



701 8th Street, NW, Suite 450, Washington, D.C. 20001

PHONE 202.545.4000 FAX 202.545.4001

GrowthEnergy.org

August 14, 2023
Commissioner Daniel Werfel
Internal Revenue Service
CC:PA: LPD:PR (Notice 2023-06)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

RE: Comments on RINS 1545-BQ63 and 1545-BQ64, Notice of Proposed Rulemakings on Section 6417 Elective Payment of Applicable Credits and Section 6418 Transfer of Certain Credits

Dear Commissioner Werfel:

Thank you for the opportunity to further comment on the Department's notices of proposed rulemaking regarding important provisions of the Inflation Reduction Act (IRA) that will drive reductions in greenhouse gas emissions and grow American jobs. Growth Energy is the nation's largest association of biofuel producers, representing 93 U.S. plants that each year produce 9 billion gallons of low-carbon, renewable fuel; 115 businesses associated with the production process; and tens of thousands of biofuel supporters around the country. Together, we are working to bring better and more affordable choices at the fuel pump to consumers, improve air quality, and protect the environment for future generations. We remain committed to helping our country diversify its energy portfolio in order to grow more American green energy jobs, decarbonize our nation's energy mix, sustain family farms, and drive down the costs of transportation fuels for consumers.

Our industry is poised to work with you and the administration to help achieve the ambitious climate goals sought by the enactment of the IRA. To that end, we look forward to working with you on the implementation of the new law and the various clean energy credits. We reiterate our specific comments that we submitted in response to the Department's Notices (2022-50 and 2022-51) on the same topics below, and further request the following:

- Please provide additional clarity about whether the election under Section 6417 applies to all of the applicable tax credits generated for a particular tax year or whether the taxpayer can apply the election to a portion of the applicable tax credits.

- Clarify that taxpayers described under Section 6417(d)(1)(B) may elect direct pay for up to five years under Section 6417 and elect to transfer credits under Section 6418 for the remainder of the 12-year credit period provided for under Section 45Q; alternatively, please clarify that taxpayers may forgo the direct pay election under Section 6417 altogether, and elect to transfer credits under Section 6418 for the entire 12-year credit period provided for under Section 45Q.
- With regard to 6417(d)(3)(C)(i)(II)(aa) in the case of a taxpayer who makes an election described in paragraph (1)(C), applying to the taxable year in which such equipment is placed in service and the 4 subsequent taxable years with respect to such equipment, please clarify that this provision be adjusted to 60 months or a pro-rated tax year.
- Confirm whether a taxpayer to which the section 45Q credit is allowed to under a section 45Q(f)(3)(B) election to be treated as an applicable entity under section 6417(d)(1)(C).
- Clarify whether an eligible taxpayer may transfer all or a portion of an eligible credit to more than one taxpayer.
- Clarify whether the taxpayer to which the section 45Q credit is allowed under a section 45Q(f)(3)(B) election may be permitted to make an election to transfer such credit under section 6418(a).
- Provide guidance on when estimated tax payments associated with direct pay credits will be applied on behalf of taxpayers and when overpayments will be refunded to taxpayers.
- Provide clarity on situations in which the rules on excessive payments and excessive transfers under Sections 6417(d)(6) and 6418(g)(2) will apply and the requirements for showing reasonable cause to avoid the 20-percent penalty thereunder.

Growth Energy appreciates the Department's consideration of this input as it implements the IRA. We look forward to engaging further on this important work and appreciate your continued consideration.

Sincerely,



Chris Bliley
Senior Vice President of Regulatory Affairs
Growth Energy