

SUBTITLE D — ENERGY SECURITY

Overview of labor and content requirements.

This subtitle modifies several of the clean energy and energy efficiency tax incentives to provide two different credit values: a base rate and an alternative, or bonus rate. The bonus rate equals five times the base rate and applies to projects that meet wage and apprenticeship requirements, described below. A taxpayer must satisfy both requirements to receive the bonus credit rate. Otherwise, they may claim the relevant credit at the base rate.

The wage requirements require that the taxpayer ensure laborers and mechanics are paid prevailing wages during the construction of a qualifying project, and, in some cases, for the alteration and repair of the project for a defined period after the project is placed into service. The prevailing wage rates are the most recently published prevailing wages for the locality in which the project is located.

In the event the taxpayer fails to satisfy these requirements, the taxpayer may cure the discrepancy (and thus still claim credits at the bonus rate) by compensating each worker the difference between actual wages paid and the prevailing wage, plus interest, in addition to paying a \$5,000 penalty to the Treasury for each worker paid below the prevailing wage during the taxable year. If the Secretary determines that the discrepancy is the product of intentional disregard, the taxpayer must compensate each worker three times the difference in wages and the penalty to the Treasury is increased to \$10,000 per worker.

Once the Secretary determines that a discrepancy occurred, the taxpayer must make payments to the employees and the Treasury within 180 days of the determination in order to remain in compliance with the prevailing wage requirements.

The apprenticeship requirements require that the taxpayer ensure that qualified apprentices perform no less than the applicable percentage of total labor hours of the project. The applicable percentage for purposes of this requirement is 10 percent for projects for which construction begins in 2022. This rate is increased to 12.5 percent in 2023, and 15 percent thereafter. The taxpayer and any contractor or subcontractor that employs four or more individuals to perform construction on a qualifying project must employ at least one qualified apprentice to perform such work.

In the event a taxpayer fails to satisfy these requirements, the taxpayer may cure the discrepancy by paying a penalty to the Treasury equal to \$50 multiplied by the total labor hours for which the requirements are not satisfied. This penalty is increased to \$500 per hour in the event the Secretary determines that such discrepancy was the product of intentional disregard.

Taxpayers who have made a good faith effort to hire qualified apprentices with respect to the construction of a project are deemed to satisfy the requirement and are eligible for the bonus rate. A good faith effort is defined as requesting apprentices and receiving a denial or not receiving a response within five business days.

The credit may be transferred to the seller of the previously-owned vehicle to allow the purchaser to access the value of the credit at the time of sale. The rules governing transfers of the credit are the same as those established for section 30D.

Section 13403. Qualified commercial clean vehicles.

This provision creates a new credit for qualified commercial electric vehicles placed into service by the taxpayer.

The amount of credit allowed by this provision with respect to a qualified commercial electric vehicle is equal to 30 percent of the cost of the vehicle, up to \$7,500 in the case of a vehicle that weighs less than 14,000 pounds, and up to \$40,000 for all other vehicles.

Tax-exempt entities have the option of electing to receive direct payments.

For purposes of the credit a qualified commercial electric vehicle means any vehicle

- the original use of which commences with the taxpayer,
- which is acquired for use or lease by the taxpayer and not for resale,
- which is made by a qualified manufacturer,
- which is treated as a motor vehicle for purposes of title II of the Clean Air Act or mobile machinery for purposes of section 4053(8),
- which is propelled to a significant extent by an electric motor which draws electricity from a battery which has a capacity of not less than 15 kilowatt hours (7 kilowatt hours for vehicles that weigh less than 14,000 pounds) and is capable of being recharged from an external source of electricity, or is a fuel cell vehicle based upon the requirements of section 30B, and
- is of a character subject to the allowance for depreciation.

Vehicles powered by an internal combustion engine are eligible for a reduced credit of 15 percent.

A qualified manufacturer means any manufacturer that enters into written agreement with the Secretary to ensure each vehicle manufactured meets the requirements of this provision and is labeled with a unique vehicle identification number, and that such manufacturer will periodically provide such vehicle identification numbers to the Secretary in such a manner as the Secretary may prescribe. No credit shall be allowed with respect to any qualified vehicle unless the taxpayer includes the vehicle identification number of such vehicle on their return for that taxable year.

This provision shall take effect after December 31, 2022. No credit shall be allowed under this provision for a vehicle acquired after December 31, 2032.