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## Part III – Administrative, Procedural, and Miscellaneous

### Section 45W Commercial Clean Vehicles and Incremental Cost for 2023

Notice 2023-9

#### **SECTION 1. PURPOSE**

This notice provides 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 § 45W of the Internal Revenue Code (Code).<sup>1</sup>

#### **SECTION 2. BACKGROUND**

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

For purposes of § 38, § 45W(a) allows a taxpayer a § 45W credit for the purchase of each qualified commercial clean vehicle, as defined in § 45W(c), placed in service by the taxpayer during the taxable year. The amount of the § 45W credit for each qualified commercial clean vehicle is the *lesser* of (1) 30 percent of the taxpayer's

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

basis in the vehicle in the case of a vehicle not powered by a gasoline or diesel internal combustion engine (15 percent in any other case), or (2) the incremental cost of the vehicle. See § 45W(b)(1). Under § 45W(b)(4), 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. See § 45W(b)(3).

A qualified commercial clean vehicle under § 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 § 4053(8).

The Department of the Treasury (Treasury Department) has reviewed an incremental cost analysis of current costs by the Department of Energy (DOE) across classes of street vehicles (DOE Analysis).<sup>2</sup> The DOE Analysis modeled the costs of representative commercial clean vehicles and comparable internal combustion engine vehicles. Results of the DOE Analysis show that the modeled incremental cost of all

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<sup>2</sup> [www.energy.gov/node/4825009/](http://www.energy.gov/node/4825009/)

street vehicles, other than compact car PHEVs,<sup>3</sup> that have a gross vehicle weight rating of less than 14,000 pounds will be greater than \$7,500 in calendar year 2023.

### **SECTION 3. SAFE HARBOR**

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 the Internal Revenue Service (IRS) will accept a taxpayer's use of the incremental cost published in the DOE Analysis to calculate the § 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 the 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 § 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 § 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

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<sup>3</sup>Compact cars are defined as those with an interior volume index of less than 110 cubic feet, and for the purpose of the DOE analysis also include minicompact cars, subcompact cars, and compact cars as described in 40 CFR 600.315-08(a)(1)(ii), (iii), and (iv). 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. See § 45W(b)(1) and (c).

calculate the § 45W credit amount for vehicles placed in service during calendar year 2023.

#### **SECTION 4. DRAFTING INFORMATION**

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