

# IRA Insight: IRA Targets Domestic Production of EV Batteries and DOE Publishes List of Current EVs Eligible for New Clean Vehicle Credit

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## I. Introduction

President Biden signed the Inflation Reduction Act of 2022 (IRA) into law on August 16, as we provided in our extensive [summary](#). The IRA includes landmark investment opportunities in domestic energy production and manufacturing with the goal of reducing carbon emissions in the U.S. by roughly 40% by 2030.<sup>[1]</sup> An under-appreciated aspect of the legislation has been its requirements that electric vehicles (EVs) utilize domestically produced battery components for batteries used in their vehicles.

## II. Domestic Content Requirements for EVs

- For vehicles placed in service after December 31, 2022 through 2032, the IRA extends and modifies the existing New Qualified Plug-In Electric Drive Motor Vehicles Credit with a Clean Vehicle Credit, worth up to \$7,500 with two \$3,750 components:

1. Component 1 will be met when a certain percentage of the critical minerals in the battery are extracted or processed in the U.S. or a country with a U.S. free-trade agreement or are recycled in North America. The applicable percentage increases every year by 10% through 2027 when 80% of critical minerals in the battery must comply with these provisions.

2. Component 2 will be met when a certain percentage of the battery is manufactured or assembled in North America, *i.e.*, as of January 1, 2024, at least 50% of the component parts of EV batteries must be produced/manufactured in North America, which increases by 10% each year through 2029 when 100% of battery contents must comply with these provisions.

- Vehicles meeting one, but not both requirements, will be limited to a \$3,750 credit.
- The IRA excludes from the definition of “new clean vehicle” any vehicle placed in service after December 31, 2024 whose battery contains critical minerals extracted, processed, or recycled by a “foreign entity of concern” and any vehicle placed in service after December 31, 2023 whose battery contains components manufactured

or assembled by a “foreign entity of concern.” A foreign entity that is owned by, controlled by, or subject to the jurisdiction or direction of the government of China, currently the world’s leading producer of battery components, is on the list of “foreign entities of concern.”<sup>[2]</sup>

- Credits will be disallowed for vehicles with retail prices above certain thresholds and for taxpayers with modified adjusted gross income (AGI) of more than \$300,000 for taxpayers married filing jointly, \$225,000 for head of household, and \$150,000 single taxpayers. For purposes of this threshold, modified AGI is subject to certain adjustments and represents the lower of the modified AGI for the year of placed in service or the prior year.
- The new credit will eliminate the current statutory limit of 200,000 vehicles sold per manufacturer before the credit begins to phase out with respect to vehicles from such manufacturer.
- The credit can be transferred to a dealer under certain conditions, lowering the purchase price.
- The IRA will provide a tax credit, equal to the lesser of \$4,000 or 30% of the sale price, for the first transfer of previously owned clean vehicles purchased from a dealer on or before December 31, 2032 if the model year of the vehicle is at least two years earlier than the calendar year of the taxpayer’s acquisition of the vehicle. Similar to the credit for new vehicles, taxpayers above certain income thresholds will not qualify, and price thresholds exist. The credit will be limited to taxpayers with modified AGI (with certain adjustments and taking into account the lower modified AGI between the relevant taxable year and the prior taxable year) of \$150,000 or less for those married filing jointly; \$112,500 or less for a head of household; and \$75,000 or less for a single taxpayer. The sale price cannot exceed \$25,000.

### III. Eligible EVs

Shortly after President Biden signed the IRA, the Department of Energy released the list of EVs currently eligible for the Clean Vehicle Credit (see below).<sup>[3]</sup> We anticipate the future release of similar lists for pre-owned and commercial clean vehicles as described in Sections 13402 and 13403 of the IRA.<sup>[4]</sup>

### IV. Conclusion

The IRA presents a generational opportunity for domestic battery component producers to catch up with competing Asian manufacturers and producers. Current component domestic production is far outweighed by EV battery demand. Our team is helping domestic components and battery producers to expand capacity to bridge this gap by:

- Seeking available U.S. government funding to support expansion;
- Siting manufacturing capacity;

- Navigating complex tax and other considerations; and
  - Supporting component companies' efforts to negotiate strategic relationships and supply agreements with domestic OEMs.
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[1] *Summary: The Inflation Reduction Act of 2022*, Senate Democrats (Aug. 11, 2022).

[2] See 42 U.S.C. § 18741(a)(5)(C) (referring to entities “owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation (as defined in section 2533c(d) of title 10)); 10 U.S.C. § 2533c(d)(2) (listing “covered nations,” including China).

[3] U.S. Department of Energy, “Alternative Fuels Data Center,” available at <https://afdc.energy.gov/laws/inflation-reduction-act>.

[4] *Id.*

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