



March 1, 2024

Mr. Ken Corbin
Commissioner, Wage and Investment Division and Chief Taxpayer Experience Officer
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Re: Issues with Form 8936, Schedule A (Clean Vehicle Credit Amount)

Dear Mr. Corbin:

On behalf of National Association of Enrolled Agents (NAEA) and the nearly 65,000 enrolled agents (EAs) it represents, I write to share a challenge tax professionals face when working with clients to claim electric vehicle (EV) tax credits.

The Inflation Reduction Act of 2022 extended the § 30D tax credit for EVs and established new tax credits, namely § 25E, for used EVs, and § 45W for commercial EVs. These changes evidently required the Service to build a new [Form 8936](#) (Clean Vehicle Credits) and [Form 8936, Schedule A](#) (Schedule A).¹

The new Form 8936 requires a separate Schedule A for each vehicle placed into service during the tax year. Question 4ⁱⁱ states:

Was the vehicle used primarily outside the United States? Answer “No” if it was but an exception applies.

Taxpayers are not directly asked if they used the vehicle primarily within the United States and are left to draw the conclusion that if they didn’t use the vehicle primarily outside of the United States, IRS is going to construe the “No” answer to mean they used the vehicle primarily within the United States.

As far as we can determine from conversations with two large tax software firms, the software developers are following e-file schema/business rules with this logic:

The preparer will answer “No” if the vehicle was used entirely or primarily in the US. The instruction line on the form about the exception only applies to vehicles used primarily outside the US.

The question will be answered no:

1. *If the vehicle was used exclusively or primarily in the US*
- or*
2. *If the vehicle was used primarily outside the use, BUT an exception applies.*

Tax professionals are expecting the opposite question, namely “Was the vehicle used primarily within the United States?” An affirmative answer allows the taxpayer to claim the credit, answers what surely is the most common condition, and aligns with the structure of questions 5-7. Would it be possible on future iterations to rewrite this question:

Was the vehicle used primarily outside the United States? Answer “No” if it was but an exception applies.

- **Yes.**
- **No, but an exception applies**
- **No. Stop here.** *You can’t claim a credit for a vehicle used primarily outside of the United States.*

We understand that updating and creating entirely new forms at scale and in increasingly compressed timeframes is a difficult task and I submit that calling out a single apparent error does not in any way impugne the efforts of your forms and publications team.

I close by thanking you for how available you make yourself to stakeholders as well as for your commitment to tax administration—and, in your dual role, to taxpayers’ and tax professionals’ experience. Should we be able to assist, or should you have any questions about this letter, please contact our Executive Vice President, Megan Killian, CAE.

Sincerely,



Cynthia Leachmoore, EA
President

cc: Ms. Erin Collins, National Taxpayer Advocate

ⁱ For reference, see [2022 Form 8936](#) and [2022 Form 8936, Schedule A](#).

ⁱⁱ To qualify for the credit, a taxpayer is required to use the vehicle primarily in the United States, though exceptions apply.