



November 18, 2024

Re: Section 30C Alternative Fuel Vehicle Refueling Property Credit

Agency/Docket Number: REG-118269-23

RIN: 1545-BR19

I am writing on behalf of Taxpayers for Common Sense, a nonpartisan organization dedicated to ensuring that taxpayer dollars are spent responsibly and efficiently. We appreciate the opportunity to comment on the notice of proposed rulemaking published in the Federal Register on September 19, 2024, regarding the “Section 30C Alternative Fuel Vehicle Refueling Property Credit.”

Introduction

Taxpayers for Common Sense (TCS) is a national nonpartisan budget watchdog that has advocated on behalf of the nation’s taxpayers since 1995. TCS works to ensure that federal tax dollars are spent responsibly and that government operations are transparent and accountable to the American public. We focus on eliminating programs and policies that are both wasteful and harmful, including subsidies for polluting industries, ineffective weapons systems, and incentives that increase taxpayer and environmental risks. TCS brings a perspective informed by a breadth of expertise on issues ranging from agriculture, natural resource management, infrastructure, and national security.

The Section 30C Alternative Fuel Vehicle Refueling Property Credit (30C tax credit), created in the Energy Policy Act of 2005 (P.L. 109–58), was significantly modified by the Inflation Reduction Act of 2022 (P.L. 117-169, IRA). The IRA extended eligibility to property placed in service before December 31, 2032, changed the credit to apply per single item of property rather than per location, increased the maximum credit for depreciable property to \$100,000, restricted eligibility to property placed in low-income and rural communities, and included transportation fuel as defined by 45Z as a qualifying “clean-burning fuel,” among other modifications.

As the IRS develops a proposed rule pursuant to the IRA, it is critical that the agency ensures the 30C tax credit does not waste taxpayer dollars by subsidizing mature industries or supporting the production of transportation fuel that will leave taxpayers with long-term liabilities.

Defining “Clean-Burning Fuels”

The 30C tax credit offers up to a 30 percent credit for the cost of qualified alternative fuel vehicle refueling property—equipment for storing or dispensing a clean-burning fuel or recharging electric

vehicles—placed in service between December 31, 2022, and December 31, 2032. The notice of proposed rulemaking, as directed by Congress in the IRA, defines a clean-burning fuel as:

- Any fuel with at least 85 percent of one or more of the following: ethanol, natural gas, compressed natural gas, liquified natural gas, liquefied petroleum gas, or hydrogen.
- Any mixture consisting of two or more of the following: biodiesel (as defined in Section 40A(d)(1) of the Code), diesel fuel (as defined in Section 4083(a)(3) of the Code), or kerosene, with at least 20 percent of its volume from biodiesel, excluding any kerosene in the calculation.
- Electricity.
- Any transportation fuel as defined by 45Z that is produced after December 31, 2024.

Congress intended the 30C tax credit to encourage the use of transportation fuels or electric vehicles that reduce greenhouse gas (GHG) emissions. However, without careful implementation, the current criteria for “clean-burning fuels” under the 30C tax credit risk increasing GHG emissions, undermining congressional intent and leaving taxpayers with long-term liabilities, including the costs associated with climate change and other unintended consequences. The IRS should consider implementing additional guidelines to ensure the 30C tax credit doesn’t waste taxpayer dollars subsidizing mature industries without delivering the intended benefits to taxpayers.

The IRS should address the following taxpayer concerns regarding qualifying fuels in the upcoming proposed rulemaking on Section 30C:

Ethanol, Biodiesel, and Biofuels

Federal subsidies and tax credits for ethanol, biodiesel, and other biofuels have consistently failed to reduce GHG emissions while generating unintended consequences and long-term liabilities for taxpayers, consumers, and the environment. Numerous studies question the GHG reduction potential of food-based biofuels such as soy biodiesel and corn ethanol, with independent analysts indicating they may actually increase climate costs.¹ Carbon-rich forests, grasslands, and wetlands have been converted to cropland to produce additional biofuel feedstocks. Additionally, first-generation, food-based biofuels distort markets, affecting the price of food, feed, and other products relying on these inputs.

Bioenergy subsidies have led to adverse climate effects that do not align with the Congressional intent for Section 30C. The IRS should consider issuing additional guidance to ensure the 30C tax credit does not support the production of bioenergy-based fuels that increase GHG emissions and prices for consumers.

Natural Gas

Although burning natural gas for energy produces fewer emissions than coal or petroleum, allowing refueling properties that offer natural gas to claim the 30C credit could impose long-term fiscal and

¹ National Research Council, “Effects of U.S. Tax Policy on Greenhouse Gas Emissions,” 2013.
<https://nap.nationalacademies.org/catalog/18299/effects-of-us-tax-policy-on-greenhouse-gas-emissions>

climate liabilities on taxpayers. The U.S. Environmental Protection Agency estimates that in 2021, methane emissions from natural gas and petroleum systems, along with abandoned oil and gas wells, accounted for approximately 33% of total U.S. methane emissions and around 4% of total U.S. GHG emissions.² The IRS should consider issuing further guidance to ensure the 30C tax credit does not support the production of natural gas that increases GHG emissions and leaves taxpayers with long-term liabilities.

Hydrogen

If hydrogen production relies on the existing grid or adds additional natural gas or coal facilities, the credit may not fulfill its intended goal of reducing greenhouse gas emissions. The IRS should consider issuing specific guidance to ensure that the 30C tax credit supports hydrogen production methods that achieve verifiable GHG emission reductions and does not inadvertently subsidize high-carbon energy sources.

45Z Transportation Fuel

In previous comments to the IRS on the Section 45Z Clean Fuel tax credit, we urged the IRS to ensure that final GHG emission rates accurately reflect lifecycle GHG emissions for qualifying fuels, especially biofuels.³ To fully account for the GHG emissions impact of land use changes driven by biofuels feedstock production, the IRS should consider adopting the Carbon Offsetting and Reduction Scheme for International Aviation (CORSA) developed by the International Civil Aviation Organization (ICAO) or a methodology that is equally stringent and comparable to determine eligible fuels for the 45Z and 30C tax credit. The Argonne National Laboratory's Greenhouse gases, Regulated Emissions, and Energy use in Transportation (GREET) model does not meet this standard and should not be used as a comparable method to CORSA. The IRS should consider guidance in the 45Z and 30C tax credits to ensure that both support fuel production methods that achieve verifiable GHG emission reductions.

Duplicative Subsidies

The 30C tax credit overlaps significantly with other federal subsidies. There are various federal subsidies and tax credits that promote the production of qualifying fuels under Section 30C and the use of electric vehicles. While these subsidies and tax credits are directed to producers or vehicle owners, as opposed to owners of refueling property, they encourage the same behavior—the production and use of certain transportation fuels.

The production of biofuels is heavily subsidized through various tax credits, including the Section 40 Cellulosic Biofuel Tax Credit and Section 40A Biodiesel Tax Credit, as well as numerous federal subsidy programs—such as the Bioenergy Program for Advanced Biofuels, which provides payments to advanced biofuels facilities to expand annual production—and the Renewable Fuels Standard, a federal mandate that requires oil and gas companies to blend increasing amounts of

² U.S. Environmental Protection Agency, “Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2021,” Table ES-2, April 2023. <https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks-1990-2021>

³ Taxpayers for Common Sense, Environment America, Friends of the Earth, R Street Institute, and U.S. PIRG, “Re: Comments to the Department of the Treasury and the Internal Revenue Service (IRS) on Credits for Clean Hydrogen and Clean Fuel Production in the Inflation Reduction Act (IRA),” December 9, 2022. <https://www.taxpayer.net/wp-content/uploads/2022/12/12-9-2022-Joint-Treasury-comments-on-clean-fuel-credit-final.pdf>

biofuels with gasoline and diesel each year.⁴ Hydrogen production benefits from the new Section 45V Clean Hydrogen Production Tax Credit.⁵ The Section 45Z Clean Fuel Production Tax Credit subsidizes the production of transportation fuels below certain GHG emissions thresholds, all of which are available for the 30C tax credit after December 31, 2024.⁶ And while natural gas does not have a direct production tax credit, natural gas producers are eligible for multiple tax advantages throughout its production lifecycle, such as percentage depletion, expensing of intangible drilling costs, and two-year amortization of geological and geophysical expenditures.⁷

Additionally, the use of electric vehicles (EVs) is subsidized through federal tax credits like Section 30D Clean Vehicle Credit, Section 45W Commercial Clean Vehicle Credit, and Section 25E Previously Owned Clean Vehicle Credit provide tax incentives to taxpayers who purchase EVs. This may be duplicative with 30C, as subsidizing EV recharging property makes it easier to use an EV and so similarly encourages consumers to purchase EVs.

In addition to production subsidies, biofuels also benefit from substantial other infrastructure subsidies, including more than \$500 million through the Biofuel Infrastructure Partnership (BIP) program, the Higher Blends Infrastructure Incentive Program (HBIIP), and the newly announced Biobased Product Market Development and Access Grant Program. Between 2011 and 2022, the USDA also awarded \$3.24 million in grants through the Rural Energy for America Program (REAP) for biofuels infrastructure projects and ethanol blender pumps.⁸ These programs directly subsidize the same properties that qualify under the 30C tax credit.

Duplicative subsidies are costly to taxpayers and may not yield the intended results, as existing subsidies—like production tax credits for 30C qualifying fuels—may already be sufficient to promote the production, transportation, and transmission of various transportation fuels. The IRS should carefully assess the impact of Section 30C to ensure taxpayer resources are allocated effectively and eliminate unnecessary, duplicative spending.

Minimizing Fraud and Abuse of 30C

The IRS must implement strong safeguards to protect taxpayer interests and prevent abuse of the 30C tax credit, especially given the allowance of elective payment and transferability under the IRA. Refundability undermines the tax credit program’s original intent by allowing companies with insufficient tax liability to benefit, turning the credit into a spending program that is more difficult to oversee.⁹ Similarly, transferability allows companies outside the original intention of the tax credit

⁴ Taxpayers for Common Sense, “Understanding U.S. Corn Ethanol and Other Corn-Based Biofuels Subsidies,” May 2021.

<https://www.taxpayer.net/energy-natural-resources/understanding-u-s-corn-ethanol-and-other-corn-based-biofuels-subsidies/>

⁵ Taxpayers for Common Sense, “45V Clean Hydrogen Production Tax Credit,” June 2024. <https://www.taxpayer.net/energy-natural-resources/section-45v-credit-for-production-of-clean-hydrogen/>

⁶ Taxpayers for Common Sense, “Section 45Z: Clean Fuel Production Credit,” August 2024. <https://www.taxpayer.net/energy-natural-resources/section-45z-clean-fuel-production-credit/>

⁷ Taxpayers for Common Sense, “Understanding Oil and Gas Tax Subsidies,” April 2014. <https://www.taxpayer.net/energy-natural-resources/understanding-oil-and-gas-tax-subsidies/>

⁸ Taxpayers for Common Sense, “Biofuel Infrastructure Subsidies,” August 24, 2022. <https://www.taxpayer.net/agriculture/biofuel-infrastructure-subsidies/>

⁹ Taxpayers for Common Sense, “TCS Comments to the IRS on Elective Payment,” August 2023. <https://www.taxpayer.net/budget-appropriations-tax/tcs-comments-to-irs-on-elective-payment/>

program to profit.¹⁰ The IRS should establish a stringent system to track credit ownership, preventing fraud and improper payments, especially when credits may need to be recaptured.

The IRS should also consider extending the recapture period beyond the three years indicated in the advanced notice of proposed rulemaking. Many refueling properties eligible for the 30C tax credit have significantly longer lifespans than 3 years. For example, electric vehicle supply equipment often lasts 10 years or more, depending on the type and quality of equipment,¹¹ and hydrogen storage tanks can last up to 25 years.¹² It would be reasonable to require taxpayers claiming the 30C credit to maintain qualifying status for a period longer than three years.

Conclusion

In implementing various IRA provisions, including reforms to the 30C tax credit, the U.S. has an opportunity to correct past failures—including counterproductive climate-related policies—and invest instead in solutions that reduce risks, costs, and future liabilities for taxpayers and communities across the country.

The costs are high for American taxpayers. The Congressional Budget Office (CBO) initially estimated that the 30C Alternative Fuel Refueling Property Credit would cost taxpayers \$1.738 billion from 2022-2031.¹³ However, a more recent estimate from the U.S. Treasury projects a far greater cost of \$11.27 billion from 2024-2033.¹⁴ Our nation cannot afford to waste billions of dollars on subsidies that risk creating costly future liabilities and undermine our shared clean energy goals.

Thank you for considering our comments. We look forward to continued engagement on this important issue.

Sincerely,



President, Taxpayers for Common Sense

¹⁰ Taxpayers for Common Sense, "TCS Comments to the IRS on Transfer of Certain Credits," August 2023.

<https://www.taxpayer.net/budget-appropriations-tax/tcs-comments-to-the-irs-on-transfer-of-certain-credits/>

¹¹ Danlec Electrical Solutions, "What is the lifespan of an EV charging station?" Accessed November 7, 2024. <https://danlec.uk/ev-chargers/what-is-the-lifespan-of-a-ev-charging-station/>

¹² David Bionaz et al., "Life cycle environmental analysis of a hydrogen-based energy storage system for remote applications," *Energy Reports*, November 2022. <https://www.sciencedirect.com/science/article/pii/S2352484722007363>

¹³ Congressional Budget Office, "Estimated Budgetary Effects of Public Law 117-169, to Provide for Reconciliation Pursuant to Title II of S. Con. Res. 14," September 7, 2022. <https://www.cbo.gov/publication/58455>

¹⁴ U.S. Department of the Treasury, "Tax Expenditures – FY2025", accessed November 7, 2024. <https://home.treasury.gov/system/files/131/Tax-Expenditures-FY2025.pdf>