



**ZERO EMISSION
TRANSPORTATION
ASSOCIATION**

August 14, 2023

United States Department of the Treasury
Internal Revenue Service
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

RE: Docket No. IRS–2023–0028
Section 6418 Transfer of Certain Credits (REG–101610–23)
Submitted via Rulemaking Portal: <http://www.regulations.gov>.

The Zero Emission Transportation Association (ZETA) is an industry-backed coalition of over 60 member companies advocating for 100% electric vehicle (EV) sales. ZETA is committed to enacting policies that drive EV adoption, create hundreds of thousands of jobs, dramatically improve public health, and significantly reduce emissions. Our coalition spans the entire EV supply chain including vehicle manufacturers, charging infrastructure manufacturers and network operators, battery manufacturers and recyclers, electricity providers, and critical minerals producers, among others.

We thank the Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) for the opportunity to comment on its notice of proposed rulemaking to implement the transferability provisions relating to certain Federal tax credits under the Inflation Reduction Act (IRA) of 2022. We encourage Treasury to implement these provisions in a way that ensures taxpayers are able to take advantage of them to the fullest extent possible. The credits created or modified by the IRA and implicated by the transferability provisions, specifically 26 U.S.C. §§ 30C, 45X, and 48C, are critical to many ZETA members and will help ensure the continued availability of products necessary for a fully-electrified and decarbonized transportation sector.

ZETA thanks the Biden-Harris Administration in advance for considering the following comments. In the appendix, we have also reiterated our responses to IRS Notices 2022-47 and 2022-56, which we believe will help inform Treasury’s implementation of the aforementioned tax credits and the relevant transferability provisions proposed in REG–101610–23.

The IRS Should Allow Eligible Taxpayers to Bundle Pre-Filing Registrations for Eligible 30C Projects to Expedite Review and Facilitate Timely Infrastructure Deployment

The continued rapid build out of EV charging infrastructure is critical to achieving President Biden’s goal¹ of installing 500,000 chargers by 2030 and the 30C Alternative Fuel Infrastructure Tax Credit, as modified by the IRA, will be a key tool to help the U.S. reach that target. The 30C credit is inherently different from many of the other tax credits affected by these proposed transferability provisions. Given there is likely to be a greater number of projects seeking to utilize the 30C credit relative to the others, we

1

<https://www.whitehouse.gov/briefing-room/statements-releases/2023/06/27/fact-sheet-biden-harris-administration-driving-forward-on-convenient-reliable-made-in-america-national-network-of-electric-vehicle-chargers/>

encourage the IRS to be thoughtful in how it could increase or reduce the administrative burden of 30C implementation, consistent with the intent of the Paperwork Reduction Act.²

As proposed, a qualified taxpayer would be required to register and make an election on a property-by-property basis. In some cases, the transaction cost for completing a registration for each individual property, arranging for a credit transfer, and compiling the necessary paperwork could make the credit transaction cost prohibitive for organizations seeking to claim the 30C credit for multiple properties. While this is certainly a concern for distributed EV chargers, it could also affect large depots that may have upwards of 100 individual pieces of charging property. Rather than having taxpayers repeatedly submit the same materials, the IRS should allow a taxpayer to bundle projects of similar size and character at pre-registration and assign that bundle a pre-registration ID. This will enable Treasury to review bundled submissions concurrently as well as enable taxpayers to seamlessly sell credits in bundles to buyers with one ID thus streamlining implementation and improving access for eligible taxpayers.

Bundled pre-registration and review of qualified 30C projects would also reduce implementation burden on the IRS. The risk for administrative delays creates uncertainty for taxpayers at a time of major momentum behind transportation electrification. Earlier in 2023, a National Renewable Energy Laboratory (NREL) report found that “long-term market certainty grounded in accelerating consumer demand” is critical to meeting the President’s EV charging goals.³ Any possible delays in 30C project approvals would risk impeding demand if projects cannot be approved and thus delivered in a timely way.

The decentralized nature of alternative fuel infrastructure installations (relative to, for example, a single large advanced technology manufacturing facility) means streamlined implementation of the expanded 30C credit could improve the ability for taxpayers to monetize the credit and thus, tip many multi-property projects into financial feasibility. In order to reduce burden both on eligible taxpayers and the IRS itself, we recommend the IRS allow for a bundle of similar projects to be pre-registered to expedite review. Doing so would facilitate EV charging infrastructure build out, reduce administrative burden across the board, and create certainty for the qualified taxpayer.

ZETA and its members thank you for your attention to these comments and are available should you have any additional questions.

Sincerely,



Albert Gore
Executive Director
Zero Emission Transportation Association

² Public Law 96–511

³ <https://driveelectric.gov/files/2030-charging-network.pdf>

Appendix



**ZERO EMISSION
TRANSPORTATION
ASSOCIATION**

November 4, 2022

United States Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

SUBMITTED VIA [https:// www.regulations.gov](https://www.regulations.gov)
Docket No. IRS-2022-0046
ELECTRONIC MAIL TO: [regulations.gov](https://www.regulations.gov)

RE: REQUEST FOR COMMENTS ON IRS NOTICE 2022-47

The Zero Emission Transportation Association (ZETA) is an industry-backed coalition of member companies spanning the entire electric vehicle (EV) supply chain. Together with its members, ZETA advocates for 100% EV sales by 2030. ZETA is committed to enacting policies that drive EV adoption, create hundreds of thousands of jobs, drastically improve public health, and significantly reduce carbon pollution.

The tax credits provided in the Inflation Reduction Act, specifically 26 U.S.C. § 48C and § 45X, are critical to many ZETA members and will help ensure the continued availability of products necessary for a fully-electrified transportation sector. ZETA thanks the Biden Administration in advance for considering the following comments on these two sections.

Advanced Manufacturing Production Credit—Section 45X

Definitions

ZETA requests clarification that eligible components may be sold to an unrelated taxpayer if that unrelated taxpayer purchases eligible components for incorporation into a final consumer product. For example, if a taxpayer produces a qualified battery component and incorporates that component into an EV that the taxpayer also manufactures and later sells to an unrelated person, the taxpayer should be entitled to claim a Section 45X credit. Such an interpretation is consistent with the structure of the credit, as it is similar to the credit availability when eligible components are integrated, incorporated, or assembled into other eligible components. Relatedly, “integrated,” “incorporated,” or “assembled” must be defined, and should be deemed to occur when a component is added to an eligible component and is necessary to that eligible component’s function.

In addition to these definitions, ZETA requests further guidance on the capacity-to-power ratio in 45X(b)(4). Battery cell and battery module capacity should be measured at the level of the component,

rather than at its end-use capacity. Such questions are of critical importance to ZETA members, who need certainty so they can be in full compliance.

ZETA believes that any further guidance on what constitutes an eligible technology should be broad. Since the guidance also relates to critical minerals, the definition of purity should also be broad and should include additional guidance around purity percentages for “applicable critical materials” so that taxpayers can establish a baseline for comparing their technology’s emissions reduction.

As the U.S. wants to develop a strong production of critical minerals, ZETA believes that domestic miners of critical minerals should be allowed to claim the § 45X credit with respect to their costs of production to the extent the minerals are later processed or refined by another party to the requisite purity level. There should be an appropriate adjustment to ensure that the credit is not claimed more than once with respect to the same costs.

ZETA members have established frameworks for rigorous, routine analysis and evaluation of their critical minerals and the “Vendor Certificate of Analysis” should suffice as documentation taxpayers are required to maintain. No third-party verification is required by statute, nor should Treasury and the IRS impose one. To determine the credit amount for critical minerals, Treasury must define production costs, and the definition should include all costs incurred by the taxpayer such as extracting, refining, processing and recycling.

Eligible Technologies

Section 45X applies when the taxpayer has produced an eligible technology, but is silent on the issue of recycling. Treasury should clarify the Section to include production through recycling, and define production costs given its near-identical usefulness compared to virgin materials, lower environmental impact, and capacity to reduce reliance on foreign sources. Further, ZETA recommends that recycled battery inputs should receive equal treatment to virgin materials. This interpretation is consistent with other credits contained in the Inflation Reduction Act, such as the Clean Vehicle Tax Credit under Section 30D and the Advanced Energy Project Credit under Section 48C, discussed below.

When sales occur to related persons, Treasury should require that taxpayers track such information to ensure that there is no duplication and maintain records. ZETA members already have the capacity to track their compliance with the tax credit requirements and maintain existing frameworks to inform where and how they source components.

Qualifying Advanced Energy Project Credit—Section 48C

Like many, ZETA is anxious for Treasury and the IRS to release the Section 48C program and is excited about its potential to fund critically-important projects. We encourage the agencies to issue clear guidance and expectations on the application and certification process—not only by setting deadlines for taxpayers but also by setting deadlines by which agencies will make determinations. Certainty with respect to timing will allow taxpayers to plan and make informed investment decisions.

We ask that Treasury release supportive documentation that explains program requirements and specific data points it requests for 48C project applications, specifically a clear map featuring where “energy communities” are located across the country. We also request that Treasury ensure there is a process available to stakeholders to seek clarification and ask for technical support when applying. Many companies are ascendant or are otherwise new U.S. market entrants that are new to U.S. federal agencies, processes and requirements; having resources available to stakeholders to ease these learning curves will help increase access to the program from a plethora of industries.

Similarly, to the extent Section 48C requires that organizations meet certain metrics to qualify, Treasury and IRS should work with the Environmental Protection Agency (EPA) and DOE to determine those metrics. For example, EPA and DOE already have several calculators that demonstrate greenhouse gas reductions from EVs. These include the [greenhouse gas equivalencies calculator](#), [fact sheet on greenhouse gas emissions from a typical passenger vehicle](#), and the [fuel economy calculator](#). Finally, we encourage Treasury and IRS to release proposed metrics as a draft for public comment to allow stakeholders to give technical feedback. The industries and technologies eligible to apply for this credit are extremely diverse; while some metrics may be appropriate for any number of applicants, there may be unintended consequences that lock others out of the program or put them at a competitive disadvantage. Allowing time for public comment on proposed metrics will help flag any potential issues and how they may impact some industries’ ability to access this incentive.

Section 48C(c)(1)(A)(ii) allows funding of projects that re-supply an industrial or manufacturing facility with equipment designed to reduce greenhouse gas emissions by at least 20%. How this is measured is critical: in particular, Treasury should establish a “baseline” for comparing environmental waste reductions and should define “reduction in waste from industrial process.” Taxpayers should also be allowed to use projections during their application. Moreover, Treasury and the IRS should clarify that this provision includes any and all industrial and manufacturing facilities.

Treasury should consider including “second-life batteries” within the definition of new types of energy property under the 48C tax credit. Second-life applications are already being used for short-term energy storage by utilities and businesses to assist with grid modernization and climate resiliency efforts. Specifically, ZETA encourages IRS to recognize that second-life batteries that are re-used in energy storage systems are considered “new energy property” for the purpose of the manufacturing tax credit section.

Under Section 48C, taxpayers have limited time to place the facility in service or face revocation. ZETA requests additional clarity surrounding the timing for revocations and encourages flexibility in the revocation process. In many cases, factors outside of a taxpayer’s control like supply chain disruptions, permitting delays, or unexpected events can prevent the taxpayer from placing the project into service. Providing this flexibility to previously-vetted projects will also ease the burden of having to conduct numerous allocation rounds. ZETA recommends that Treasury and IRS issue guidance on what exceptions, additional time, or assistance it can grant, if any, to taxpayers affected by delays outside of their control.

Finally, in addition to prioritizing energy communities, Treasury and IRS should consider other categories of projects for prioritization during the application process. For example, ZETA encourages Treasury and the IRS to consider the importance of setting aside dedicated funding for transportation projects. Reducing transportation-sector emissions is a straightforward pathway to making rapid progress toward our overall emissions reductions goals. Transportation is the single largest source of greenhouse gas emissions throughout all economic sectors, and encouraging widespread adoption of available EV technology will speed our progress in this space and is consistent with several of President Biden's Executive Orders.

ZETA and its members thank you for your attention to these comments and are available should you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Britton', with a stylized flourish at the end.

Joe Britton
Executive Director
Zero Emission Transportation Association



December 3, 2022

United States Department of Treasury

1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

SUBMITTED VIA [https:// www.regulations.gov](https://www.regulations.gov)

Docket No. IRS-2022-56

ELECTRONIC MAIL TO: [regulations.gov](https://www.regulations.gov)

RE: REQUEST FOR COMMENTS ON IRS NOTICE 2022-56

The Zero Emission Transportation Association (ZETA) is an industry-backed coalition of member companies spanning the entire electric vehicle (EV) supply chain. Together with its members, ZETA advocates for 100% EV sales by 2030. ZETA is committed to enacting policies that drive EV adoption, create hundreds of thousands of jobs, drastically improve public health, and significantly reduce carbon pollution.

The tax credits provided in the Inflation Reduction Act, specifically 26 U.S.C. § 30C and § 45W, are critical to many ZETA members and will help ensure the continued availability of products necessary for a fully-electrified transportation sector. ZETA thanks the Biden Administration for considering the following comments on these two sections.

Section 45W: Qualified Commercial Clean Vehicles Credit

- 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?**

Defining a comparable vehicle for Vehicle Classes 1-3 (those under the 14,000 lb weight limit) is complicated, as numerous vehicles are categorized under each greenhouse gas regulation division. To address this complexity, ZETA recommends that all Class 1-3 vehicles receive the maximum incremental cost credit of \$7,500 at a flat rate. This will allow IRS to easily administer the program, support more EV deployment, and prevent OEMs from having to complete onerous incremental cost justifications.

While developing an appropriate mechanism to determine comparable vehicles for Class 4-8 vehicles (those over 14,000 lbs), we ask that Treasury work with corresponding federal agencies to create a public database with frequent, scheduled updates. When configuring the database,

ZETA requests that Treasury ask manufacturers to identify an appropriate comparable vehicle and submit the available purchase price to Treasury for consideration. For example, a taxpayer seeking a qualified clean vehicle should be able to determine the comparable vehicle by obtaining a base price quote, or through a self-certified manufacturer quote in cases where there is no comparable vehicle in a model year. Also, ZETA would like to note that a weight comparison alone is not an accurate metric for analyzing clean vehicles against their internal combustion engine (ICE) corollaries: EVs of the same style and intended use-case are often heavier than a comparable ICE vehicle due to the battery pack.

As it relates to identifying the price of such comparable vehicles, ZETA recommends that Treasury use existing state-based frameworks when formulating comparable costs—for example, [California’s Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project \(HVIP\)](#) or [NYSERDA’s Truck Voucher Program](#). Similar to the issue of using weight alone as a metric, comparing ICE and EV commercial vehicles is not always straightforward; in many cases, commercial vehicles are custom-built for fleet customers. As a result, accurate comparisons must be made in a way that provides a variety of models to benchmark against. Where clear comparables do not exist from the vendor/manufacturer, ZETA recommends determining “comparable size and use” if the vehicles have substantially the same body configuration, functional capacity based on volumetric and payload capacity, and intended use.

- 2. 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?**

ZETA urges Treasury to require that IRS maintain a robust database of information regarding the taxpayer claiming a tax credit and to track vehicle identification numbers (VINs) to avoid duplication.

- 3. 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)?**

As required by statute, manufacturers who meet the definition of “qualified manufacturer” in 30D(d)(3), referenced in 30D(d)(1)(C), should also be considered qualified manufacturers for the purposes of Section 45W. ZETA also asks for clarification if qualified manufacturers may include those who retrofitted internal combustion vehicles to clean vehicles. In the case of retrofitted internal combustion vehicles, the VIN would not be an adequate tool to determine eligibility. Broad definitions of qualified manufacturers will grant taxpayers a wider variety of options to meet sustainability goals and reduce operating costs while accelerating transportation electrification.

4. **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?**

ZETA urges Treasury to interpret the phrase “significant extent” to describe a vehicle that can operate solely on electric battery power at any time during its operation. Such an understanding will ensure that battery-powered vehicles models will qualify for the credit.

Section 30C: Alternative Fuel Vehicle Refueling Property Credit

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?**

ZETA requests additional clarification with respect to this definition given its importance to calculating the amount of the section 30C credit. In particular, we urge Treasury to institute a broad definition of any such item to include any electric vehicle supply equipment (EVSE) that may need to be upgraded as the technology improves. Furthermore, Electric Vehicle Service Providers (EVSPs) face costs that are critical to installation projects even as they may be indirectly related to vehicle charging.

ZETA encourages Treasury to clarify that the definition includes all EVSE infrastructure that is essential and integral to the operation of the energy dispenser (discussed in more detail below), which can include items such as concrete pads, lighting, solar power generation, and batteries. Similar to Notice 2007-43, ZETA also urges Treasury to clarify that the language covers all costs required to be capitalized under federal tax principles, including indirect costs and the cost of installing the energy dispenser. Finally, we urge Treasury to institute a broad definition that includes EVSE capable of modifying an existing energy dispenser, as this is a technology that may be put in service in the future.

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?**

Treasury should define “single item” uniformly with the definition of “port” in the Infrastructure Investments and Jobs Act’s National Electric Vehicle Infrastructure (NEVI) Formula Program’s proposed minimum standards. Under the proposal, a charging port is defined “as the system within a charger that charges one EV. A charging port may have multiple connectors, but it can only provide power to charge [a single EV through one connector at a time.](#)” In the case of a charging unit with two co-located energy dispensers or connectors which can simultaneously charge two vehicles, we encourage Treasury’s guidance to consider these as two distinct single

items. Some equipment and infrastructure can be shared by two or more energy dispensers or connectors. For example, a location with multiple energy dispensers can be powered by the same equipment used to power the dispensers themselves. The definition of "port" under the NEVI Formula Program includes all upstream equipment and infrastructure and, in the case of shared items, the cost is divided amongst the ports it serves. ZETA urges the same approach under section 30C. Under this definition, the costs of shared infrastructure and equipment would be allocated to each charging port for the purpose of calculating the credit amount. This definition of "single item" also allows flexibility for variations in site and design characteristics. ZETA also urges Treasury to consider how it can future-proof its useability to apply to future technological developments while defining this term.

Furthermore, we ask that Treasury define the credit allocation to include customer-funded equipment or utility system upgrades required to install one or more charging stations measured by one meter.

- 2. 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?**

Bidirectional charging equipment is an emerging technology and will develop over time; as such, any definition formulated should be flexible. Treasury should affirm, for example, that bidirectional charging equipment includes—but is not limited to—equipment that charges a motor vehicle's battery, whether onboard the vehicle or stationary, even if such equipment can also be used to export electricity from a motor vehicle's battery for other beneficial uses.

- 3. Section 30C(e)(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?**

ZETA urges Treasury to provide a public, interactive map, accompanying list, and other necessary information so taxpayers can easily identify the location of eligible census tracts. Specifically, taxpayers should be able to enter an address and quickly determine if the location qualifies. Under the information available through a provided map, we request that Treasury share clear eligibility criteria for the census tract requirements. The information provided to the taxpayer should not restrict a taxpayer from making their own determination of an eligible census tract qualification based on tax return findings and must be made available as soon as possible given Section 30C's effective date.

Treasury must also clarify the definition of eligible census tracts as it relates to urban areas. The statute defines an eligible census tract as any population census tract which is not an urban area. However, the Secretary of Commerce designates urban or rural areas by census blocks, not census

tracts. In other words, a census tract can have many blocks, both urban and rural. The definition of eligible census tracts as it relates to urban areas is critical, as it will significantly impact how many taxpayers can access the tax credit. Unfortunately, the Secretary of Commerce has not yet released the results of its most recent decennial census. This release is expected this month.

The most recent designations of urban areas from the Secretary of Commerce are from 2010, making them outdated. Moreover, the Department of Commerce changed its 2010 methodology for determining which areas to designate as urban in 2020, so we request that Treasury use data from the forthcoming 2020 report to calculate an appropriate percentage threshold within a census tract to determine eligibility. Ultimately, ZETA encourages regulatory approaches that are supported by the statute and meet the legislative intent of incentivizing widespread charging infrastructure and maximizing access to the credit. However, until the 2020 data is released, it is difficult to make a specific recommendation on the most appropriate interpretation to be used in determining whether a census tract is urban.

Finally, ZETA urges Treasury to clarify whether the eligible census tract restriction applies to residential vehicle refueling property and urges flexibility designed to encourage residential charging.

Conclusion

ZETA appreciates the opportunity to provide this important feedback and stands ready and able to assist the Treasury and the IRS as they work through the guidance process on the qualified commercial clean vehicle credit and the alternative fuel vehicle refueling property credit.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Britton', with a stylized flourish at the end.

Joe Britton
Executive Director
Zero Emission Transportation Association