



## Frequently asked questions related to new, previously-owned and qualified commercial clean vehicle credits

FS-2022-42, December 2022

This Fact Sheet issues frequently asked questions related to new, previously-owned and qualified commercial clean vehicle.

These FAQs are being issued to provide general information to taxpayers and tax professionals as expeditiously as possible. Accordingly, these FAQs may not address any particular taxpayer's specific facts and circumstances, and they may be updated or modified upon further review. Because these FAQs have not been published in the Internal Revenue Bulletin, they will not be relied on or used by the IRS to resolve a case. Similarly, if an FAQ turns out to be an inaccurate statement of the law as applied to a particular taxpayer's case, the law will control the taxpayer's tax liability. Nonetheless, a taxpayer who reasonably and in good faith relies on these FAQs will not be subject to a penalty that provides a reasonable cause standard for relief, including a negligence penalty or other accuracy-related penalty, to the extent that reliance results in an underpayment of tax. Any later updates or modifications to these FAQs will be dated to enable taxpayers to confirm the date on which any changes to the FAQs were made. Additionally, prior versions of these FAQs will be maintained on [IRS.gov](http://IRS.gov) to ensure that taxpayers, who may have relied on a prior version, can locate that version if they later need to do so.

More information about [reliance is available](#). These FAQs were announced in [IR-2022-231](#).

### New clean vehicle credit, previously-owned vehicle credit and qualified commercial clean vehicles credit frequently asked questions

#### Background

The Inflation Reduction Act of 2022 (IRA) makes several changes to the tax credit provided in § 30D of the Internal Revenue Code (Code) for qualified plug-in electric drive motor vehicles, including adding fuel cell vehicles to the § 30D tax credit. The IRA also added a new credit for previously-owned clean vehicles under § 25E of the Code.

These FAQs provide detail on how the IRA revises the credit available under § 30D (new clean vehicle credit) for individuals and businesses, and information on the credit available under § 25E (previously-owned clean vehicle credit) for individuals, and the new credit for qualified commercial clean vehicles under § 45W of the Code.

- [Topic A: Eligibility Rules for the New Clean Vehicle Credit](#)
- [Topic B: Income and Price Limitations for the New Clean Vehicle Credit](#)
- [Topic C: When the New Requirements Apply to the New Clean Vehicle Credit](#)
- [Topic D: Eligibility Rules for the Previously-Owned Clean Vehicles Credit](#)
- [Topic E: Income and Price Limitations Previously-Owned Clean Vehicles](#)
- [Topic F: Claiming the Previously-Owned Clean Vehicles Credit](#)
- [Topic G: Qualified Commercial Clean Vehicles Credit](#)

#### Topic A: Eligibility Rules for the New Clean Vehicle Credit under § 30D effective 1/1/2023

##### **Q1. What is a new clean vehicle for purposes of the new clean vehicle credit? (added December 29, 2022)**

A1. For purposes of the new clean vehicle credit, a new clean vehicle is a clean vehicle placed in service on or after January 1, 2023, that is acquired by a taxpayer for original use. In addition, to qualify for the credit, the vehicle:

- Cannot be acquired for resale purposes;
- Must be manufactured by a qualified manufacturer;
- Must meet the definition of a motor vehicle under Title II of the Clean Air Act (that is, any vehicle manufactured primarily for use on public streets, roads, and highways. It must also have at least four wheels);



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- Must have a gross vehicle weight rating of less than 14,000 pounds;
- Must be powered to a significant extent by an electric motor with a battery capacity of 7 kilowatt hours or more and must be capable of being recharged from an external source of electricity; and
- Must have final assembly in North America.

Moreover, for a taxpayer to claim the credit, the seller of a new clean vehicle must provide a report containing taxpayer and vehicle information to the taxpayer and to the IRS. See [Topic B FAQs 7-9](#) for additional detail.

Fuel cell vehicles are also new clean vehicles if (1) the original use begins with the taxpayer, (2) the final assembly is in North America, and (3) the seller of the vehicle provides a report to the taxpayer and the IRS.

## **Q2. Is there a list of vehicles that qualify for the new clean vehicle credit? (added December 29, 2022)**

A2. Yes. The following link contains a list of eligible clean vehicles, including fuel cell vehicles, qualified manufacturers have indicated to the IRS meet the requirements to claim the new clean vehicle credit beginning January 1, 2023: [Clean Vehicle Qualified Manufacturer Requirements](#). This list will be updated to reflect changes in vehicle eligibility. Verification of the manufacturer's suggested retail price and final assembly is required, see Topic B FAQs [2](#) and [3](#).

## **Q3. How will I know if the final assembly of a new clean vehicle is in North America? (added December 29, 2022)**

A3. The final assembly point will be listed on the vehicle information label attached to each vehicle on a dealer's premises. In addition, you can search the vehicle identification number (VIN) of the vehicle on the [Department of Energy's Alternative Fuels Data Center website](#).

In general, North America includes the United States (defined, for this purpose to mean the 50 states, the District of Columbia, and Puerto Rico), Canada, and Mexico for purposes of determining the location of final assembly.

The VIN Decoder website for the National Highway Traffic Safety Administration (NHTSA) also provides final assembly location information. The website, including instructions, can be found at [VIN Decoder](#).

## **Q4. How will I know what the vehicle identification number (VIN) is for a new clean vehicle? (added December 29, 2022)**

A4. The vehicle identification number is a 17-character number that uniquely identifies a vehicle. It is permanently attached to a vehicle in several locations, appearing on the dashboard for most passenger vehicles and on the label located on the driver's door frame. The VIN is also located on the window sticker of new vehicles and often appears on the vehicle listing on dealers' websites.

## **Q5. If I order a new clean vehicle in one year and don't receive it until a subsequent year, when do I claim the credit? (added December 29, 2022)**

A5. The new clean vehicle credit is claimed in the tax year that the vehicle is placed in service, meaning the tax year that includes the date the taxpayer takes delivery of the vehicle.

## **Q6. What is the amount of the new clean vehicle credit? (added December 29, 2022)**

A6. Beginning January 1, 2023, eligible vehicles may qualify for a tax credit of up to \$7,500.

Until the day after the Treasury Department and the IRS issue proposed guidance on the critical mineral and battery component requirements of the new clean vehicle credit under § 30D, the credit is calculated as a \$2,500 base amount plus, for a vehicle which draws propulsion energy from a battery with at least 5 kilowatt hours of capacity, \$417, plus an additional \$417 for each kilowatt hour of battery capacity in excess of 5 kilowatt hours, up to an additional \$5,000 beyond the base amount. In general, the minimum credit amount will be \$3,751 (\$2,500 + 3 \* \$417), representing the credit amount for a vehicle with the minimum of 7 kilowatt hours of battery capacity.

Once the Treasury Department and the IRS issue the proposed critical mineral and battery component guidance later in 2023, additional requirements will change the amount of the credit (that is, an eligible vehicle may qualify for more or less credit than before). The credit amount will depend on the vehicle meeting the critical minerals requirement (\$3,750) and/or the battery components requirement (\$3,750). A vehicle meeting neither requirement will not receive a credit, a



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vehicle meeting only one requirement may be eligible for a \$3,750 credit, and a vehicle meeting both requirements may be eligible for the full \$7,500 credit. The Treasury Department and the IRS anticipate issuing the proposed guidance in March.

### **Q7. Is the new clean vehicle credit refundable or able to be carried forward? (added December 29, 2022)**

A7. No. The new clean vehicle credit may only be claimed to the extent of reported tax due of the taxpayer and cannot be refunded or carried forward.

### **Q8. What does “original use” mean? (added December 29, 2022)**

A8. For purposes of the new clean vehicle credit, “original use” means that the vehicle has never been used by any taxpayer for any purpose. A vehicle is not a new clean vehicle if another person has ever purchased or leased the clean vehicle and placed it in service for any purpose. Where a vehicle is acquired for lease to another person, the lessor is the original user.

### **Q9. What is a qualified manufacturer? (added December 29, 2022)**

A9. A qualified manufacturer is a manufacturer that enters into a written agreement with the IRS to file periodic reports with vehicle identification numbers (VINs) and other information for each vehicle they manufacture. The IRS maintains a list of qualified manufacturers that can be found at [Clean Vehicle Qualified Manufacturer Requirements](#).

### **Q10. Do I have to report the vehicle identification number on my return to claim the new clean vehicles credit? (added December 29, 2022)**

A 10. Yes. The vehicle identification number of the new clean vehicle is required to be included on [Form 8936, Qualified Plug-in Electric Drive Motor Vehicle Credit](#), when you file your income tax return.

## Topic B: Income and Price Limitations for the New Clean Vehicle Credit

### **Q1. Could my income level prevent me from taking the new clean vehicle credit? (added December 29, 2022)**

A1. Yes. You may not claim the credit if your modified adjusted gross income (AGI) exceeds certain thresholds. This limitation is based on the lesser of your modified AGI for the year that the new clean vehicle was placed in service or for the preceding year. The relevant modified AGI thresholds are as follows:

- Married filing jointly or filing as a qualifying surviving spouse or a qualifying widow(er) - \$300,000
- Head of household - \$225,000
- All other taxpayers - \$150,000

Your modified AGI is the amount from line 11 of your Form 1040 plus:

- Any amount on line 45 or line 50 of Form 2555, Foreign Earned Income.
- Any amount excluded from gross income because it was received from sources in Puerto Rico or American Samoa.

### **Q2. Are there any price limitations on new clean vehicles eligible for the credit? (added December 29, 2022)**

A2. Yes. The manufacturer’s suggested retail price (MSRP) for the new clean vehicle may not exceed the following amounts for the following vehicle types:

- Vans - \$80,000
- Sport Utility Vehicles - \$80,000
- Pickup Trucks - \$80,000
- Other - \$55,000

If the MSRP exceeds the limitation for that specific vehicle type, that vehicle is not eligible for the new clean vehicle credit.

The MSRP for this purpose is the base retail price suggested by the manufacturer, plus the retail price suggested by the manufacturer for each accessory or item of optional equipment physically attached to the vehicle at the time of delivery to the dealer. It does not include destination charges or optional items added by the dealer, or taxes and fees.



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The [Clean Vehicle Qualified Manufacturer Requirements](#) contains a list of eligible clean vehicles, including fuel cell vehicles, that qualified manufacturers have indicated to the IRS meet the requirements to claim the new clean vehicle credit beginning January 1, 2023.

**Q3. How will I know what the manufacturer's suggested retail price (MSRP) is for a vehicle? (added December 29, 2022)**

A3. The MSRP will be on the vehicle information label attached to each vehicle on a dealer's premises. The MSRP for this purpose is the base retail price suggested by the manufacturer, plus the retail price suggested by the manufacturer for each accessory or item of optional equipment physically attached to the vehicle at the time of delivery to the dealer. It does not include destination charges or optional items added by the dealer, or taxes and fees.

**Q4. Would I still qualify for the new clean vehicle credit if the purchase price, including sales tax, fees, negative equity on a trade, etc., exceeds the manufacturer's suggested retail price threshold? (added December 29, 2022)**

A4. The credit limitations on the price of the vehicle are based on manufacturer's suggested retail price, not the actual price you paid for the vehicle. See [FAQ 2](#) for how to determine the manufacturer's suggested retail price.

**Q5. If the manufacturer/dealer offers incentives on the purchase, and the total purchase price drops below the manufacturer's suggested retail price limitation, will the vehicle be eligible for the new clean vehicles credit? (added December 29, 2022)**

A5. The credit limitations on the price of the vehicle are based on manufacturer's suggested retail price (MSRP), not the actual price you paid for the vehicle. See [FAQ 2](#) for how to determine MSRP.

**Q6. How do I know if my vehicle is a truck, van, SUV, or other type of vehicle for purposes of determining the applicable manufacturer's suggested retail price for a vehicle? (added December 29, 2022)**

A6. The vehicle classifications of vehicles are described in IRS [Notice 2023-9](#). The vehicle classification for this purpose may not match the classification on the fuel economy label or marketing materials describing the vehicle.

Vehicle classification information can be found at the [Clean Vehicle Qualified Manufacturer Requirements](#) page containing a listing of eligible clean vehicles, including fuel cell vehicles, that qualified manufacturers have indicated to the IRS meet the requirements to claim the new clean vehicle credit beginning January 1, 2023

**Q7. What information does a seller have to provide to a taxpayer purchasing a new clean vehicle to allow the taxpayer to claim the new clean vehicle credit? (added December 29, 2022)**

A7. A seller must provide the following information on a report to the taxpayer and to the IRS:

- Name and taxpayer identification number of the seller
- Name and taxpayer identification number of the taxpayer
- Vehicle identification number of the new clean vehicle
- Battery capacity of the new clean vehicle
- Verification that the taxpayer is the original user of the new clean vehicle
- The date of the sale and the sales price of the vehicle
- Maximum credit allowable for the new clean vehicle being sold
- For sales after December 31, 2023, the amount of any transfer credit applied to purchase
- A declaration under penalties of perjury from the seller

For further details see [Revenue Procedure 2022-42](#).

**Q8. When must the seller provide the report to the taxpayer? (added December 29, 2022)**

A8. The seller must provide the report to the taxpayer not later than the date the vehicle is purchased. For further details see [Revenue Procedure 2022-42](#).

**Q9. How will a seller provide these reports to the IRS? (added December 29, 2022)**





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A9. For vehicle sales occurring in calendar year 2023 and later, sellers must file reports within 15 days after the end of the calendar year, in a format and method that the IRS provides. For further details see [Revenue Procedure 2022-42](#).

### Topic C: When the New Requirements Apply to the New Clean Vehicle Credit

#### **Q1. On the day after the Inflation Reduction Act of 2022 became law (August 16, 2022), did any requirements for taxpayers or vehicles to qualify for the credit for new clean vehicles change? (added December 29, 2022)**

A1. Yes, after August 16, 2022, a new clean vehicle must have had its final assembly in North America to be eligible for the credit. There is a [transition rule for vehicles purchased before August 16, 2022](#). Additional changes begin January 1, 2023.

#### **Q2. What additional changes to the credit apply for vehicles placed in service on or after January 1, 2023? (added December 29, 2022)**

A2. The most significant changes to the credit for vehicles delivered on or after January 1, 2023, include:

- The minimum battery capacity is increased to 7 kilowatt hours
- Vehicles must be made by a qualified manufacturer (see Topic A, [FAQ 9](#) for more detail)
- MSRP limitations apply, based on the type of vehicle (see Topic B, [FAQs 2](#) and [5](#) for more detail)
- Income limits apply to taxpayers (see Topic B, [FAQ 1](#) for more detail)
- The taxpayer must report the vehicle identification number (VIN) of the vehicle on the taxpayer's income tax return
- Sellers must provide reports to the taxpayer and the IRS regarding the sale of the vehicle

#### **Q3. Does the "phase-out period" that limited or eliminated the credit for vehicles sold by certain manufacturers that had sold more than 200,000 vehicles still apply for vehicles sold after January 1, 2023? (added December 29, 2022)**

A3. No, for vehicles sold on or after January 1, 2023, the prior sales volume limitations no longer apply. The prior sales volume limitations apply to vehicles sold before January 1, 2023.

#### **Q4. Do the new critical mineral and battery components requirements apply? (added December 29, 2022)**

A4. Not yet. The critical mineral and battery component requirements under § 30D(e) will apply for vehicles placed in service after proposed guidance on these requirements is issued. The publication of these FAQs is not the issuance of proposed guidance with respect to the critical mineral and battery component requirements under § 30D(e) and does not trigger the applicability of those requirements. The Treasury Department and the IRS will explicitly identify when they have issued proposed guidance with respect to the critical mineral and battery component requirements under § 30D(e). However, vehicles ordered or purchased prior to but placed in service after Treasury and the IRS issue this proposed guidance will be subject to the critical mineral and battery component requirements. This proposed guidance is expected to be issued in March 2023.

#### **Q5. If I order a new clean vehicle in one year and don't receive it until a subsequent year, when do I claim the credit? (added December 29, 2022)**

A5. The new clean vehicle credit is claimed in the tax year that the vehicle is placed in service, meaning the date the taxpayer takes delivery of the vehicle. For vehicles that are placed in service after they are ordered, a vehicle's eligibility for the new clean vehicle credit may change as certain eligibility criteria vary based on when the taxpayer takes delivery of the vehicle. For more information, see [FAQ 7](#).

#### **Q6. If I order (or purchase) an eligible new clean vehicle on or after August 16, 2022, but don't take delivery until after Treasury issues proposed guidance on the critical mineral and battery component requirements, will my vehicle still be eligible? (added December 29, 2022)**



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A6: The vehicle may or may not be eligible depending on whether it meets the critical mineral and battery component requirements. New clean vehicles placed in service after Treasury issues proposed guidance on critical mineral and battery component requirements are subject to those requirements even if the vehicle was ordered or purchased before the proposed guidance was issued. A vehicle's eligibility for the new clean vehicle credit is generally based on the criteria that apply as of the date a vehicle is placed in service, meaning the date the taxpayer takes delivery of the vehicle. For vehicles purchased prior to August 16, 2022, see [Credits for New Electric Vehicles Purchased in 2022 or Before](#).

**Q7: If I purchase a new clean vehicle in 2022 on or after August 16, 2022, but take delivery of the vehicle in 2023, do the income and MSRP limitations apply? (added December 29, 2022)**

A7: Yes, the income and MSRP limits apply to any vehicle that is placed in service (delivered to the taxpayer) in 2023.

**Q8: If I purchase a new clean vehicle in 2022 that was made by a manufacturer that had already reached the manufacturer sales cap but it is not delivered until 2023, does the manufacturer sales cap still apply? (added December 29, 2022)**

A8: Yes, the sales cap of 200,000 vehicles applies to vehicles **sold** before January 1, 2023. If you purchased a vehicle that is subject to the sales cap, it is not eligible for the credit regardless of when you place it in service.

## Topic D: Eligibility Rules for the Previously-Owned Clean Vehicles Credit

**Q1. What is the previously-owned clean vehicles credit under § 25E? (added December 29, 2022)**

A1. The previously-owned clean vehicles credit is a credit of up to \$4,000 for the purchase of an eligible previously-owned clean vehicle with a sale price of \$25,000 or less that is placed in service during a tax year by a qualified buyer. To claim the credit, a qualified buyer must meet certain income requirements (see [FAQ 5](#)) and it must be the vehicle's first qualified sale to a qualified buyer since August 16, 2022, other than to the original owner.

**Q2. What is a previously-owned clean vehicle for the purpose of the previously-owned clean vehicles credit? (added December 29, 2022)**

A2. A previously-owned clean vehicle is a motor vehicle that meets the following requirements:

- The model year of the vehicle is at least two years earlier than the calendar year in which a taxpayer acquires the vehicle
- The purchasing taxpayer is not the original user of the vehicle
- The vehicle was acquired for a sales price of \$25,000 or less from a dealer and the purchasing taxpayer is the first qualified buyer (see [FAQ 4](#)) to claim the credit since August 16, 2022, other than its original user
- And such motor vehicle is a:
  - Qualified fuel cell motor vehicle with a gross vehicle weight rating of less than 14,000 pounds, or
  - A vehicle made by a qualified manufacturer (see [Topic A FAQ 9](#)) that meets the definition of a motor vehicle under Title II of the Clean Air Act, has a gross vehicle weight rating of less than 14,000 pounds, is powered to a significant extent by an electric motor with a battery capacity of seven kilowatt hours or more, and is capable of being recharged from an external source of electricity.

The dealer selling the previously-owned clean vehicle must provide a report containing purchaser and vehicle information to the purchasing taxpayer and to the IRS.

**Q3. How will I know if a previously-owned clean vehicle may be eligible for a credit? (added December 29, 2022)**

A3. Please see the following list [Used Electric Vehicle Credit](#) list about vehicle eligibility. In addition, qualified buyers will want to ensure their income does not exceed certain thresholds (see [Topic E FAQ 1](#)) and check the sales history of the vehicle to ensure that their purchase will qualify as the first transfer of the previously-owned vehicle to a qualified buyer (see [FAQ 4, 7](#)) other than the person who was the original user of the vehicle.



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### **Q4. Who is eligible to claim the previously-owned clean vehicle credit? (added December 29, 2022)**

A4. Only individuals who meet the following requirements to be a "qualified buyer" can claim the previously-owned clean vehicle credit:

- The taxpayer purchases the vehicle for use and not for resale.
- The taxpayer cannot be claimed as a dependent on another taxpayer's tax return.
- The taxpayer has not been allowed another previously-owned clean vehicle credit in the three-year period prior to the date the previously-owned clean vehicle is purchased.
- The taxpayer's income level cannot exceed certain thresholds. (see [Topic E FAQ 1](#))

### **Q5. What is the amount of the previously-owned clean vehicle credit? (added December 29, 2022)**

A5. The previously-owned clean vehicle credit is the lesser of \$4,000 or an amount equal to thirty (30) percent of the sales price of the vehicle purchased.

### **Q6. What is "original use" of a previously-owned clean vehicle? (added December 29, 2022)**

A6. Original use occurs the first time an individual or business places a vehicle in service for personal or business purposes.

### **Q7. What is the first transfer since the date of enactment of a previously-owned clean vehicle? (added December 29, 2022)**

A7. It is the first transfer of the vehicle after August 16, 2022, to a qualified buyer of the previously-owned clean vehicle credit other than the person who was the original user of the vehicle. See [FAQ 4](#) information on individuals eligible to claim the previously-owned clean vehicle credit.

### **Q8. Can a business entity (e.g., a corporation or a partnership) purchase a previously-owned clean vehicle and claim the previously-owned clean vehicle credit? (added December 29, 2022)**

A8. No. Only individuals are eligible for the previously-owned clean vehicle credit.

### **Q9. Can I buy a previously-owned clean vehicle from a person who isn't a dealer and still qualify for the previously-owned clean vehicle credit? (added December 29, 2022)**

A9. No. To qualify for the credit, the previously-owned clean vehicle must be purchased from a dealer. A dealer is a person licensed to engage in the sale of motor vehicles in a State, the District of Columbia, the Commonwealth of Puerto Rico, any other territory or possession of the United States, an Indian tribal government, or any Alaska Native Corporation.

### **Q10: If I order or purchase a previously-owned clean vehicle in 2022 but take delivery of the vehicle in 2023, can the vehicle qualify for the previously-owned clean vehicle credit? (added December 29, 2022)**

A10: Yes, if all other eligibility criteria are met.

## Topic E: Income and Price Limitations Previously-Owned Clean Vehicles

### **Q1. Could my income level prevent me from taking the previously-owned clean vehicle credit? (added December 29, 2022)**

A1. Yes. You may not claim the credit if your modified adjusted gross income (AGI) exceeds certain thresholds. This limitation is based on the lesser of your modified AGI for the year that the previously owned clean vehicle was placed in service or for the preceding year. The relevant modified AGI thresholds are as follows:

- Married filing jointly or filing as a qualifying surviving spouse or a qualifying widow(er) - \$150,000
- Head of household - \$112,500
- All other filers - \$75,000



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Your modified AGI is the amount from line 11 of your Form 1040 plus:

- Any amount on line 45 or line 50 of Form 2555, Foreign Earned Income.
- Any amount excluded from gross income because it was received from sources in Puerto Rico or American Samoa.

## **Q2. Is there a price limitation on a previously-owned clean vehicles eligible for the credit? (added December 29, 2022)**

A2. If the sales price exceeds the \$25,000 limitation for previously-owned clean vehicle, the vehicle is not eligible for the previously-owned clean vehicle credit.

## Topic F: Claiming the Previously-Owned Clean Vehicles Credit

### **Q1. What information does a dealer have to provide to a taxpayer purchasing a previously-owned clean vehicle to allow the taxpayer to claim the previously-owned clean vehicle credit? (added December 29, 2022)**

A1. A dealer must provide the following information on a report to the taxpayer and to the IRS:

- Name and taxpayer identification number of the dealer
- Name and taxpayer identification number of the taxpayer
- Vehicle identification number of the vehicle
- Battery capacity of the vehicle
- The date of the sale and the sales price of the vehicle
- Maximum credit allowable for the vehicle being sold
- For sales after December 31, 2023, the amount of any transfer credit applied to purchase
- A declaration under penalties of perjury from the dealer

The dealer must provide the report to the taxpayer not later than the date the vehicle is purchased. For further details on dealer reporting see Topic B, [FAQs 7-9](#) and [Revenue Procedure 2022-42](#).

### **Q2. Do I have to report the vehicle identification number on my return to claim the previously-owned clean vehicles credit? (added December 29, 2022)**

A2. Yes. The vehicle identification number of the previously-owned clean vehicle is required to be included on [Form 8936, Qualified Plug-in Electric Drive Motor Vehicle Credit \(Including Qualified Two-Wheeled Plug-in Electric Vehicles and New Clean Vehicles\)](#), when you file your income tax return.

### **Q3. Is the previously-owned clean vehicle credit refundable or able to be carried forward? (added December 29, 2022)**

A3. No. The previously-owned clean vehicle credit may only be used by a taxpayer to the extent the taxpayer has a reported tax due. The credit cannot be carried forward and the excess is not refundable.

## Topic G: Qualified Commercial Clean Vehicles Credit

### **Q1. Who is eligible to claim a credit under § 45W of the Code for purchasing a qualified commercial clean vehicle (qualified commercial clean vehicles credit)? (added December 29, 2022)**

A1. A taxpayer can claim a qualified commercial clean vehicles credit for purchasing and placing in service in the taxpayer's business a "qualified commercial clean vehicle" during the taxable year. The taxpayer must use the vehicle for a "business use." See [FAQ 8](#).

### **Q2. What is a "qualified commercial clean vehicle"? (added December 29, 2022)**

A2. A "qualified commercial clean vehicle" is defined as any vehicle of a character subject to the allowance for depreciation that:





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- Is made by a qualified manufacturer,
- Is acquired for use or lease by the taxpayer and not for resale,
- 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), or is mobile machinery, as defined in § 4053(8) of the Code, and
- Is 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 that 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, or satisfies the requirements under § 30B(b)(3)(A) and (B) of the Code for being a new qualified fuel cell motor vehicle.

### **Q3. What is the amount of the qualified commercial clean vehicle credit a taxpayer can claim? (added December 29, 2022)**

A3. The amount of the qualified commercial clean vehicle credit is the lesser of (1) 15 percent of the taxpayer's tax 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.

The credit is limited to \$7,500 in the case of a vehicle that has a gross vehicle weight rating of less than 14,000 pounds, and \$40,000 for all other vehicles.

### **Q4. How is "incremental cost" determined? (added December 29, 2022)**

A4. The incremental cost is the excess of the purchase price of a qualified commercial clean vehicle over the price of a comparable vehicle. A comparable vehicle is a vehicle powered solely by a gasoline or diesel internal combustion engine that is comparable in size and use to the qualified commercial clean vehicle. For a safe harbor to determine incremental cost for taxable year 2023, see [Notice 2023-9](#).

### **Q5. Is a taxpayer that leases clean vehicles to customers as its business eligible to claim the qualified commercial clean vehicle credit? (added December 29, 2022)**

A5. Whether a taxpayer can claim the qualified commercial clean vehicle credit in its business depends on who is the owner of the vehicle for federal income tax purposes. The owner of the vehicle is determined based on whether the lease is respected as a lease or recharacterized as a sale for federal income tax purposes.

### **Q6. What factors are used to determine if a transaction is a "lease" for tax purposes? (added December 29, 2022)**

A6. Based on longstanding tax principles, the determination whether a transaction constitutes a sale or a lease of a vehicle for tax purposes is a question of fact. Features of a vehicle lease agreement that would make it more likely to be recharacterized as a sale of the vehicle for tax purposes include, but are not limited to:

- A lease term that covers more than 80% to 90% of the economic useful life of the vehicle
- A bargain purchase option at the end of the lease term (that is, the ability to purchase the vehicle at less than its fair market value at the end of the term) or other terms/provisions in the lease that economically compel the lessee to acquire the vehicle at the end of the lease term
- Terms that result in the lessor transferring ownership risk to the lessee, for example, a terminal rental adjustment clause (TRAC) provision that requires the lessee to pay the difference between the actual and expected value of the vehicle at the end of the lease.

### **Q7. What happens if the clean vehicle lease agreement is recharacterized as a sale for tax purposes? (added December 29, 2022)**



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A7. In the event the clean vehicle lease is recharacterized as a sale, the lessee would need to determine if they are eligible to claim either a clean vehicle credit or a qualified commercial vehicle credit. The lessor would not be eligible to claim either credit because they would have engaged in a resale of the vehicle.

**Q8. What does "of a character subject to the allowance for depreciation" mean for purposes of the qualified commercial clean vehicle credit? (added December 29, 2022)**

A8. In general, property is subject to the allowance for depreciation if it is used in a trade or business of the taxpayer or for the production of income (business use).

**Q9. How does a taxpayer determine if a vehicle is used in a "business use"? (added December 29, 2022)**

A9. Generally, the term business use means any use in a trade or business of the taxpayer.

IRS-FAQ