Part III - Administrative, Procedural, and Miscellaneous

Section 45W Credit for Qualified Commercial Clean Vehicles and Incremental Cost for 2025

Notice 2025-9

# **SECTION 1. PURPOSE**

This notice provides safe harbors regarding the incremental cost and retail price equivalent (RPE) of certain qualified commercial clean vehicles for purposes of the credit for qualified commercial clean vehicles under section 45W of the Internal Revenue Code (Code).<sup>1</sup>

## **SECTION 2. BACKGROUND**

.01 Section 13403(a) of Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022, added section 45W to the Code to allow a credit for qualified commercial clean vehicles (section 45W credit). The section 45W credit is effective for vehicles acquired after December 31, 2022, and before January 1, 2033.

.02 For purposes of the General Business Credit under section 38 of the Code, section 45W(a) allows a taxpayer to claim a credit for the acquisition of each qualified

<sup>&</sup>lt;sup>1</sup> Unless otherwise specified, all "section" or "§" references are to sections of the Code.

commercial clean vehicle, as defined in section 45W(c), placed in service by the taxpayer during the taxable year. The amount of the section 45W credit allowed for each qualified commercial clean vehicle is the lesser of (1) 15 percent of the taxpayer's basis in the vehicle (30 percent in the case of a vehicle not powered by a gasoline or diesel internal combustion engine), or (2) the incremental cost of the vehicle. *See* section 45W(b)(1). Under section 45W(b)(4), the maximum credit allowed is \$7,500 for a qualified commercial clean vehicle that has a gross vehicle weight rating (GVWR) of less than 14,000 pounds, and \$40,000 for all other vehicles.

.03 Section 45W(b)(2) provides that the incremental cost of any qualified commercial clean vehicle is the excess of the purchase price of such vehicle over the purchase 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. *See* § 45W(b)(3).

.04 On January 17, 2023, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) published Notice 2023-9, 2023-3 I.R.B. 402, which provides a safe harbor for purposes of the section 45W credit regarding the incremental cost of certain qualified commercial clean vehicles placed in service in calendar year 2023, based on a December 2022 incremental cost analysis by the U.S. Department of Energy (DOE) across classes of clean vehicles (DOE Analysis).<sup>2</sup> The DOE Analysis modeled the costs of representative clean vehicles and comparable

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<sup>&</sup>lt;sup>2</sup> U.S. Department of Energy, "2022 Incremental Purchase Cost Methodology and Results for Clean Vehicles," December 2022, available at <u>https://www.energy.gov/sites/default/files/2022-</u> 12/2022.12.23%202022%20Incremental%20Purchase%20Cost%20Methodology%20and%20Results%2 0for%20Clean%20Vehicles.pdf.

internal combustion engine vehicles. For this purpose, clean vehicles included battery electric, plug-in hybrid electric, and fuel cell electric vehicles.

.05 On January 8, 2024, the Treasury Department and the IRS published Notice 2024-5, 2024-2 I.R.B. 347, which provides a safe harbor for purposes of the section 45W credit regarding the incremental cost of certain qualified commercial clean vehicles placed in service in calendar year 2024, based on the DOE Analysis updated to incorporate minor modifications in December 2023.<sup>3</sup> The minor modifications did not change the results of the analysis conducted in December 2022. Notice 2024-5 also requested comments regarding additional types or classes of vehicles that should be included in the safe harbor in the future. The Treasury Department and the IRS received comments in response to Notice 2024-5 and carefully considered them.

.06 The DOE updated the DOE Analysis in a report published in January 2025 to incorporate further modifications (DOE's January 2025 Report).<sup>4</sup> First, the DOE's January 2025 Report updates the analysis of component and vehicle manufacturing costs, including refinements to the approach previously employed for determining an incremental purchase cost for battery electric, plug-in hybrid electric, and fuel cell electric vehicles. Second, the DOE's January 2025 Report expands medium- and heavy-duty vehicle classes previously analyzed and updates results based on current

<sup>3</sup> U.S. Department of Energy, "Incremental Purchase Cost Methodology and Results for Clean Vehicles," originally published December 2022 and amended December 2023, available at <u>https://www.energy.gov/sites/default/files/2023-</u> 12/2023.12.18%20Incremental%20Purchase%20Cost%20Methodology%20and%20Results%20for%20Cl ean%20Vehicles%20pub%2012-2022%20amd%2012-2023%20Final\_2.pdf.

<sup>4</sup> U.S. Department of Energy, "2025 Incremental Purchase Cost Methodology and Results for Clean Vehicles," January 2025, available at <u>https://www.energy.gov/sites/default/files/2025-</u>01/2025.01.13 DOE Incremental Cost Report for publication.pdf.

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costs of technology. These modifications changed the results of the analysis conducted in December 2022 and updated in December 2023.

.07 In addition to modeled incremental costs, the DOE's January 2025 Report explicitly identifies the RPEs used in the DOE Analysis, that is, the factors applied to the component and vehicle manufacturing costs to account for additional indirect costs and profits when modeling the incremental cost of a class of vehicle. In cases where taxpayers do not rely on modeled incremental cost safe harbors (which in every case already incorporate the appropriate RPE), taxpayers may use the RPEs provided in the DOE's January 2025 Report to determine incremental cost.

.08 On January 14, 2025, the Treasury Department and the IRS published a notice of proposed rulemaking that contains proposed regulations issued under section 45W (REG-123525-23) in the *Federal Register* (proposed regulations), 90 FR 3506.

### **SECTION 3. SAFE HARBORS**

#### .01 Incremental cost of a qualified commercial clean vehicle.

(1) The DOE's January 2025 Report provides a modeled incremental cost analysis based on current costs across several classes of clean vehicles. For any qualified commercial clean vehicle not previously placed in service by another person or entity, the IRS will accept a taxpayer's use of the modeled incremental cost published in table ES-2 in the DOE's January 2025 Report for the appropriate class of clean vehicle to establish the incremental cost of a qualified commercial clean vehicle placed in service by the taxpayer on or after January 1, 2025. An incremental cost established under this section 3.01(1) is used to identify the lesser of (1) 15 percent of the taxpayer's basis in the vehicle (30 percent in the case of a vehicle not powered by a gasoline or diesel

internal combustion engine), or (2) the incremental cost of the vehicle for purposes of section 45W(b)(1).

(2) For any gualified commercial clean vehicle previously placed in service by another person or entity, the IRS will accept a taxpayer's application of the modeled incremental cost of the qualified commercial clean vehicle when new, as determined by reference to the IRS safe harbor guidance that corresponds to the model year of such vehicle,<sup>5</sup> to the rules found in proposed §1.45W-2(f) of the proposed regulations to establish the incremental cost of such qualified commercial clean vehicle. Proposed §1.45W-2(f)(1) provides that the incremental cost of a qualified commercial clean vehicle previously placed in service by another person or entity is the product of the incremental cost of the gualified commercial clean vehicle (that is, the incremental cost of such vehicle when new) and the residual value factor that corresponds to the age of the qualified commercial clean vehicle as described in that section. An incremental cost established under this section 3.01(2) is used to identify the lesser of (1) 15 percent of the taxpayer's basis in the vehicle (30 percent in the case of a vehicle not powered by a gasoline or diesel internal combustion engine), or (2) the incremental cost of the vehicle for purposes of section 45W(b)(1). A taxpayer may use the safe harbor in this section 3.01(2) with respect to any qualified commercial clean vehicle placed in service by the taxpayer after December 31, 2022.

.02 *Retail price equivalent*. The DOE's January 2025 Report provides the RPEs used by the DOE for purposes of modeling incremental cost across several classes of

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<sup>&</sup>lt;sup>5</sup> For example, the safe harbor incremental cost of a model year 2023 vehicle is determined by reference to Notice 2023-9, and the safe harbor incremental cost of a model year 2024 vehicle is determined by reference to Notice 2024-5.

clean vehicles. In cases where taxpayers do not use a modeled incremental cost safe harbor, such as those provided in section 3.01 of this notice, the IRS will accept taxpayers' use of the RPEs published in table 4 of the DOE's January 2025 Report for the appropriate class of clean vehicle to calculate the incremental cost of qualified commercial clean vehicles. A taxpayer may use the safe harbor in this section 3.02 with respect to any qualified commercial clean vehicle placed in service by the taxpayer after December 31, 2022.

## **SECTION 4. EFFECT ON OTHER DOCUMENTS**

Section 3.01(2) of this notice clarifies the application of the guidance provided in Notice 2023-9 and Notice 2024-5 to qualified commercial clean vehicles previously placed in service by another person or entity. Section 3.02 of this notice amplifies Notice 2023-9 and Notice 2024-5 by providing that the RPEs published in the DOE's January 2025 Report may be used to calculate the incremental cost of qualified commercial clean vehicles placed in service by taxpayers after December 31, 2022.

### **SECTION 5. EFFECTIVE DATE**

This notice is effective on January 15, 2025, and will remain in effect through the day before the effective date of superseding guidance published in the IRB or the *Federal Register*.

#### **SECTION 6. DRAFTING INFORMATION**

The principal author of this notice is the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax). However, other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this notice contact Chief Counsel at (202) 317-5254 (not a toll-free call).