

THE IRS RELEASED **NOTICE 2024-49** ON MAY 31, 2024, PROVIDING UPDATED GUIDANCE FOR TAXPAYERS SEEKING TO CLAIM THE CLEAN FUEL PRODUCTION CREDIT UNDER SECTION 45Z.

Section 45Z provides that only *registered* production is eligible to generate § 45Z clean fuel production credits (“CFPCs”). The new guidance outlines how an eligible taxpayer can register under § 4101 and receive timely approval of its registration application in order to claim CFPCs for the production and sale of clean transportation fuels commencing January 1, 2025.

TIMELINE FOR REGISTERING AS A PRODUCER OF CLEAN FUEL

To qualify as a registered producer of clean fuel under § 4101 of the Code, an eligible taxpayer must have obtained its registration letter from the IRS and such registration must not be revoked or suspended. Taxpayers are only eligible to claim CFPCs during the period in which such taxpayer has such valid registration. No CFPCs may be claimed by a taxpayer for any fuel produced and sold during any period in which such taxpayer is not validly registered, even if the production and sale otherwise satisfy all requirements under the Code.

Section 45Z applies to transportation fuels produced after December 31, 2024 and sold by December 31, 2027, providing three years of available credits. In order to maximize the CFPCs that a taxpayer may claim pursuant to § 45Z, a taxpayer will need to be ready to commence claiming the credit—and so be registered under § 4101—on January 1, 2025. **The Notice advises eligible taxpayers to apply for registration as soon as possible. If a taxpayer desires to commence claiming CFPCs for clean fuels produced January 1, 2025, the IRS encourages completing the application for registration no later than July 15, 2024.** The IRS intends to process completed applications for registration received by July 15, 2024 in time for the taxpayer to receive its registration by January 1, 2025, but applications received after such date are less likely to be processed in time.

APPLYING FOR A REGISTRATION

An eligible taxpayer seeking a registration letter must submit Form 637, Application for Registration. The notice provides details on how the eligible taxpayer should complete the form, including how to indicate the proper Activity Letter and the accompanying activity description in part II of the form according to the type of fuel produced. SAF producers need to submit Activity Letter "CA" and non-SAF transportation fuel producers must submit Activity Letter "CN." Eligible taxpayers producing both SAF and non-SAF should include both "CA" and "CN" as Activity Letter designations on Form 637. The Notice states that the IRS is revising Form 637 to add both activity letters but, in the meantime, eligible taxpayers are advised to continue using the current Form 637 and write in the Activity Letters and the corresponding information detailed in the Notice as needed until the revision is made.

NON-SAF TRANSPORTATION FUEL; FEEDSTOCKS

The Notice also provides a previews additional guidance expected prior to January 1, 2025, on the emissions rate for similar types and categories of transportation fuels based on the amount of lifecycle greenhouse gas emissions that a taxpayer may use for establishing the emissions rate. While the table has not yet been provided, the Notice sets out certain types of fuel that are anticipated to be eligible for CFPCs and provides that "[m]ost fuels derived from palm fatty acid distillates, petroleum, natural gas, and coal (including lignite) are not expected to qualify as non-SAF transportation fuel" The Notice includes additional preliminary guidance on feedstocks and the associated varieties of fuel that may qualify as transportation fuel.

ACTIONS

While we anticipate further guidance over the coming months that will help further clarify the types of fuels that will be eligible for CFPCs under § 45Z, clean fuel producers seeking to claim CFPCs on January 1, 2025, should be sure to apply for registration by the July 15, 2024, deadline and to note the additional requirements and forthcoming changes to Form 637.

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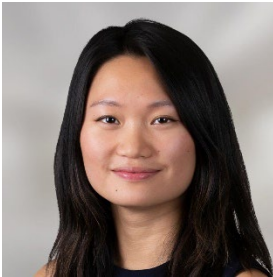
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