources should be relied on, to determine whether a vehicle is “comparable in size and use” for purposes of the comparable vehicle definition in § 45W(b)(3) to determine incremental cost?**

*Comments*

We request additional guidance and/or illustrative examples that provides clarification on determining incremental cost for purposes of § 45W(b)(3) which may include aspects such as weight, capacity, function, etc. of the comparable vehicle.

- (2) **What, if any, guidance is required to clarify the definition of mobile machinery for the purposes of § 45W(c)?**

No comment

- (3) **Section 45W(d)(1) provides that rules similar to the rules under § 30D(f) without regard to the income limitations in § 30D(f)(10) or the manufacturer’s suggested retail price limitations in § 30D(f)(11), apply for purposes of section 45W. The applicable rules in § 30D(f) are basis reduction, no double benefit, property used outside the United States not qualified, recapture, election not to take the credit, interaction with air quality and motor vehicle safety standards, and one credit per vehicle. What aspects of § 30D(f) should apply to the § 45W credit without modification and what aspects should be modified?**

*Comments*

We request guidance clarifying the recapture provisions in § 30D(f)(5), specifically the definition of a recapture event and calculation of a recapture amount. We note the recapture provisions contained in Reg § 1.30-1(b) or Reg § 1.179A-1(b)(2)(i) may be an appropriate reference.

- (4) **Section 45W(d)(3) provides that no § 45W credit is allowed with respect to any vehicle for which a credit was allowed under § 30D. What, if any, guidance is required to ensure that the allowance of credit under § 30D precludes the allowance of a credit under § 45W for the same vehicle?**

No comment

- (5) **The definition of qualified commercial clean vehicle in § 45W(c)(1) contains several requirements including that the vehicle be made by a qualified manufacturer as required**

**by § 30D(d)(1)(c), as amended by the IRA. What, if any, guidance is necessary for qualified manufacturers to comply with the requirements of § 45W(c)(1)?**

*Comments*

We request clarification on the timing and specific information a qualified manufacturer needs to provide to the Secretary under § 30D(d)(3).

- (6) **Section 45W(c)(3)(A) requires that a qualified commercial clean vehicle must either (i) satisfy the requirements under § 30B(b)(3)(A) and (B) for being a new qualified fuel cell motor vehicle, or (ii) be propelled to a significant extent by an electric motor which draws electricity from a battery that has a capacity of not less than 15 kilowatt hours (or, in the case of a vehicle which has a gross vehicle weight rating of less than 14,000 pounds, 7 kilowatt hours) and is capable of being recharged from an external source of electricity. How should “significant extent” be defined for this purpose?**

No comment

- (7) **Is guidance necessary to clarify the meaning of the term “property of a character subject to an allowance for depreciation” for purposes of § 45W(c)(4)?**

No comment

- (8) **Please provide comments on any other terms in § 45W that may require definition or additional guidance.**

*Comments*

We request illustrative examples clarifying tax credit eligibility where multiple tax credit eligible technologies such as microgrids, energy storage, alternative fuel vehicle refueling property, qualified commercial clean vehicles, etc. are integrated including consideration of the preexisting dual use equipment guidance contained in Reg § 1.48-9.

.02 Alternative Fuel Vehicle Refueling Property Credit (§ 30C)

- (1) **Is guidance necessary to clarify the meaning of the term “property of a character subject to an allowance for depreciation” for purposes of § 30C?**

*Comments:*

We request additional guidance clarifying alternative fuel vehicle refueling property owned by tax-exempt entities is treated as of a character subject to an allowance for depreciation such that \$100,000 threshold in § 30C(b)(1) is applicable.

- (2) **Section 30C(b) provides that the credit is allowed with respect to any single item of qualified alternative fuel vehicle refueling property. How should “single item” be defined for this purpose?**

*Comments*

We request illustrative examples to help define and provide guidance on the single item definition. We further request that shared integral equipment may be allocated across multiple single items of qualified alternative fuel vehicle refueling property. Such shared integral equipment may include, tanks, conversion devices, enclosures, safety equipment, etc.

- (3) **Section 30C(c)(2) provides that property does not fail to be qualified alternative fuel vehicle refueling property solely because such property is capable of charging the battery of a motor vehicle propelled by electricity, and allows discharging electricity from such battery to an electric load external to such motor vehicle. What factors and definitions should be considered in developing guidance for qualified alternative fuel vehicle refueling property that is also bidirectional charging equipment?**

*Comments*

Please refer to prefer to comment (8) in .01 Credit for Qualified Commercial Clean Vehicles (§ 45W).

- (4) **Section 30C(c)(3) requires qualified alternative fuel vehicle refueling property to be placed in service in an eligible census tract. What guidance, if any, is needed to clarify the definition of eligible census tract?**

*Comments*

Establish rules that allow taxpayers to meet census tract criteria at the time the taxpayer begins physical on-site construction of the qualified facility and allow for transition relief similar to the transition relief rules provided for in the New Markets Tax Credit program under section 45D.

- (5) **Section 30C(e)(5) provides that recapture rules similar to the rules of former §179A(e)(4) apply for purposes of § 30C. What aspects of §§ 30C and former 179A should apply without modification for this purpose and what aspects should be modified?**

*Comments*

We request guidance providing clarification that government entities are excluded from the trade or business provisions contained in Reg § 1.179A-1(b)(2)(i).

- (6) **Please provide comments on any other terms in, or topics related to, § 30C that may require definition or guidance.**

*Comments*

We request guidance clarifying the application of prevailing wage and apprenticeship requirements. Single items of qualified alternative fuel vehicle refueling property in many fact patterns may be relatively de minimus to the extent we would recommend an application across multiple single items of property.

The reference to § 30C(a)(2) in § 30C(f)(1)(A) is likely in error, as there is no § 30C(a)(2). We would recommend a technical correction to correct this.

Additionally we request guidance clarifying the applicability of § 30C(e)(2) for property used by tax-exempt entities in the context of a tax-exempt entity electing payment under § 6417. The provisions in § 30C(e)(2) references the seller is treated as the taxpayer that placed such property in service which likely was not intended to apply.