



TaxNewsFlash

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Notice 2023-9: Safe harbor for “incremental cost” of commercial clean vehicles eligible for tax credit under section 45W

The IRS today released an advance version of [Notice 2023-9](#) [PDF 110 KB], providing a safe harbor regarding the incremental cost of certain qualified commercial clean vehicles placed in service in calendar year 2023 for purposes of the new credit for qualified commercial clean vehicles under section 45W, created by Pub. L. No. 117-169 (commonly called the “Inflation Reduction Act of 2022” (IRA)).

Read the related IRS release—[IR-2022-233](#) (December 29, 2022).

Background

The amount of the section 45W credit for each qualified commercial clean vehicle placed in service by a taxpayer during the taxable year is the lesser of (1) 30% of the taxpayer’s basis in the vehicle in the case of a vehicle not powered by a gasoline or diesel internal combustion engine (15% in any other case), or (2) the incremental cost of the vehicle. The maximum credit allowed is \$7,500 in the case of a qualified commercial clean vehicle that has a gross vehicle weight rating of less than 14,000 pounds, and \$40,000 for all other vehicles.

Section 45W(b)(2) provides that the incremental cost of a qualified commercial clean vehicle is the excess of the purchase price of such vehicle over the price of a comparable vehicle. A comparable vehicle with respect to any qualified commercial clean vehicle is any vehicle that is powered solely by a gasoline or diesel internal combustion engine and is comparable in size and use to such qualified commercial clean vehicle.

A qualified commercial clean vehicle under section 45W(c) includes (1) a vehicle that is treated as a motor vehicle for purposes of title II of the Clean Air Act and is manufactured primarily for use on public streets, roads, and highways, not including a vehicle operated exclusively on a rail or rails (street vehicle) and (2) mobile machinery as defined in section 4053(8).

Safe harbor

The Department of Energy (DOE) prepared an incremental cost analysis of current costs across classes of street vehicles.

Results of the DOE analysis shows that the modeled incremental cost of all street vehicles, other than compact car “PHEVs,” that have a gross vehicle weight rating of less than 14,000 pounds will be greater than \$7,500 in calendar year 2023. “PHEVs” are defined as commercial clean vehicles that use a gasoline or diesel internal combustion engine and are propelled to a significant extent by an electric motor that draws electricity from a battery that has a capacity of not less than 7 kilowatt hours (15 kilowatt hours in the case of a vehicle with a gross vehicle weight rating of 14,000 pounds or more) and are capable of being recharged from an external source of electricity.

The DOE analysis calculated the incremental cost for compact car PHEVs, which include minicompact and subcompact cars, to be less than \$7,500. The Treasury Department and IRS will accept a taxpayer’s use of the incremental cost published in the DOE analysis to calculate the section 45W credit amount for compact car PHEVs placed in service during calendar year 2023.

In addition, the DOE analysis provides an incremental cost analysis of current costs for several representative classes of street vehicles with a gross vehicle weight rating of 14,000 pounds or more in calendar year 2023. The Treasury Department and IRS will accept a taxpayer’s use of the incremental cost published in the DOE analysis for the appropriate class of street vehicle to calculate the section 45W credit amount for vehicles placed in service during calendar year 2023.

For all street vehicles (other than compact car PHEVs) with a gross vehicle weight rating of less than 14,000 pounds, the DOE analysis provides that incremental cost will not limit the available section 45W credit amount for vehicles placed in service in calendar year 2023. Accordingly, the Treasury Department and IRS will accept a taxpayer’s use of \$7,500 as the incremental cost for all street vehicles (other than compact car PHEVs) with a gross vehicle weight rating of less than 14,000 pounds to calculate the section 45W credit amount for vehicles placed in service during calendar year 2023.

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