



**ZERO EMISSION
TRANSPORTATION
ASSOCIATION**

May 3, 2023

The Honorable Janet Yellen
Secretary
United States Department of Treasury

Mr. Gabe Klein
Executive Director
Joint Office of Energy and Transportation

Re: Implementation of Section 30C: Alternative Fuel Vehicle Refueling Property Credit

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. 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 (IRA), specifically the Alternative Fuel Vehicle Refueling Property Credit, 26 U.S.C. § 30C, 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-Harris Administration for considering the following comments that would help ensure the successful implementation of the Alternative Fuel Vehicle Refueling Property Credit (30C).

With the shared goal of accelerating the deployment of alternative fueling infrastructure, ZETA urges the Department of the Treasury, the Internal Revenue Service (the Department), and the Joint Office of Energy and Transportation to provide relief from the geographic targeting requirement for taxpayers planning to claim the tax credit for alternative fuel vehicle refueling property under IRC Sec. 30C. Specifically, we request the Department waive geographic requirements for non-business taxpayers and provide a transition period for business taxpayers before the rule is enforced.

As discussed in detail below, both of these requests are well-grounded in IRS precedents, will eliminate a significant and unworkable compliance burden on individuals, and align the business credit with the intent of the law – to encourage deployment of eligible 30C property.

Non-Business Taxpayers:

Access to charging infrastructure is consistently considered one of the primary barriers to increased electric vehicle adoption—with access to home charging a key factor in whether

consumers feel comfortable to transition to electric vehicles.¹ For individuals, the 30C tax credit plays an outsized role in driving the transition to light-duty electric vehicles in the U.S., as it is the primary incentive for home charging deployment. The consumer-friendly nature of the 30C tax credit is critical to the Administration's goal of deploying 500,000 chargers – and its simplicity must be preserved.

ZETA is not aware of non-business tax incentives being limited geographically in a similar fashion to section 30C and believe such a limitation will undermine the goal of the IRA and of the tax credit in incentivizing home charging. Taxpayers should not be limited to the section 30C credit based on where they live or be strapped with the burden of determining whether they live in an eligible census tract. Waiving such a requirement for individual taxpayers is well within the regulatory authority and has been done before in the implementation of new laws.

The Department should not assume that individual non-business taxpayers will determine their 30C eligibility before making a purchase at a retailer. Practically, this could result in taxpayers being surprised during tax filing season when they find out that they were ineligible for a tax credit, after installing infrastructure, because of residency requirements. When examined in the context of other IRA provisions, it simply makes no sense for a taxpayer to receive a tax credit for purchasing an electric vehicle under Section 30D only to find out that they cannot charge their vehicle at home because they do not live in an eligible location under 30C.

Recently, the IRS granted transition relief on the new 6050W threshold. Like 30C, the new threshold for 6050W was more restrictive than prior law, and significant new compliance burdens were imposed that will take time for taxpayers to learn and implement. We believe that the case for relief is even stronger in 30C because, unlike in the case of 6050W, the requirement in 30C is new and not just tightening an existing requirement, and the IRS itself will need to build out a tool to assist taxpayers.

While we know that 30C references the New Markets Tax Credit (NMTC), it is more appropriate to expect a sophisticated business taxpayer to determine their census tract qualification in the case of a targeted, competitive program such as the NMTC. The 30C is a credit-by-right program where an individual is seeking a relatively modest \$1,000 tax credit. Even if the mapping tool is easily accessible and included in software e-filing systems, many taxpayers are unlikely to access such a tool assuming the investment in the refueling property is located in a qualifying census tract. For these reasons, the location limitation in 30C for non-business taxpayers should be waived entirely.

¹ <https://www.nrel.gov/docs/fy22osti/81065.pdf>

If the Department cannot waive this requirement for individual taxpayers, the Department should provide a transition rule, and we would recommend starting with a pilot program to determine taxpayer compliance with the new requirement. The Department should also ensure that software providers for electronic filing can incorporate the mapping tool into their systems. We submit that an effective transition would also include an information campaign that would allow the Department to work with software providers and inform the public of this new requirement. The Department has a history of providing transition relief to individuals and small businesses when a new compliance burden will take time for those acting in good faith to meet.

Business Taxpayers

While data from the most recent 2020 decennial census has been released, the industry is awaiting guidance on which tracts are eligible, consistent with what the Department has done for other credits.² This makes it impossible for commercial charging owners to determine with confidence which installations qualify for the credit and to comply with prevailing wage and apprenticeship rules to receive the full credit. Given these issues, and the time that has passed since these new rules were effective, we ask the Department and IRS to provide a transition rule under which the eligible census tracts can be reviewed, and stakeholders can provide input. Specifically, the Department and IRS should deem investments in alternative fuel refueling property in compliance with the eligible census tract requirement until the IRS has incorporated low-income data and rural area data into a list of eligible tracts and a mapping tool available to taxpayers and stakeholder input has been considered.

The Department has a clear history of providing transition relief for businesses. After the enactment of the Affordable Care Act (ACA), the Department issued a final rule that provided transition relief for certain employers. Of relevance was the portion of the rule that waived the employer penalty in 2015 for employers with fewer than 100 full-time employees, reflecting a policy concern about smaller employers with fewer technical and/or financial resources to meet their new compliance burden.

“The ACA, as written, required that the employer shared responsibilities begin to be implemented in 2014. However, the IRS delayed the employer mandate implementation until 2015. There were up to three forms of transition relief available for employers in 2015. First, large employer status determination was allowed to have a measurement period as short as six consecutive months. Second, there was an additional year to expand the 2015 health plans to include dependent coverage. Finally, for employers with fewer than 100 FTEs, the ACA employer penalty did not apply in 2015.” (Congressional Research

² IRS [Notice 2023-29](#) included a list of qualifying census tracts for the “energy community” designation under the Section 48 ITC.

Service, The Affordable Care Act's (ACA) Employer Shared Responsibility Determination and the Potential Employer Penalty. Updated April 22, 2016).

This request is also justified by more recent Department guidance. The Department provided a similar transition rule³ for the Clean Vehicle Tax Credit, where vehicles were presumed eligible for the 30C tax credit while developing more detailed implementation guidance. We suggest that the same framework should apply to 30C to ensure maximum credit uptake and avoid delays in investments due to uncertainty around geographic restrictions.

Non-urban Census Tracts

We ask the Department also to 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. ZETA encourages regulatory approaches that are supported by the statute and meets the legislative intent of incentivizing widespread charging infrastructure and maximizing access to the credit.

Thank you for your consideration on this urgent matter.

Sincerely,



Albert Gore
Executive Director
Zero Emission Transportation Association (ZETA)

³ <https://home.treasury.gov/news/press-releases/jy1179>