FINANCE
TAX COMPLIANCE & PLANNING
UNIVERSITY OF MICHIGAN

Alternative Refueling Property Credit (IRC Section 30C[1])
for Logistics, Fleet and Capital Projects (LFCP)

The hardest thing to understand is the income tax – Albert Einstein

Frequently Asked Questions regarding the Energy Tax Credit for Charging Stations

1. What is the energy tax credit for charging stations?

   The credit is for depreciable alternative refueling property which includes charging stations. It clearly applies to bidirectional charging infrastructure that enables electric vehicles (EVs) to not only draw energy from the grid, but to supply energy to it. It cannot exceed $100,000 per station and is subject to a 6% base credit which increases to 30% if certain prevailing wage and apprenticeship (PWA) requirements are met. The credit extends to property placed in service through January 1, 2033.

   Further, this credit is refundable which means that any credit amount in excess of the reported tax liability will be refunded as a cash payment to the taxpayer. For instance, if U-M's tax liability on its annual income tax return, Form 990-T, is $1,000 but it reports $2,000 of refundable tax credits, then it may receive a cash refund of $1,000. With respect to these charging stations, the cash refund may be significant. As an example, assuming that U-M does not have a tax liability on its return for this fiscal year (which is likely), then 200 charging stations which are each purchased at a cost of $50,000 for a total of $10M may qualify for a cash payment of $600K and will be increased 5 times or by 30% for a cash payment of $3M if it meets the PWA requirements.

   That said, we are awaiting further guidance from the Internal Revenue Service (IRS) which may include limitations on this computation.

2. Do charging stations purchased by LFCP qualify for the credit?

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EV charging stations must be located in an "eligible census tract." The definition of "eligible census tract" includes: (1) charging stations located in a "low-income community" as defined in Section 45D(e); **or** (2) a census tract that is "not an urban area." Ann Arbor meets the definition of a "low income community", however, please know that this threshold must be met each year and will need to be monitored regularly.

3. Is U-M, as the purchaser of the charging stations, entitled to this credit?

Although Section 6417 permits exempt organizations to take advantage of this credit, Section 30C(e)(2) provides that either the vendor or the exempt entity may be entitled to take the credit, but not both. Further, the IRS gives preference to the vendor who sold the property to the exempt entity, allowing the vendor to take the credit, provided; the vendor clearly discloses to the exempt entity in a document the amount of the credit the vendor plans to take. In which case, the contract should include a provision that gives U-M the opportunity to claim the credit.

4. What are the prevailing wage and apprenticeship (PWA) requirements?

If LFCP meets the PWA requirements, the credit may increase by 5 times the base credit, i.e., from 6% to 30%.

A. Prevailing Wage Requirement - Any laborers and mechanics employed by U-M, contractor, or subcontractor, shall be paid wages at rates not less than the prevailing rates in the locality in which the facility is located as most recently determined by the Secretary of Labor (in accordance with subchapter IV of chapter 31 of title 40, United States Code).

B. Apprenticeship Requirements - Applicable percentage of work is completed by an apprentice:

- Construction which begins before 1/1/23, 10% to be completed by an apprentice.
- Construction after 12/31/22 but before 1/1/24, 12.5% to be completed by an apprentice.
- Construction begins after 12/31/23, 15% to be completed by an apprentice.

Also, when 4 or more individuals work on a construction project, at least 1 must be a qualified apprentice.

C. Safe Harbor - An exception or safe harbor for apprenticeship requirement applies when U-M demonstrates good faith in complying with this requirement. If U-M does not meet the apprenticeship requirement but did request and was denied apprentices from an apprenticeship program, then this requirement does not apply. Alternatively, if the registered apprenticeship program fails to respond to such request within 5 business days after the date on which registered program received such request, then likewise this requirement does not apply. However, U-M, its contractors and their subcontractors cannot deny or refuse to use apprentices.

D. Correction and Penalty for Failure to Meet the PWA – There are significant correction fees and penalties if U-M filed for the increased credit but later determined that it did not meet the PWA requirements.

5. How does U-M process the requests for cash?

The IRS requires U-M to pre-file each property which is eligible for the credit that it intends to report on its tax return, Form 990-T. Once the IRS has reviewed and approved the pre-filing request, it will issue registration numbers to report on the tax return. Without these numbers, the credit is not allowed.

6. How long will it take to receive the cash refund?

Since the credits need to be reported on U-M's tax return, the payment can take up to 28 months from the date the charging stations are purchased to the date the cash payment is received. For instance, credits earned in July of 2023 will be included on U-M's tax return for fiscal year end June 30, 2024, which is due by November 15th of that year but, most likely, will be filed on extension in May of 2025 with the actual payment coming three to five months after that date, August to October of 2025 for a total of 28 months [two years and 4 months].

Additionally, please note that the credit must be earned to be reported which occurs when the charging stations are placed in service.

7. What steps does LFCP need to take to effectuate the refund payments?

LFCP will need to meet with the tax team to identify and quantify the credit appropriately. We may schedule a few follow-up meetings to ensure that the charging stations are pre-filed properly. The introductory meeting should be scheduled as soon as is practicable.

8. How will it be distributed?

This decision turns on various factors, such as the amount of the refunds, when they are received and the risks associated with them. Please know that with much of this

Title search: IRA Energy Credits: Stories from the Trenches

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