The IRA's commercial EV tax credits

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Once-in-a-decade energy tax bill

- $369 billion for clean energy overall between grants and tax credits
- Approved by Congress last August
- Most provisions went into effect January 1, 2023
- Most provisions have a ten-year lifespan

Top Commercial EV provisions:

- Creates a 30% commercial EV tax credit
- Long-sought reforms to the Sec. 30C Alternative Fuel Vehicle Refueling Property tax credit (and some that weren't so welcome)
- Storage Investment Tax Credit

The Sec. 45W Commercial Clean Vehicle tax credit

- A new tax credit
- Effective January 1, 2023, through January 1, 2032.
- 30% corporate tax credit
- Capped at:
  - $7,500 for vehicles weighing less than 14,000 pounds,
  - $40,000 for vehicles weighing more than 14,000 pounds, and
  - The price difference between the electric vehicle and a comparable ICE vehicle
- Treated like a refundable tax credit for domestic tax-exempt entities
- *Not* transferable
- Mobile machinery is eligible

Determining the price difference between and EV and a comparable ICE vehicle

Interaction with federal grants and rebates

- State and federal grants and rebates will likely be deducted from the basis for taking Sec. 45W, but it's not entirely clear
- If grants and rebates are not deducted, the IRS will need to determine tax implications for non-taxable entities

Leased vehicle loophole

- Leased vehicles qualify for Sec. 45W
- Creates a loophole in the Sec. 30D tax credit's restrictions related to:
    - Income and MSRP caps
    - Domestic assembly
    - Country of origin of battery and components

The Sec. 30C basics

- The Alternative fuel vehicle refueling property credit / “the Alternative Fuel Infrastructure tax credit” / “30C”
- 30% commercial investment tax credit
- Virtually unusable in its previous form
  - Capped at $30K per site
  - Frequent sunsets

30C starting January 1, 2023

- Extended through December 31, 2032
- Caped at $100K *per charger* (cap kicks in at $333K installed cost)
- Must be in a low-income or non-urban census tract to qualify
- Must satisfy prevailing wage and apprenticeship requirements to receive full credit
- Treated like a refundable tax credit for domestic tax-exempt entities
- Transferable to any company with commercial tax liability

What expenses are eligible?

- All cost integral to the functioning of the charger
- Construction costs
- Real estate / land costs are *not* covered
- IRS must determine what constitutes a “single item”
- IRS must determine what costs are integral

Interaction with federal grants and rebates

- State and federal grants and rebates will likely be deducted from the basis for taking Sec. 30C, but it’s not entirely clear
- If grants and rebates are not deducted, the IRS will need to determine tax implications for non-taxable entities

Low-income census tracts

- 2020 Census demographic data has been delayed, expected out in May
- IRS will have to rule on infrastructure that qualified under 2015 data and was installed in good faith
- Several mapping tools are available
  - 30C uses the same definition of low-income as the New Markets Tax Credit
  - Treasury Department's Community Development Financial Institutions Fund has an authoritiative mapping tool

"Non-urban" census tracts

- No such thing as urban and rural census tracts, only census blocks (drafting error)
- It will be up to the IRS and the Department of Commerce to create a definition

Storage

- Standalone storage (minimum 5 kWh capacity) added as a qualified technology to the Sec. 48 ITC and its successor tech-neutral zero-emission tax credit
- Must meet prevailing wage and apprenticeship requirements to receive the 30% ITC
- 10% bonus credits (up to 60%) available if project:
  - Meets domestic content requirements.
  - Is sited at a brownfield site or an “energy community”
  - Is sited in a low-income community (capped at 1.8 GW in 2023 and 2024 and zeroed out thereafter).
- Refundable for domestic tax-exempt entities
- Transferable for commercial entities.

Amendments to the 30D tax credit

- Removes the 200,000 vehicle per OEM cap.
- Effective through January 1, 2032.
- Vehicles must be assembled in the U.S.
- $3,750 tax credit for vehicles that meet escalating critical mineral requirements and another $3,750 for vehicles that meet escalating battery content requirements.
- Vehicle's MSRP must be below $80,000 for vans, SUVs, and pick-up trucks; and $55,000 for all other vehicles.
- To be eligible, the purchaser of the vehicle must have an adjusted gross income below $300,000 for a married couple filing jointly, $225,000 for a head of household, and $150,000 in any other case.
- Consumers may elect to have the tax credit applied at the point of sale.

Questions?

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