Federal EV Incentive – 2025 Outlook

Changes to Battery Rules and Used EV Supply

2025 will bring a large increase in the supply of eligible used EVs and new restrictions on battery critical minerals and component manufacturing..

Changes in Battery Sourcing Rules

Each year, the law requires a step-up in the minimum source-compliant rules for batteries.

- The percentage of critical minerals sourced either domestically or from a free-trade partner increases from 50% to 60%.
- The battery-module manufacturing requirement remains at 60% from North America.
- IRS loosened rules around the sourcing of graphite to take effect in 2025.
- Foreign entity of concern rules now apply to battery assembly as well as critical mineral sourcing. That means that for the 40% that does not have to come eligible sources, none can come from any entity deemed a FEOC. Of course, this is mainly China, but applies to some other places as well.

Many vehicles lost eligibility in 2024 as the requirements became more stringent and the first part of the FEOC kicked-in. On the other hand, the industry is grateful for the recent flexibility on graphite, an area in which China is even more dominant.

The OEMs are working hard to wrangle their supply chains to become compliant. We expect a gradual increase in eligible vehicles as new plants open in North America.

The above rules apply only to consumer purchases. They do not apply for leases or commercial purchases. On the basis of a controversial IRS ruling, these vehicles are not required to comply with the consumer purchase rules. It has driven skyrocketing increases in the rate of EV leases. According to Kelly Blue Book, leases now account for almost half of new EV sales and have surpassed financing as the preferred method for acquiring a new EV.

Used EV Incentive

This is one area where there will be a significant change for the better. Despite the gloom and doom reporting, EV sales are growing. In CT, EVs represented 10.4% of all new vehicle sales in Q2 of this year, according to CT DEEP. The July Connecticut DMV registration data show that EV registrations increased by 45% year on year, on top of a similar increase the year before.

What that means is that increasing numbers of EVs are eligible for the used incentive. The rule regarding vehicle age is that the model year of the vehicle must be at least 2 years older than the current calendar year. So, as of January, all of the 2023 EVs become eligible. Every year, the pool will increase.

There are lots of other rules around new and used EVs. See our Incentives page for a full description.

Are You Ready for a Transfer?

IRA Incentive Update – Transfer Provision Goes Into Effect in January

A Tax Credit Becomes a Point of Sale Rebate

The transfer provision of the federal IRA EV incentive is scheduled to go into effect in January. This provision meaningfully improves upon a tax credit:

- The incentive becomes a point of purchase rebate.
- It can be used by people even if they don't have the tax liability to be able to use a tax credit.

The IRS published a draft of its rulemaking on October 6 and plans to issue final rules shortly. Much of the rulemaking has to do with implementation details. This is a summary:

- The IRS will be launching a new website called IRS Energy Credits Online and dealers must register with this site to participate. Consumers can only obtain the incentive from a registered dealer.
- Participating dealers will use the site to verify a vehicle's incentive eligibility, register the sale, and indicate whether (or not) the buyer elected the transfer option.
- For buyers choosing to transfer the credit to the seller, the dealer must reduce the invoice amount by the full amount of the available incentive.
- Dealers must provide written documentation to the customer regarding the vehicle's incentive eligibility.
- Once the sale is registered, the IRS will issue payment

to the dealer within 72 hours. (When the transfer was initially announced, dealers were concerned about the potential to incur significant carrying charges.)
- Dealers get repaid whether or not they have tax liability to absorb a tax credit.
- Consumers must attest in writing that they are eligible for the incentive. This mainly applies to the income caps. A buyer must fall within the caps for either the year they make the purchase or the prior year. If that turns out not to be the case, the consumer must repay the incentive to the IRS.
- Incentive payments do not count as income for either the dealer or the consumer.

This is a link to the IRS press release.

IRA EV Incentive Outlook For 2024

Post by Barry Kresch

Beware the Disappearing Incentives

There are 35 EVs (BEV and PHEV) listed as incentive-eligible by the Federal Department of Energy as of October 1, 2023. It is really fewer than that as the website breaks out the different trim levels. For example, there are 8 variations of the Volkswagen ID.4. The DoE website is here. It includes the ability to filter vehicles.

Tesla is publishing incentive alerts on its website, seen in the photo above, warning that some of its vehicles may lose full or partial incentive eligibility. Tesla is more public about it, but it is not alone in bumping up against the moving target of escalating in-sourcing requirements, the looming Foreign Entities of Concern rule, and ongoing IRS rule-making. From what we are hearing, most EV manufacturers could be affected, mostly because it is difficult to quit China as quickly as the legislation requires.

Battery Requirement Changes

These are the changes in the battery requirements that begin in January.

- Critical Mineral Sourcing/Refining increases from 40% to 50%. This minimum percentage must come from either a domestic supplier or free trade partner.
- Battery Assembly – the percentage of battery components that must be assembled in North America increases from 50% – 60%.

Foreign Entities of Concern

The rule that the manufacturers have voiced the most consternation about is the Foreign Entities of Concern (FEoC). This phases in beginning in 2024, followed by part two in 2025. The FEoC mirrors the battery regulations in that half of it applies to critical minerals and the other half to battery assembly. It is the latter half that starts in 2024 with the mineral portion following one year later.

Beginning in 2024, eligible vehicles cannot contain any battery components manufactured in a country so designated. The way to think about it is if you reference the 60% battery assembly requirement noted above, a manufacturer can source 40% of battery components from outside of North America in 2024. However, the FEoC rule specifies that none of that 40% can come from a FE0C. This is obviously about China, but other countries will fall into this designation.

We expect a number of vehicles to lose all or 50% incentive eligibility in 2024. Over time that will likely change, but the next two years are sure to be the most challenging as requirements tighten and new plants have not yet come online.

Ongoing IRS Rule-Making

A large rule-making task was quite literally dumped on the IRS in August of 2022. The wide-ranging IRA legislation, which encompasses much more than EVs, was passed in rather skeletal form, with the implementing agency, The Department of the Treasury, responsible for developing the specific rules. Sometimes this rule-making has run counter to the spirit of the legislation according to some of the legislators who voted for it. For example, the “leasing loophole,” which allows consumers to obtain incentives on vehicles that would otherwise not meet the requirements if purchased, came about because the IRS interpreted a lease as a commercial transaction. The vehicle is sold by the dealer or manufacturer to a captive finance company. This was defined as commercial. The fact that the finance company subsequently executes a lease with a consumer is beside the point from the perspective of the incentive. Commercial transactions fall under a different set of rules that do not include the restrictions that apply to consumer purchases.

Due to the short lead time, the ink has barely been dry on the rules at the time they are due to be implemented. Sometimes the IRS blows through the deadline. The first-year set of battery rules was postponed from January 1 to April 18th of this year for that reason.

The FEoC remains a moving target in this regard. The IRS has advised that the final list will be available before the end of the year, so potentially as little as 24 hours before it is due to go into effect. Maybe there will be an FEoC postponement, similar to what happened with the batteries.

How to Define FEoC

One of the big areas of contention involves not so much designating what countries fall under this rule, but how it is defined. For example, what if a Chinese company opens a plant in North America? What if it is a joint venture with a domestic manufacturer? What if a domestic company builds a factory but licenses technology from a Chinese company? The latter is the most minimalistic footprint and an example is the battery plant that Ford has begun building in Marshall, Michigan. The plant will be producing Lithium Iron Phosphate (LFP) batteries. Ford will own the factory. The workers will be Ford employees. The LFP battery chemistry IP is being licensed from CATL, the big Chinese battery company.

Last week, Ford announced it is pausing construction on this plant. Of course, the company is in the midst of contentious negotiations with the UAW, which is trying to include battery plants owned by the companies in which it has representation at parity wages. But Ford has also commented publicly that it is waiting for IRS determination regarding whether the IRA manufacturing and consumer tax credits are applicable to this plant. It has threatened to greatly downsize the plant if that is not the case.

VIN

While we hope that dealerships are able to offer consumers accurate information regarding whether an EV is incentive eligible, and in our experience Tesla has been pretty on top of incentives, the definitive way to know is to input a Vehicle Identification Number on this federal page. Of course, it would be better to know about eligibility further upstream, but that is what the government has provided.

Lobbying

There are lots of reports of furious lobbying behind the scenes, which occasionally spills into public view, such as the Ford battery plant. But there is more than that. Manufacturers would like to change the determination of vehicle eligibility from the “placed in service date” to the date of manufacture. They obviously have more control over the latter, and it buys them a bit of a grace period since it is earlier.

It has also been reported that manufacturers would like to get Vietnam designated as a free-trade partner for the purposes of battery critical minerals.

The Transfer Provision – Another Big Deal

Tax credits are not the most consumer-friendly form of incentive. You have to wait for it. And not everyone has enough tax liability to be able to use it. The transfer provision is the legislation’s way of turning the tax credit into a rebate. The buyer transfers the credit to the seller. The seller takes the credit and gets reimbursed by Treasury. Also, non-taxable entities can use the transfer provision.

My biggest concern is that the process won’t work smoothly when it is initially introduced. The IRS has been working on the process. It is yet another aspect of rule-making that will likely come down to the wire. Will the dealers and manufacturers be on top of it and not afraid to use it?

Inflation Reduction Act EV Incentive Updates – May 2023

photo credit: Paul Braren/Post: Barry Kresch

IRA Went into Effect with Rule-making Still a Work in Progress

The most challenging part of the rule-making has to do with the rules around battery minerals. The IRA requires a minimum percentage (40% in 2023) of battery critical minerals be sourced either domestically or with a free-trade partner. The IRS is still accepting comments, through June 16th. The EV Club is working with the Electric Vehicle Association (EVA) and the Clean Vehicle Coalition (CVC). Our primary input on this is that manufacturers should certify compliance on a model-year basis since that is how they plan their manufacturing and that is how consumers think about cars. Furthermore, once a model/model year is certified, it should be the manufacturer's responsibility to ensure compliance. And if compliance isn't achieved, the manufacturer would be responsible for the resultant tax liability. Let's keep consumers out of the VIN-checking business and definitely out of exposure uncertainty.

IRS Flexibility

The certification question notwithstanding, what we are hearing is that the manufacturers are generally pleased with IRS rule-making. They expanded the list of free trade partners. They are allowing the OEMs to self-certify and they have 3 options for doing so: point in time, individual vehicle, or average over a defined period of time (year, quarter, month). We are trying to find out the limits of the self-certification and whether there is exposure for the consumer. More to come on this.

What the OEMs are most concerned about is when the foreign entities of concern rule kicks in. They have not figured out how to get China completely out of the equation.

Used Teslas

If anyone has looked at the fueleconomy.gov page to view the makes that are eligible for the *used* EV incentive, you will see that Tesla is conspicuously omitted. We have been advised that the reason is that the Tesla paperwork is churning slowly through the wheels of the IRS bureaucracy. Tesla is trying to get it unstuck. We expect that to happen reasonably soon.

Leasing

Leasing has emerged as a big loophole. The IRS has ruled that consumer leases are commercial transactions and not subject to any of the restrictions associated with a consumer purchase. All leased vehicles, no matter where the battery comes from, no matter how high the MSRP or the lessee's income, are incentive-eligible. However, it is our understanding that Tesla, General Motors, and Ford are not passing through the incentives for leasing customers at this time. They are not legally required to do so, but it is not consumer-friendly in our view. If any reader has different information, please let us know.

Transfer Provision

This begins in 2024. The consumer will have the option of transferring the incentive, which is a tax credit, to the seller, who then gives the incentive to the consumer as a rebate. That sounds complicated but it boils down to the incentive becoming cash on the hood, so it's unequivocally a good thing. Not only does the consumer not have to wait for their taxes to be filed, but for people who don't have enough tax liability to burn off a tax credit, this will enable them to use the incentive. So, this is an important equity provision. Unlike with a lease, a transfer has to be passed to the consumer. You may ask what happens if the consumer seeks to use the transfer when leasing a vehicle? Good question. To be continued.

Joint Ventures

Could joint ventures be a way to skirt the foreign entity of concern rules? Another good question. Ford announced a joint venture with the big Chinese battery manufacturer, CATL, to build a plant in Michigan. Our understanding is that it is likely that the output of this plant will be incentive-eligible because Ford owns the plant and is licensing IP to make LFP batteries from CATL. Still, we await a final ruling.

What The Consumer Needs To Know About The New Battery Rules

Photo above: Ford expects its Mustang Mach-E to qualify for half the incentive; Chevy expects the same for its Bolt.

Battery Rules Issued

January 1 came and went. The new federal incentives in the Inflation Reduction Act became law but the implementing agency, the IRS, had not completed rule-making for several portions of it, most particularly how manufacturers can be in compliance with the new rules for sourcing and refining of critical minerals and battery assembly. The IRS said it needed until March. True to its word, the rules were issued on March 31 and take effect April 18th. This interim period allows manufacturers to determine which vehicles will be eligible and whether the certification will be for the full $7500 credit or only half.

Consumers have gotten a benefit from this delay as more vehicles were temporarily eligible. Many vehicles are expected to lose incentives due the rules. If you have cash burning a hole in your pocket and are in the market, you can still move fast and pick up an EV with the full incentive applied (assuming the other criteria are met). But you have to take possession of it before April 18th. The incentives are applied, in IRS speak, at the "date placed in service."

What Rules Apply

The rule-making itself is highly technical in nature. The law requires that 40% of the sourcing and refining of critical battery minerals occur either domestically or with a free-trade partner and that 50% of battery assembly takes place in North America during 2023. Going forward, these levels escalate. So, how do you define 40%/50%? The IRS has determined that it is to be based on value. So how does one define value? What is the legal definition of a free-trade partner? (The ink is still wet on some frantic dealmaking that happened so that some friendly nations, e.g. Japan and South Korea, could officially become free trade partners.)

We'll know on April 17th what vehicles are eligible for how much of the incentive, but it will be a continually evolving list as manufacturers wrangle supply chain logistics and as the requirements escalate. It is possible that a vehicle eligible in one year loses eligibility in a subsequent year if the supply chain has not maintained pace with the requirements. And it has to be done in an environment of (presumably) a rapid ramping up of production volume. This article from Reuters includes statements by some manufacturers regarding which vehicles stand to lose incentives. This is the Department of Energy page that lists qualifying vehicles. It will be updated on April 17th.

Making Sure the Vehicle is Incentive-Eligible

It certainly helps if a manufacturer certifies that a given vehicle is incentive-eligible. But the IRS is officially determining eligibility based on the VIN. This is a new world we're about to enter, and with all that is being written in the press about how these incentives work, there hasn't been much discussion of this potential for a consumer to be left in the lurch.

It is possible that two of the same make/model/model year vehicles have different incentive statuses, based on when and where the manufacturing and delivery take place. When filing for the tax credit, the VIN is required and Treasury matches it to its records. It is advisable to check the VIN before buying the vehicle. That can be a hassle, as for a made to order vehicle, the VIN isn't available until late in the game.

The EV Club, in partnership with the Electric Vehicle Association, recommended that the IRS use make/model/model year and deal with it at the manufacturer level. Our take is that asking consumers to be in the VIN checking business is a clunky way to go. It could cause an unpleasant surprise. It definitely fosters confusion.

For readers of this blog, if you buy an EV after the new rules are in effect, we are interested in hearing about the process and if you felt protected if you were promised an incentive.

Leasing

For those who lease, none of the rules apply, not even North American final assembly. The full incentive applies. Just remember, the finance company gets the incentive. It is up to the consumer to verify it is being passed along, which is not legally required. It is called a subvented lease.

Other Rule-making

Yes, there's more, particularly the foreign entities of concern rule and the transfer.

Foreign Entities of Concern

The foreign entities of concern rule, which will phase in during 2024 and 2025, will likely include several countries, but is really all about China, which currently dominates the battery mineral supply-chain and has a lot of battery IP. What about Chinese investments in this country? Ford recently announced a joint venture with the big Chinese battery company, CATL, to build a plant in Michigan to manufacture LFP (Lithium Iron Phosphate) batteries. Does this comport with the law? In this case, Ford is banking on the fact that it is only the IP that comes from CATL and that the plant is owned by Ford. This is an article in Politico that discusses it in some detail but stops short of making a definitive statement. Stay tuned.

Transfer Provision

The transfer provision kicks in as of Jan 1, 2024. This year, the incentive is a tax credit. There are two drawbacks to tax credits. The first is that you have to wait until you file your taxes to get the incentive. The other is that you need to have the tax liability to burn it off. The transfer provision allows the consumer to transfer the incentive to the dealer or manufacturer and take the credit as a "cash on the hood" rebate. Unlike with a lease, the law requires the dealer to transfer the full amount of the credit to the consumer. That solves the timing problem. But what about if the consumer doesn't have $7500 of tax liability? Could there be a claw-back? That seems unlikely. The intent of the transfer provision is, in part, to be an equity measure, so people without tax liability could take advantage of the incentive.

IRA Incentives, Leases, and Batteries

EV Manufacturers/Dealers Offering Consumer EV Leases, Incentives Included

This is a follow up to a post from January 5, when we first published about a surprising turn of events with respect to eligibility for the electric vehicle (EV) incentives that are part of the Inflation Reduction Act.

As we have written here and other places, while the Inflation Reduction Act, IRA, has a lot to recommend it, the design of the consumer EV incentive is overly complicated and confusing with numerous restrictions on which cars and individuals qualify.

In a counter-intuitive twist, the complex became simple, at least for leasing customers. While there are all sorts of restrictions around whether a vehicle or a purchaser qualifies for the tax credit, the IRS issued guidance on 12/29/22 that a consumer *lease* should be considered a *commercial* transaction. The commercial EV incentive has none of the restrictions that apply to a consumer purchase. Whatever the vehicle cost, wherever it is made, no matter the body style, it qualifies for the $7500 maximum incentive. (If you want to know the details of those consumer restrictions, see our incentives page.)

The IRS logic here is that the dealer or manufacturer sells the vehicle to the finance company which holds the title. This is a commercial transaction. The fact that the finance company then executes a lease with a consumer is beside the point. As such, it falls under the rules for commercial incentives, which are governed by a separate provision in the law that does not impose the consumer restrictions.

We are now seeing examples of this in the marketplace. The photo at the top of the post is of an ad for a Lucid EV. A recent entrant as an EV-only startup, Lucid makes ultra high-end EVs that, judging by the reviews, are pretty great. Car and Driver described its “unbeatable range and great performance.” However, the Lucid far exceeds the price caps imposed on the EV incentives in the IRA. But with a lease, voila, no MSRP cap. I received similar information from a CT dealership company that sells Hyundai and Genesis vehicles, that they have received new lease pricing that reflects the incentive. Both of those vehicles are manufactured in South Korea and thus run afoul of the North American final assembly rules if purchased.

Delay in Battery Rules

For buyers there is another loophole, for want of a better word, that gives the consumer a break, albeit temporarily. The IRS has not finished writing the regulations for the battery mineral sourcing/refining and manufacturing requirements. As a result, the incentive defaults to the old battery rules until the IRS issues these new regulations. They have said this will happen in March. In the meantime, we are now in a period where incentives are likely to be higher for most, if not all, EVs than they will be in a few months. Buy now, but be sure to take physical possession of the vehicle before the battery rules take effect or risk losing the incentive.

Manchin Agonistes

It has been widely reported that Senator Joe Manchin is not happy about either of these two developments. As reported in The Verge, he has introduced legislation to delay the implementation of the incentives until the IRS finishes its rule making, and to claw back incentives that may have been granted under the IRS interim rules.

Manchin is also not pleased about the IRS interpretation of leasing as a commercial transaction and may try and correct that legislatively as well.

I doubt Manchin's legislative proposal(s) will become law. The House is too preoccupied getting its house in order. And what appetite will the Senate have to revisit this hard-fought reconciliation-passed bill? Nobody else in either chamber seems to be all that concerned about either of these developments, at least not on the record.

I think Manchin genuinely wants to bring manufacturing back America. I'm not so sure he cares about people buying EVs. The threat of a retroactive restriction and claw back only punctuates this. Part of the cleverness of the IRA is that it strikes a balance of both supply side and demand side incentives. But when it comes to EVs, the design of the consumer EV incentive is so perversely self-defeating, that with respect to Senator Manchin, this feels like karma.

Update: As reported in Reuters, Manchin tried to get his bill passed on January 26th by unanimous consent, but it was blocked by Sen. Debbie Stabenow of Michigan. She is quoted saying, “It is not unreasonable what Treasury is doing … they have been given an incredibly complicated task to try to figure out how this consumer credit will work.” Separately, she also noted the inherent unfairness of this bill to consumers in that it “would literally take away credits from people who are buying cars today … Fundamentally, (Manchin) is not a fan of EVs.”

The usual disclosure: This information is accurate to the best of our knowledge. Always check with an accountant when it comes to tax matters.

Leasing Loophole?

Can Leasing Be a Workaround for the IRA EV Incentive Restrictions?

Post by Barry Kresch

This notion was floated a while back and I dismissed it as a fringe theory. However, it seems to be gaining traction.

The EV incentive is complicated, confusing, and a moving target. There are a lot of rules for consumers to understand. Manufacturers have to re-orient their supply chains in a hurry if they want to be compliant with battery and final assembly rules. And the IRS has not yet finished its battery-related rule-making, leaving us in a state of partial implementation for at least 3 months. Even a high level listing of all the rules is exhausting to read: North American final assembly, battery critical minerals sourcing percentages, entities of concern rule, battery North American manufacturing percentages, MSRP cap, income caps, confusing body-style rules, transfer option. It's a lot.

These rules apply to consumer purchases of a new EV. There are also incentives for commercial EV purchases. There are some important differences, but the salient point for this post is that none of the consumer restrictions apply to commercial. When an individual leases a vehicle, the incentive goes to the dealer/lessor, which is a commercial entity. So does it, therefore, get classified as a commercial transaction? Consumer Reports writes that they have been told this is the case by a spokesperson at the Treasury Department.

The commercial incentive is 30% of the cost of a BEV/15% of the cost of a PHEV or the incremental cost over a replacement vehicle. These are capped at $7500 for vehicles under 14,000 pounds (light duty) and $40,000 for vehicles over 14,000 pounds. **Per the Department of Energy, all light duty BEVs and most PHEVs qualify for the full $7500.**

In addition to Consumer Reports, this has been reported in other major press outlets and is being discussed seriously by other organizations that are closely reading the IRS text. Senator Joe Manchin is hurling thunderbolts that he adamantly opposes this interpretation, that it goes against the intent of the law. He's right about that, of course, but that may not matter. It's the IRS's ballgame now, (Section 45W). It could potentially be addressed legislatively but nothing is happening in this Congress (as of this writing, not even a Speaker). The fact that Manchin is that exercised is an indication that he is taking this seriously.

This seems to be the relevant language from the IRS:

"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."

A typical 36 month lease should qualify (i.e. not be in danger of being reclassified as a sale).

Leasing has always been a way for someone who does not have enough tax liability to make use of the full tax credit because it goes to the dealer. It is up to the buyer to press the seller for transparency regarding how much it is lowering the monthly payment as the seller is not legally obligated to pass it on to the consumer.

This is a major development. We will follow this and provide updates as they become available. If anyone tries to obtain this incentive, please share your experience with us.

One other note – while we are in this period before the battery minerals sourcing and manufacturing rules go into effect and the old battery rules are still in force (meaning incentives are most likely higher than they will be once the rules are implemented), Treasury has announced that eligibility for these temporarily higher incentives requires physically taking possession of the vehicle (the IRS language is "placed in service") before the rules are in effect. A firm contract is not good enough, as it was regarding the August

16th start of the final assembly rule.

The photo at the top of the post is of a Hyundai Ioniq 5. It has been a well-received EV but is currently excluded from incentives because it is imported (though they’re building a factory in Georgia). It is one of the more significant models to be affected by this prospective development.

EV Club Look-back on 2022

2022 was an action-packed year as you can see below. But we wanted to begin by saying a big **Thank You** to all of our members and supporters.

EV Evangelist Award

Club president, Barry Kresch, was given an award by Southwestern CT Clean Cities Coalition for Outstanding Leadership in EV Education. This award is a public acknowledgement of the positive contributions Barry and the EV Club of CT have made towards our mission of evangelizing the rapid adoption of EVs.

The Year of Incentives

With legislative and regulatory pushes at the federal and state levels, EV purchase and charging incentives became both more numerous and more complex in a big way over the past year – and it’s not over yet. The IRS is still working on the rule-making for the incentives in the Inflation Reduction Act **and the US Treasury has delayed EV tax credit guidance regarding battery sourcing until March 2023**. DEEP is still in the process of implementing the changes to CHEAPR from PA 22-25, and PURA is conducting its year one review of the charging installation and managed charging incentives being offered via Eversource and United Illuminating with anticipated changes to follow. We have spent considerable time keeping up with developments on our incentives page and various blog posts.

Advocacy

We remain engaged with policy makers, including for SB-4 last year, which significantly augmented the CHEAPR program. Our biggest disappointment was another year without a direct sales bill. The club has a seat on the policy committee of the national Electric Vehicle Association, with whom we partnered to submit comments to the IRS regarding the Inflation Reduction Act. Similarly, the club partnered with our EV Coalition partner, Save the Sound to submit comments to the Public Utilities Regulatory Authority regarding the year one review of the utility incentives.

Speaking Engagements and Appearances

The club educates the public about EVs through virtual and in-person speaking engagements, panels and events. Engagements in 2022:

- Wakeman Town Farm Westport
- Transportation Summit – CT League of Conservation Voters
- Schiller Shoreline Lifelong Learning Institute in Guilford (with People's Action for Clean Energy – PACE)
- Y's Men – YMCA, Westport
- Greenwich Conservation Commission/Greenwich Sustainability Committee
- Westport Rotary
- CT Humanist Society – Hamden
- Town of Kent (with PACE)

- Sustainable Essex
- EVs for Law Enforcement – Clean Cities Panel
- Westport Senior Center
- Clean Transportation Day for legislators in Hartford

EV Showcases

There are numerous events around the state and the club supports as many as we can, sometimes by participating directly or other times by helping to recruit EV owners to exhibit their vehicles. We let our members know about these via emails, blog posts, and our event calendar and have participated in events from Greenwich to Essex. Showcases tend to cluster in spring and fall around Drive Electric Earth Day and National Drive Electric Week. We also supported the return of the Electric Car Guest Drive, an event in which EV owners are paid to **participate with their vehicles.**

Wilton Fire Department

As we did with Westport a year ago, we arranged for club members to bring EVs to the Wilton Fire Department for first responder training. Aside from the requisite instruction, these events are a lot of fun as the first responders we speak to are genuinely engaged and have many questions.

Food Rescue US

When gas prices spiked, the volunteer drivers that this organization depends upon to "rescue" food before it is discarded so it can be donated to organizations serving food insecure families became harder to come by. A number of club members stepped in to fill this need. Food Rescue advised us they considered club participation to be a huge success.

EV Club Joins for Event with Rivian Owners Club

The new Rivian R1T pickup and R1S SUV have begun to be delivered to reservation holders in 2022. In May, the EV Club joined up with the Rivian Owners Club for a meetup at the Bridgeport Brewing Company with Rivian owners showing their vehicles to EV Club members. Funds from an event fund raiser went to support our EV Coalition partner, Save the Sound. See the video tour.

CT EV Data

- EV Dashboard based on our Freedom of Information Act Requests of the Department of Motor Vehicles – updated semi-annually.
- CHEAPR rebates monthly and an annual summary of rebates by dealership (our proxy for EV-friendly dealers to the extent they sell CHEAPR-eligible vehicles).
- Ad hoc projects, such as the financial analysis done for the Westport Police Tesla Model 3 patrol car with the possibility of an update for the new Model Y patrol car.

Public Meetings

It has been more challenging to hold meetings during the pandemic. We have tried to fill the gap with virtual meetings at which we hosted speakers. This year we had speakers from Eversource and UI discuss the new consumer and commercial charging programs. A brand ambassador from Aptera joined us to discuss their unique approach to a solarized EV. We ended the year with a gathering at the new net-zero Hotel Marcel in New Haven where we celebrated the opening of L2 and Tesla charging stations.

It’s January 2023 – Do You Know Where Your EV Incentives Are?

Inflation Reduction Act Incentives Officially Begin – But Which Cars Qualify?

It is anticipated that consumer confusion will ensue with the advent of the new incentives. Not only have they become a lot more complicated, but many manufacturers have yet to finish the registration process that certifies vehicles. Also, the IRS, which was handed the Herculean task of crafting all of the implementation rule-making in the span of about 4 months, unsurprisingly, is not yet finished. The Department of the Treasury has announced a 3 month delay. This most particularly affects the rules concerning batteries. The incentive provisions are, therefore, being phased in.

No More Manufacturer Cap

The manufacturer unit sales cap is now gone. That means that Tesla and General Motors are no longer excluded on that basis. Toyota, Ford, Nissan, and Hyundai/Kia had also either surpassed or were close to reaching the 200,000 unit threshold, which will now not apply to them either. (Toyota and Hyundai/Kia are presently disqualified due to final assembly not occurring in North America.)

Delay in Battery Rules Means 3 Months Without Them

The biggest challenge for the automakers will be to source the required percentage of critical minerals, either domestically or from countries with whom we have a free trade agreement. A somewhat lesser challenge will be to have battery assembly located in North America. But for this 3-month window before the rules are complete, they simply don't apply. **This is, in effect, Treasury's "Buy Now" sale!** Incentives for most BEVs will almost certainly decline when the new provisions get implemented as this degree of supply-chain reorganization will take some time, but for now, enjoy the full $7500 incentive. **Note:** The buyer must be in possession of the vehicle prior to the implementation of the new battery rules to take advantage of the full incentive if the new rules would cause the vehicle to lose all or some of it.

Absent the new battery rules, PHEVs are subject to the battery pack size rules that existed before the IRA. When the new rules kick in, PHEVs will be eligible for the same incentives as BEVs.

Which Cars Are Eligible?

Good question, and not exactly straightforward. This is the page on the IRS website that lists the manufacturers and specific vehicles. A number of manufacturers, namely Kia, Mazda, Mercedes, and Subaru are listed as having entered into an agreement to become a "qualified manufacturer," but have not submitted specific vehicles. Other manufacturers are missing from the page altogether. Specific vehicle models are listed for Audi, Ford, GM, Nissan, Rivian, Stellantis, Tesla, Volkswagen, and Volvo. For the vehicle models that are listed, eligibility is not guaranteed (see MSRP cap below). The IRS advises this page will be updated on an ongoing basis.

MSRP Cap

Treasury is defining MSRP as the manufacturer's suggested retail price, including options, accessories, and trim (but not destination charges). This may be different than what you pay for the vehicle. For example, if a dealer either discounts or surcharges the price, it is still the price as suggested by the manufacturer that rules.

How a vehicle is classified with respect to body type determines which MSRP cap applies. Vans, SUVs, and pickups have an $80,000 cap. All other vehicles have a $55,000 cap. And it looks like the IRS is being persnickety about this classification insofar as crossovers, which in the marketplace are direct competitors to SUVs, are not classified as SUVs and are subject to the lower cap. Some examples are the Ford Mustang Mach-E, the 5-seat version of the Tesla Model Y (the 7-seat version *is* classified as an SUV), all of the non-AWD versions of the VW ID.4. It doesn't make a lot of sense to me either. Unfortunately, we foresaw this problem and included it as part of our comments to the IRS. It is a sneaky thing that ends up overweighting the incentives toward PHEVs.

Just because a vehicle is listed on the IRS web page does not mean that there is a trim level that falls under the cap. The cheapest Tesla Model Y, for example, is $65,990 (long range, non-performance, 5-seat configuration), obviously more than the $55,000 cap.

Other rules

Personal income rules are in effect – $300K for joint filers, $225K for head of house, $150K for a single filer. You can use current (purchase) year or prior year income to make this determination.

The incentive is in the form of a tax credit for when you file your 2023 taxes. The transfer option doesn't take effect until 2024. Yes, you can use a tax credit if you use the standard deduction. The credit is good insofar as you have the tax liability to burn it off. To the extent the credit isn't used, it goes away – no carry forward. Leasing the vehicle is a way to utilize the credit if you don't have the tax liability.

The used EV incentive is now in effect.

North American final assembly rules have been in effect since the legislation was signed by President Biden on August 16th. The Department of Energy has a VIN decoder on this page, which you can use to make sure. Unfortunately, a VIN is not available until late in the sales cycle if you custom order, though it is available for a car on the lot.

The seller is required to send to the IRS the vehicle VIN and the purchaser's tax ID. The purchaser is required to include the VIN when filing for the credit.

For a more complete description of how the new incentives work, please see our incentives page.

Note: All incentive advice is to the best of our knowledge and cannot be guaranteed. Also, IRS rule-making may subsequently change things.

How Not to Implement Policy

Post by Barry Kresch

Summary of Comments Submitted to

the IRS for IRA EV Incentive

The EV Club has partnered with the Electric Vehicle Association to author comments for the in-process IRS rule-making regarding the implementation of the EV incentive in the Inflation Reduction Act.

There is a scrum of lobbyists from manufacturers and interests groups weighing in with their cadres of lawyers and tax accountants. The focus of the EV Club and the EVA is the consumer and that informs our perspective and where we choose to focus our efforts.

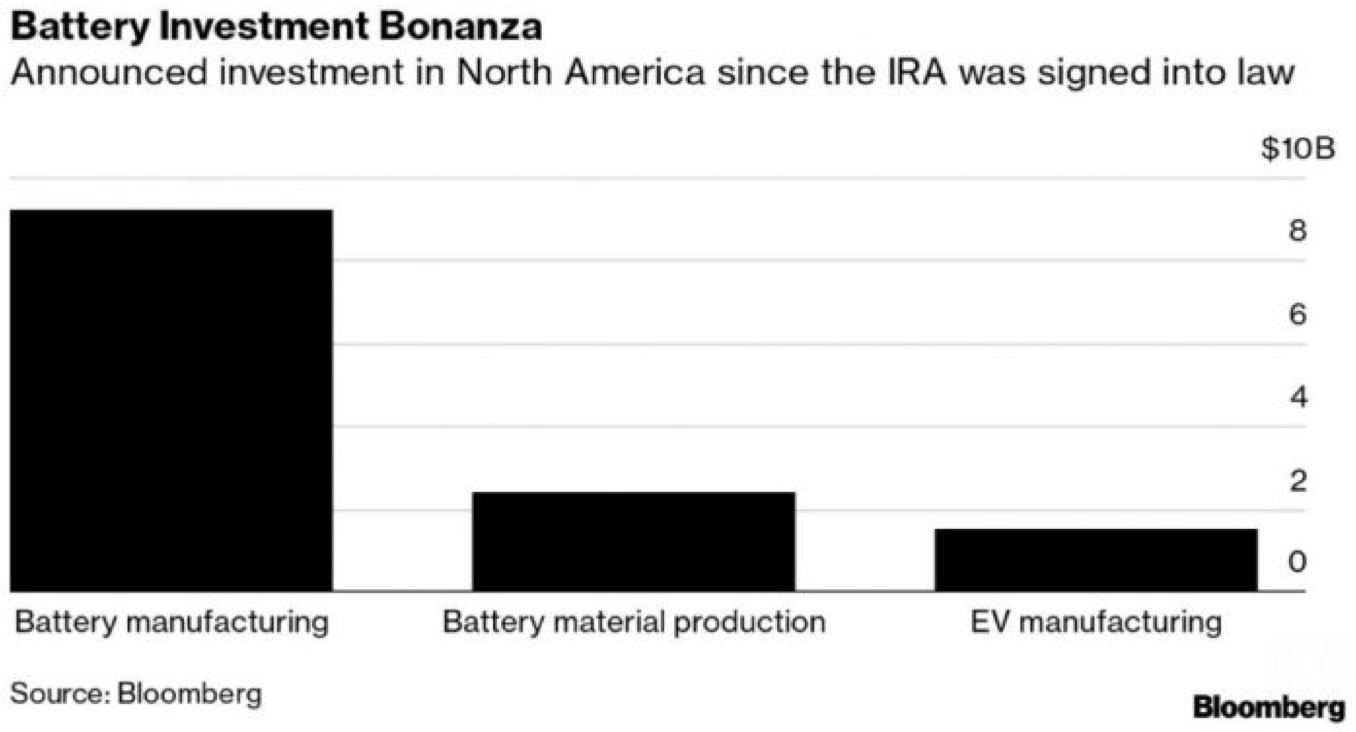
Comments inform the details of enactment that are within the purview of the IRS, not the legislation itself, which cannot be changed without further legislation. The outlook for the legislation to be amended in the near-term is cloudy at best.

The usual disclaimer – This is based on the latest information available and is not a legal opinion.

Sourcing/Manufacturing Requirements

The IRA is a landmark piece of legislation with a lot to recommend in it, but the EV incentive leaves much to be desired.

The focus of the IRA writ large is to “inshore,” or re-orient manufacturing to North America. It already seems to be having a material effect. This is a chart from Bloomberg showing significant announced investment levels that seemingly flow directly from the legislation.



The concern is timing. As of the date of this writing, we are not aware of any EV that would qualify for the full incentive when the requirements begin to phase in as of January, and we are aware of many that won't qualify for any incentive. We are advised that the IRS does have within its power to grant a temporary waiver, and facing a potentially significant disruption in the ability of the consumer to access EV purchase incentives, we support a modest delay in the requirements so that supply chains have a little more time to adjust.

Certification – A Real Buzzard's Nest

Our view is that the least well thought out part of the legislation is how the eligibility of a given vehicle is communicated to the consumer. There are requirements for final assembly, battery mineral sourcing, and battery manufacture. (Price, too, but we'll get to that later.) The latter two change every year, so a car that is compliant in 2024 might lose compliance in 2025. The fact that the requirements change on a calendar year basis puts it out of sync with the model year focus of building cars, not to mention EPA certification and other regulatory things that happen with a new vehicle.

Websites that have a list of vehicles, such as Plugstar or the AFDC.energy.gov website, are no longer able to provide definitive information regarding incentive eligibility. The best they can do is list cars that *may* be eligible, leaving it for the consumer to do their own research. The AFDC website directs consumers to contact the manufacturer or check on the IRS website. When I look up “fun” in the dictionary, the definition doesn’t include reading the IRS website. I wouldn’t be surprised if the confusion filters down to dealerships. It would be possible for a Volkswagen dealership, for example, to have a German made ID.4 parked next to the identical vehicle manufactured in Tennessee. The former is immediately disqualified due to the final assembly rule, while the latter *might* be eligible *if* the battery requirements are met.

The AFDC site also links to a VIN decoder. The VIN has the information needed to know if a vehicle qualifies. The problem is that a VIN isn’t available in anywhere near a timely way relative to the consumer shopping journey. By the time the VIN is known, a binding contract is almost certainly in place and the vehicle is almost at the point of delivery.

Proposed Solution

- Have the certification be on a model year basis and have it be available at the time the model year is initially offered for sale (which may precede deliveries).
- The manufacturer takes responsibility for the certification. If due to a certification running change, the model (or some units of the model) is subsequently found to not meet the requirements, any incentive claw-back would become the responsibility of the manufacturer.

- This timing would enable the certification to potentially be included on the Monroney sticker (the label affixed to the window of a new vehicle that displays the EPA mileage rating and other officially required information).
- Online tools like those referenced above would be able to definitively report the incentive status for a particular vehicle.
- This model year basis is consistent with how many state programs are run.

The first year of this will be extra complicated as the rules themselves will not be clear until the rule making is complete. Manufacturers shooting for IRA compliance have a moving target.

Our guiding principle is that an incentive must be simple, dependable, and easy to access. The intent of this proposed solution is make the inherent complexity of the legislation invisible to the consumer.

MSRP Cap

The bill specifies that a vehicle must have a maximum MSRP of $55,000 for a sedan or $80,000 for an SUV or light truck. It does not define how the MSRP is determined. Early reports about the legislation indicated that the MSRP would be defined as the final price of the vehicle, including options (but not taxes, title, or destination charges). There are MSRP caps in state incentive programs but they typically don’t work this way.

Most vehicles have multiple trim levels and then offer options within each trim level. The Connecticut program, CHEAPR, uses the base trim level MSRP. If a trim level is below the maximum allowed MSRP, ordering additional options does not affect eligibility, even if the final price exceeds the cap. The California law is more generous. If the base price of the lowest priced trim level is below the cap, then all trim levels qualify. The EV Club and EVA are advocating for the CA definition. This would obviously allow more EVs to qualify. We can deal with that!

Transfers

Eager to get a purchase incentive but not happy about waiting many months until you file your taxes to realize it? The transfer option is designed as the answer. Becoming effective in 2024, the consumer has the option to transfer the incentive to the dealer (new or used) and receive the tax credit as a "cash on the hood" rebate. As we have been diving into the bill details, an important point about the tax treatment of the rebate is not clear. If someone elects the transfer, they receive the full amount. However, if they do not have the tax liability to absorb it, they are on the hook for paying the difference between their liability and the $7500 (for a new vehicle) come tax time. At least that is how several folks who know more about tax accounting than I have interpreted it.

Doing this kind of claw-back makes no sense on any level. The consumer is exposed to an unquantified risk. The dealer is receiving the credit, and either using it or getting reimbursed by Treasury, so it would be a weird form of double taxation. Finally, it is self-defeating. The intended design of the incentive is to increase EV adoption among non-affluent consumers. This would act as a red flag for exactly the target consumer. The EV Club and EVA are advocating that anyone taking the transfer get the full incentive, full stop.

Transfers vs Leasing

A transfer works differently than a lease. If a customer leases, the incentive goes to the finance company or whomever holds the title. That entity can package the incentive into lower lease payments. It has always been a way for someone who does not have $7500 of offsetting tax liability to be able to take full advantage of the incentive. However, the title holder is not legally obligated to do this. They can just keep all or part the incentive for themselves. It is why we have always advised consumers to discuss this specifically with the seller.

One of the good things about the transfer is that the rules require full disclosure on the part of the seller and that the seller pass the entire incentive through to the customer. The EV Club/EVA recommend that these requirements be expanded to include leasing customers.

Transfers and Income Eligibility

There are income caps in this program as we explain on our incentives page. If someone takes the tax credit the old-fashioned way, meaning when they file their taxes, income eligibility can be determined by either the current year or prior year modified adjusted gross income. In the case of a transfer, where the dealer is tasked with verifying eligibility, as an operational matter, the only option is to look at the prior year. It is the recommendation of the EV Club/EVA that the consumer, if determined to be ineligible for the prior year, be given the option of using the current year. In that scenario, the incentive would be given at the time of purchase. The consumer would take responsibility for current year eligibility (to be verified upon tax filing). If the consumer remains ineligible, it is their responsibility to repay the incentive. There are situations where someone has a pretty good idea whether they will have a change in taxable income and this expands their opportunity to receive an incentive.

The IRA EV consumer purchase incentives suffer from being too complicated for consumers to easily negotiate. Our comments seek to address this. The IRS is working to have its rule-making done by the end of the year.