



TaxNewsFlash

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Proposed regulations, Rev. Proc. 2023-33, and updated FAQs: Guidance on transfer of clean vehicle credits under sections 25E and 30D

The U.S. Treasury Department and IRS released for publication in the Federal Register proposed regulations (REG-113064-23) providing guidance regarding the transfer of clean vehicle credits under sections 25E and 30D established under H.R. 5376 (commonly called the “Inflation Reduction Act of 2022” (IRA)).

The [proposed regulations](#) [PDF 492 KB] (93 pages) provide guidance for:

- Taxpayers who purchase qualifying previously-owned clean vehicles or purchase qualifying new clean vehicles and intend to transfer the amount of any previously-owned clean vehicle credit or new clean vehicle credit to dealers who are entities eligible to receive advance payments of either credit
- Dealers to become eligible entities to receive advance payments of previously-owned clean vehicle credits or new clean vehicle credits

The proposed regulations also provide rules for recapture of the credits, as well as guidance on the meaning of three new definitions added to the exclusive list of “mathematical or clerical errors” relating to certain assessments of tax without a notice of deficiency.

Comments on the proposed regulations and requests for a public hearing are due by the date that is 60 days after the proposed regulations are published in the Federal Register, which is scheduled to be October 10, 2023.

The Treasury and Department and IRS also released an advance version of [Rev. Proc. 2023-33](#) [PDF 154 KB], setting forth the procedures under sections 25E and 30D for the transfer of the clean vehicle credit or previously-owned clean vehicle credit from the taxpayer who elects to transfer such credit to an eligible entity. The procedures, which apply to transfers of credits after December 31, 2023, include registration procedures with the IRS for qualified manufacturers and sellers, as well as procedures for dealer registration and the suspension and revocation of that registration. Rev. Proc. 2023-33 also establishes a program to make advance payments of credit amounts to registered dealers.

Rev. Proc. 2023-33 supersedes sections 5.01 and 6.03 of Rev. Proc. 2022-42 (providing new information for the timing and manner of submission of seller reports, respectively) and sections 6.01 and 6.02 of Rev. Proc. 2022-42 (providing updated information on submission of written agreements by manufacturers to the IRS to be considered qualified manufacturers, as well as the method of submission of monthly reports by qualified manufacturers).

As described in a related IRS release—[IR-2023-186](#) (October 6, 2023)—as a result of the new guidance, the IRS updated the [“frequently asked questions” \(FAQs\)](#) for the clean vehicle credits.

[Fact Sheet 2023-22](#) [PDF 572 KB] updates FAQs related to new, previously owned and qualified commercial clean vehicles as follows:

- Topic A: Eligibility rules for the new clean vehicle credit: updated questions 1, 2, 4 and 7; added question 12
- Topic B: Income and price limitations for the new clean vehicle credit: updated questions 1, 3, 7, 8, 9, 10, and 11
- Topic C: When the new requirements apply to the new clean vehicle credit: updated question 2
- Topic D: Eligibility rules for the previously owned clean vehicles credit: updated questions 1, 2, 3, 7, 9; added questions 11, 12
- Topic E: Income and price limitations for previously owned clean vehicles: updated question 2
- Topic F: Claiming the previously owned clean vehicles credit: updated questions 2, 3
- Topic G: Qualified commercial clean vehicles credit: updated question 4
- Topic H: Transfer of new clean vehicle credit and previously owned clean vehicles credit: added questions 1 through 21
- Topic I: Registering a dealer/seller for seller reporting and clean vehicle tax credit transfers: added questions 1 through 17
- Topic J: Seller report information for buyers of new and previously owned clean vehicle tax credits beginning in 2024: added questions 1 through 2

Background

The IRA provides taxpayers with credits for qualified new and previously-owned clean vehicles acquired and placed in service during the tax year. Beginning January 1, 2024, in certain situations, taxpayers will be able to transfer the new and previously-owned clean vehicle credits to eligible entities.

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