



May 30, 2024

Via E-mail Correspondence

Ms. Laurel A. Blatchford
Chief Implementation Officer
Office of Inflation Act Implementation
Office of Tax Policy
U.S Department of the Treasury (Treasury)
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Mr. Daniel I. Werfel
Commissioner
Internal Revenue Service (IRS)
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Re: Request for Reimbursement Relief for Franchised Automobile and Truck Dealers
Under the Clean Vehicle Tax Credit Advance Payment Program

Dear Ms. Blatchford and Mr. Werfel:

On behalf of the National Automobile Dealers Association (NADA),¹ we are writing to formally request relief for franchised new and used light-duty automobile and truck dealers that have not been reimbursed for the advanced payment of Section 25E and Section 30D clean vehicle tax credits applied at the point-of-sale for 2024 clean vehicle sales because of problems with registration for the advance payment program and submission of Time of Sale reports in the Energy Credits Online portal.

We very much appreciate our collaborative relationship with Treasury and IRS and the efforts expended to provide portal registration assistance and dealer education to date. We also acknowledge our informal communications with Treasury personnel about the advance payment issue, and understand that efforts are being made to implement portal functionality for correcting, updating, and re-submitting Time of Sale reports, which may help with providing reimbursement for some of the dealers in issue. We nevertheless want to underscore the significance of the problem and stress that, absent imminent relief, these franchised dealers will incur significant financial losses totaling, in the aggregate, hundreds of thousands of dollars.

¹ NADA represents over 16,000 franchised automobile and truck dealerships that sell new and used motor vehicles and engage in service, repair, and parts sales. Together they employ more than 1,100,000 people nationwide, yet most are small businesses as defined by the Small Business Administration.

Although the circumstances encountered by the affected dealers vary, the scenarios most frequently described to NADA involve situations where dealers applied credit transfers at the time of sale, but submitted regular Time of Sale reports in the portal because they did not realize the reports do not include credit transfers by default. In other scenarios, the dealers issued regular Time of Sale reports for sales involving credit transfers without realizing their advance payment registration remained pending and incomplete. In others, the dealers had completed advance payment registration, but issued regular Time of Sale reports because, unbeknownst to them, their registration was mysteriously switched back to pending and not restored prior to expiration of the 3-day submission deadline. And in some situations, the dealers were either locked out of the portal or encountered some other problem that rendered them unable to submit a Time of Sale report for their credit transfer transactions prior to the expiration of the 3-day submission deadline.

Attempts by the affected dealers to obtain assistance and accommodation from the IRS via the portal help desk e-mail have proven futile. The dealers receive merely canned responses that neither acknowledge the underlying circumstances nor address the lack of reimbursement. Nor does the portal itself enable dealers to amend their submitted Time of Sale reports or otherwise seek remediation. Dealers who missed the 3-day submission deadline are also unable to submit a Time of Sale report even if their advance payment registration is complete. Although our informal conversations with Treasury personnel involved with implementation of the portal and administration of the advance payment program over the last 6-8 weeks have been received favorably and sympathetically, the circumstances remain unchanged, and it is unclear whether the portal functionality enhancements presently under development will provide a means of redress for all the affected dealers, or when the functionality will be operational.

Regardless of any technical non-compliance with certain regulatory requirements of the advance payment program, reimbursement is not only imperative for these dealers financially, but also furthers the underlying purpose of the advance payment program, which is to promote clean vehicle sales through dealer participation in the program. Some of the affected dealers not only face losses on the sales for which reimbursement is outstanding, but also lost sales and mounting floorplan costs because their portal registration remains in pending status and their lenders will not finance clean vehicle sales without credit transfers. To minimize their downside risk, some of these dealers have stated they will not participate in the program or sell additional clean vehicles unless they are reimbursed for outstanding transfers and assured the same circumstances will not reoccur. Other dealers could follow suit if relief is not afforded in the near future. Such an outcome would be detrimental to the program, contrary to federal policy, and harmful for consumers because it will diminish dealer participation in the program, deprive consumers of the price reduction time-of-sale benefit of the clean vehicle credits, and inhibit clean vehicle sales.

The denial of reimbursement for the affected dealers warrants immediate remediation for at least two additional reasons. First, the clean vehicle sales in question were documented and processed by the dealers as a credit transfer transaction, which means each customer received the amount of the applicable credit as a down payment toward their vehicle's purchase price, but the dealer was not reimbursed as intended. Given the nascency of the advance payment program and the corresponding technical and administrative difficulties encountered during the portal's implementation, dealers should not be forced to incur this loss merely because they issued the wrong type of Time of Sale report, missed an arbitrary report submission deadline, or because their advance payment registration remained pending due to technological issues or a processing backlog impacting their registration. The customers received the value of the credit as a material part of the transaction and accommodations should be made for the dealers to receive reimbursement under the advance payment program.

Second, and perhaps most importantly, many of the customers involved in these transactions received regular Time of Sale reports despite having received the benefit of a credit transfer as a down payment toward the purchase price of the vehicle. Consequently, these buyers could potentially reap a windfall by receiving the benefit of the credit twice – once at the time of sale and then again by using the Time of Sale report to support a claim for the credit upon filing a tax return as if the credit was not transferred. Simply stated, Congress did not intend for customers to double-dip on the clean vehicle credits at dealer expense.

Thank you for your immediate consideration of this request. If you have questions, or need clarification about the underlying circumstances, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Ingber', with a long horizontal flourish extending to the right.

Daniel E. Ingber
Senior Vice President, Regulatory Affairs