November 18, 2024

Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Regulation 118269-23

We urge the Department of Treasury and the Internal Revenue Service (IRS) to finalize guidance for the Inflation Reduction Act (IRA) Section 30C Alternative Fuel Vehicle Refueling Property Credit by the end of 2024 and to provide a simple address look-up tool so people and businesses can determine if they are eligible for this vital tax credit.

We appreciate the opportunity to provide feedback on the notice of proposed rulemaking (NPRM) for the § 30C tax credit. We strongly support the guidance provided in the proposed rule including the definitions of a non-urban census tracts, single item of property, and capitalizable property (as included in Notice 2024-20). This approach would ensure more American consumers and business qualify for the § 30C tax credits, but final guidance is need as quickly as possible to make that theory a reality.

Urgency of Action

The IRA was signed into law over two years ago and has spurred unprecedented private investment. However, the lack of final § 30C guidance is stalling the installation of public and residential EV charging infrastructure in non-urban and low-income areas, which is a key factor in achieving the Biden Administration's goals. Because the guidance has not been finalized and because the IRS has not updated the Frequently Asked Questions (FAQ) page to reflect the additional content in the NPRM, as is common practice for proposed guidance, there is a great deal of uncertainty around credit eligibility. The diverse coalition of industry, public interest, and labor organizations that have repeatedly engaged in this process urge Treasury and the IRS to resolve this uncertainty and give § 30C staying power that maintains the momentum the Biden administration has generated on clean air, infrastructure, and economic development.

Finalizing guidance for § 30C by December 31, 2024 will allow individuals and businesses to claim the credit on their 2024 taxes and invest in much needed infrastructure with certainty.

Support for the Guidance Provided in the NPRM

<u>Non-Urban Census Tracts</u>
We support the non-urban census tract definition originally proposed in Notice 2024-20 and the NPRM. This aligns with the analysis and recommendation in the coalition letter submitted to Treasury in June 2023 by more than 30 groups, including vehicle manufacturers, public interest organizations, retail associations, organized labor, and many more.[1] Based on an analysis of the census tracts provided by Treasury, we estimate that 30 million rural, 44 million Hispanic or

[1] See attachment "Coalition Letter and Analysis re 30C.pdf"
See "Comment from Ad-hoc coalition EV," Comment ID IRS-2022-0027-0106, https://www.regulations.gov/comment/IRS-2022-0027-0106

Latino, and 30 million Black or African American residents as well as 56 million households below 80 percent of their area median income are eligible for § 30C tax credits. The access this definition provides is critical to accelerate the deployment of charging infrastructure for electric vehicles needed to meet climate, air quality, and equity standards and goals.

Single Item of Property

We support the proposed definition for a single item of property. It aligns with the Federal Highway Administration's definition of a charging port for the National Electric Vehicle Infrastructure Program, which considers a port as a system within a charger that can charge only one EV at a time, even if it has multiple connectors.[2] This definition also aligns with common practices in state-administered charging programs, such as those in California,[3] North Carolina,[4] and Ohio.[5] The proposed definition accommodates both current practices and future developments in the industry, recognizing that some chargers can serve multiple EVs simultaneously through shared infrastructure, which offers significant cost savings. Finalizing this definition will help ensure the § 30C tax credits effectively promote the installation of flexible, cost-efficient EV charging infrastructure.

Capitalizable Property

We support the approach to capitalizable property. It provides flexibility and appropriately incentivizes charger buildout by including both direct and indirect costs. Although, Treasury and IRS could clarify a few items in the final guidance as we recommend in the following section.

Elective Pay

We commend the Treasury Department and the IRS allowing tax-exempt entities to be treated as making a payment of tax in the section § 30C credit through elective pay, which results in a refund equal to the amount of the applicable credits if such entity has no other tax liability. Elective pay improves equitable access to § 30C by providing a pathway for non-profits, municipalities, rural counties, Tribes, religious organizations, and public housing authorities to access incentives for installing EV infrastructure.

Determining Credit Eligibility

We recommend that Treasury and IRS develop an easy-to-use address look-up tool under the Biden administration for individuals and businesses to determine their credit eligibility in a given tax year based on address.

The Treasury and IRS, in collaboration with agencies and labs such at the Department of Energy and Argonne National Lab, should make a simple online address look-up tool so that people can

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[2] 23 CFR Part 680 https://www.ecfr.gov/current/title-23/chapter-I/subchapter-G/part-680

[3] Implementation Manual for Alameda County Incentive Project https://calevip.org/sites/default/files/docs/alameda-county/implementation-manual.pdf

[4] Request for Proposals Phase 2 Zero Emission Vehicle Infrastructure Program DC Fast Charging Stations Priority Corridors GMS Program ID: NCDEQDAQ0007 https://www.deq.nc.gov/air-quality/mobile/volkswagen/phase-2/nc-phase-2-zev-dc-fast-priority-corridors-program-rfp/download?attachment

[5] Diesel Mitigation Trust Fund (DMTF) DC Fast Charging Grant Program Request for Applications https://dam.assets.ohio.gov/image/upload/epa.ohio.gov/Portals/42/documents/DMTF/DMTF-EVSE-DCFC-RFA.pdf

easily determine their eligibility for § 30C for a given tax year. The current system[6] requires going to a map on the United States' Census Bureau's website[7], visually identifying the census tract ID based on an address's location on a map, copying that number, and then searching an over 600-page document[8] to see if that number is in the document.

Not only is this process arduous, particularly for individuals and small businesses, but also there are plenty of opportunities to make mistakes in the census tract ID lookup and copying process. Additionally, the IRS document with the qualifying information gives extraneous information (e.g. the percent of census blocks that are non-urban within a tract) and excludes census tract IDs that do not qualify which could cause someone to think that their census tract ID is missing from the data set or that they made an error. While having this data publicly available is useful for transparency and analysis purposes and potentially for businesses and individuals with large properties, all of these issues create unnecessary confusion and barriers to determining credit eligibility and subsequently filing for the credit or elective pay. Instead, there should be one website where people can get a straight "yes" or "no" answer to their § 30C qualification status for a given tax year based on an address.

The current proposed rule states that the IRS can continue to update which census tracts are eligible and how individuals and businesses can determine their eligibility. "The Internal Revenue Service (IRS) will periodically publish lists of specific census tracts that meet the criteria in paragraph (c)(1) of this section along with instructions on how taxpayers may determine their census tract identifying numbers in the Federal Register or Internal Revenue Bulletin (see § 601.601 of this chapter)." [9] Therefore, this updated tool can be developed after final guidance is published. However, the tool should be published under the current Administration to ensure continuity and allow individuals and businesses to begin filing for 2024 credits and planning 2025 projects.

Optional Additions to Final Guidance

If possible, Treasury and IRS should clarify how certain costs can be capitalized, identify low population census tracts, and provide a qualification pathway for mobile charging equipment in final guidance as recommended below. However, in the event that including these items would delay the release of final guidance until after December 31, 2024, then they need not be addressed at this point in time. It is more important to finalize the guidance before the end of the year so individuals and businesses can claim the credit for 2024 projects.

<u>Captializable Property</u>
We recommend considering a proportional split of shared costs among ports in the event there are chargers with varying power at one site (e.g. a big box store parking lot that has L2 chargers

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[6] Internal Revenue Service, *Individuals, Electric Vehicle Chargers, and the Alternative Fuel Vehicle Refueling Property Credit*, https://home.treasury.gov/system/files/8861/30C%20Explainer%20-%20Individuals.pdf
[7] United States' Census Bureau, 2020 Census Tract Identifier, https://mtgis-portal.geo.census.gov/arcgis/apps/experiencebuilder/experience/?id=bc7d5cafd5e94dfb875ac36df0deaf77
[8] Internal Revenue Service, *Appendix B: List of 11-digit census tract GEOIDs that are eligible for § 30C using 2020 delineations of census tract boundaries, included non-urban census tracts*, https://www.irs.gov/pub/irs-drop/appendix-b-list-of-2020-census-tract-boundary-30c-eligible-tracts-v2-1-4-2024.pdf
[9] National Archives, Federal Register, Section 30C Alternative Fuel Vehicle Refueling Property Credit, September 2024, https://www.federalregister.gov/d/2024-20748/p-381

for light- and medium-duty delivery vans to charge overnight and 350kW chargers for heavy-duty delivery trucks to charge quickly while loading or unloading cargo). Treasury and IRS should also provide additional clarity regarding the appropriate treatment of make-ready costs, specifically how taxpayers should claim those costs and explicitly stating that make-ready infrastructure should be treated as associated property directly attributable and traceable to more than one single item of § 30C property.

Low-population Census Tracts

In the NPRM, Treasury and IRS specifically request comment as to how the New Market Tax Credit (NMTC) rules under § 45D could be applied to § 30C geographic eligibility. Section 45D defines a census tract as a "low-income" community through four metrics, one of which is § 45D (e)(4), "If a census tract has less than 2,000 individuals within it, it may be treated as low-income if: 1) it is in an 'empowerment zones' as defined in Section 1931 AND 2) it is contiguous to another tract identified as low-income." Similar inclusion of low-population census tracts adjacent to low-income tracts in the § 30C program would open the program to industrial areas that are in urban areas and therefore would be otherwise excluded from § 30C eligibility. Many industrial zones have low or no population (e.g., people do not reside in port complexes) but are located adjacent to historically disadvantaged and low-income communities. Extending the § 30C tax credit to these areas will help electrify freight in areas with historically poor air quality often caused by diesel truck pollution. Performing a simple spatial analysis with publicly available data[10], we have identified 10 census tracts[11] that: 1) do not currently qualify for the § 30C tax credit based on Treasury's most recent maps; 2) have a population of less than 2,000 individuals; 3) are within an "empowerment zone;" and 4) share part of their border with one or more tracts that currently qualify for § 30C via their status as an NMTC low-income tract. To illustrate, one of these tracts (Census Tract ID = 24510250600) is within the Port of Baltimore and contains many auto warehouses, logistics centers, a harbor, etc. It is not "rural" despite the fact it has no residents, but it is not a high-income urban tract, and the industrial activities it houses directly impact neighboring low-income communities. Ensuring that tracts under § 45D (e)(4) are considered low-income aligns with Treasury's guiding principle for the

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[10] See https://github.com/alehmanNRDC/Section-30C-Alternative-Fuel-Vehicle-Refueling-Property-Credit
Using RStudio and R packages (primarily the 'sf' package), we started by joining census data from the American Community Survey 2020 5-year (ACS5) to the existing 30C census tract data available to download from Argonne National Lab (ANL). We then identified census tracts that did not qualify by either non-urban or low-income criteria (as is noted in the ANL data) and that have a population of less than 2000 (determined using the joined ACS5 data). Once we had this subset of tracts that currently do not qualify for 30C *and* have a population less than 2000, we used joining functions to examine each of these tracts and find how many, if any, census tracts that qualify via their low-income status (NMTC) share at least one point of their boarder with the tract being examined. We then added a column to the dataset with the number of adjacent NMTC-qualifying census tracts. From there, we further joined this dataset with HUD Empowerment Zone data (publicly available on the HUD Open Data Site). By the end of this process, we had an CSV file that identified census tracts by ID number, state, and county, flagged via 0 for false, 1 for true each census tract's 1) current 30C qualification status via non-urban, 2) current 30C qualification status via low-income, and 3) population under 2000, and listed the total number of low-income qualifying tracts sharing a boarder as well as HUD Empowerment Zone status. This file was filtered to identify the 10 tracts that we believe should qualify via low-population status as determined by § 45D (e)(4).

[11] See attachment "Eligibility_Flags.xlsx"
11-digit FIPS codes for the identified tracts: 05119002500, 17031381200, 17031381700, 17031390100, 24510250600, 36061029700, 36061031100, 36067000100, 39061001000, 40109101200

implementation of the IRA of “ensuring that as many eligible taxpayers as possible benefit from the incentives provided by the law while protecting against fraud and abuse.”

Mobile Equipment

The Treasury Department and the IRS request comments on how mobile equipment could satisfy the geographic requirement that § 30C property must be placed in service in an eligible census tract, and request comments on any related rules that should be adopted, particularly with respect to any administrative requirements to ensure only qualifying mobile equipment is credited.

Mobile charging equipment serves two important roles in accelerating EV deployment.

1) Fleet electrification is essential to reducing pollution and improving public health. Low-income communities are often located near highways, busy roads, and industrial areas. They are more likely to suffer from poor air quality and associated health problems. Electrifying fleets directly benefit these communities by reducing their exposure to harmful pollution. Grid interconnection can take years for large fleet installations, and often, EVs are procured before charging infrastructure is installed at a depot and then energized by a utility. Portable EV chargers serve a critical function in ensuring that electric fleet vehicles can function during the interconnection process. For example, U.S. Foods is using portable chargers to power three heavy-duty tractors in La Mirada, California while permanent chargers are being installed.[12] They plan to reuse these chargers to help transition fleets at other company locations. Portable chargers can make the difference in the financial viability of a fleet electrification project and reduce financial and operational challenges in early years of fleet electrification.

2) Resiliency is another important use case for portable charging solutions. The Florida Department of Emergency Management installed temporary EV charging stations in advance of Hurricane Milton in October.[13] These stations increase consumer confidence in their ability to use electric vehicles and increase access to charging for everyone in natural disaster situations and can be deployed as needed in states across the country.

Based on these two important use cases, we encourage the Department of Treasury and the Internal Revenue Service to allow for the § 30C tax credit to apply to portable or mobile EV chargers. Since the § 30C tax credit is geographically bounded and mobile chargers are not, we recommend that for administrative efficiency, the rules guiding the location of portable chargers be based on where the charger is initially delivered. We also ask that Treasury and IRS provide guidance that for projects in which the Prevailing Wage and Apprenticeship Requirements are met for the installation of permanently fixed chargers, the multiplier would also apply to the portable charging equipment.

Thank you for your leadership in implementing key provisions of the historic IRA. In line with the momentous nature of the law and spirit of the statute, we urge Treasury and IRS to issue final guidance, consistent with the recommendation contained in this letter so taxpayers can access

[12] Run on Less by NACFE, Electric Depot Company Profiles: US Foods, https://runonless.com/roled-profiles/us-foods/

[13] Joint Office of Energy and Transportation, “Florida Deploys Emergency Mobile Electric Vehicle Charging Stations Along Hurricane Evacuation Routes”, October 2024, https://driveelectric.gov/news/florida-mobile-charging

these tax credits to plan and make significant investments to install charging infrastructure with the full certainty of clear finalized guidance.

Sincerely,

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