

Proposed Rules

TITLE 3 TAXATION
CHAPTER 3 PERSONAL INCOME TAXES
PART 36 CLEAN CAR PERSONAL INCOME TAX CREDIT

3.3.36.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Energy, Conservation and Management Division.
[3.3.36.1 NMAC - N, 08/XX/2024]

3.3.36.2 SCOPE: 3.3.36 NMAC applies to the application and certification procedures for administration of the clean car personal income tax credit.
[3.3.36.2 NMAC - N, 08/XX/2024]

3.3.36.3 STATUTORY AUTHORITY: 3.3.36 NMAC is established under the authority of Section 7-2-18.36 NMSA 1978.
[3.3.36.3 NMAC - N, 08/XX/2024]

3.3.36.4 DURATION: Permanent.
[3.3.36.4 NMAC - N, 08/XX/2024]

3.3.36.5 EFFECTIVE DATE: July 01, 2024, unless a later date is cited at the end of a section.
[3.3.36.5 NMAC - N, 08/XX/2024]

3.3.36.6 OBJECTIVE: 3.3.36 NMAC objective is to establish procedures for administering the certification program for the clean car personal income tax credit.
[3.3.36.6 NMAC - N, 08/XX/2024]

3.3.36.7 DEFINITIONS: For additional definitions refer to Section 7-2-18.36 NMSA 1978.

A. "Applicant" means a New Mexico taxpayer that has purchased an electric vehicle, plug-in hybrid electric vehicle or fuel cell vehicle or enters into a new lease of at least three years for one of these vehicles.

B. "Application package" means the application documents an applicant submits to the department for certification to receive a state tax credit.

C. "Certified" or "certification" means department approval of an applicant's eligible purchase of an electric vehicle, plug-in hybrid electric vehicle or fuel cell vehicle, or an applicant's new lease of at least three years for one of these vehicles, either of which makes the applicant owning or leasing the vehicle eligible for a state tax credit.

D. "Department" means the energy, minerals, and natural resources department.

E. "Division" means the department's energy conservation and management division.

F. "Extended manufacturer's warranty" means a dealership-provided one-year extended manufacturer's warranty against defects and repairs on a previously owned vehicle.

G. "Licensed dealer" means a dealer licensed by the motor vehicle division of the taxation revenue department pursuant to Section 66-4-2 NMSA 1978 or a licensed dealer located on tribal land within New Mexico.

H. "New lease" means when a taxpayer enters into a new lease agreement of at least three years for a clean car vehicle.

I. "State tax credit" or "tax credit" means the clean car personal income tax credit.

[3.3.36.7 NMAC - N, 8/XX/2024]

3.3.36.8 GENERAL PROVISIONS:

A. The state tax credit may be claimed for taxable years after January 1, 2024, and prior to January 1, 2030.

B. The tax credit provided by this section may be referred to as the clean car personal income tax credit.

C. One tax credit may be certified per taxpayer, per taxable year; only one tax credit shall be certified per new motor vehicle, and only one tax credit shall be certified per previously owned motor vehicle.

D. A taxpayer who is not a dependent of another individual and who, beginning on May 15, 2024, and prior to January 1, 2030, purchases an electric vehicle, plug-in hybrid electric vehicle, fuel cell vehicle or enters

a new lease of at least three years for one of these vehicles is eligible to apply for certification for the tax credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act.

E. If a New Mexico taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all the requirements to be eligible for the credit, that taxpayer may be allocated the right to claim the tax credit in proportion to the taxpayer's ownership interest.

F. The total credit claimed by all members of the partnership or limited liability company shall not exceed the allowable credit the department has certified.

G. The state tax credit is available for the tax year in which the vehicle was purchased or leased. The tax year of vehicle purchase date determines tax year eligibility.

H. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the tax credit that would have been claimed on a joint return.

I. A vehicle purchase or lease must be through a motor vehicle dealer licensed by the New Mexico motor vehicle division. A vehicle purchased through an unlicensed dealer is not eligible for the clean car personal income tax credit.

J. A lessee of a vehicle must have entered into a new lease for at least three years.

K. A previously owned motor vehicle must have a minimum one-year extended manufacturer's warranty against defects and repairs.

L. The department shall report to the taxation and revenue department the information required to verify, process, and distribute each state tax credit.

M. In the event of a discrepancy between a requirement of 3.3.36 NMAC and an existing New Mexico taxation and revenue department rule promulgated prior to the adoption of 3.3.36 NMAC, the existing rule shall govern.

[3.3.36.8 NMAC - N, 8/XX/2024]

3.3.36.9 TAX CREDIT ADMINISTRATION:

A. A taxpayer may apply for certification for a clean car personal income tax credit from the energy, minerals, and natural resources department on electronic forms and in the manner prescribed by that department. The department will not accept paper applications or applications submitted by e-mail unless specifically authorized by the division.

B. An application package for a new clean car or previously owned clean car shall include a completed state tax credit electronic application and all required attachments. Partial applications will not be accepted. After the department has certified an application, applicants may not amend the certified application package to seek additional credits for that vehicle. If there are multiple owners on a clean car vehicle registration, a joint application must be submitted.

C. If the energy, minerals, and natural resources department determines that the taxpayer meets the clean car tax credit requirements, the department shall issue a certificate of eligibility to the taxpayer providing the amount of tax credit and the taxable year in which the credit may be claimed.

[3.3.36.9 NMAC – N, 8/XX/2024]

3.3.36.10 APPLICATION REQUIREMENTS:

A. The state tax credit is available for purchases of an electric vehicle, plug-in hybrid electric vehicle or fuel cell vehicle, or new leases of at least three years for one of these vehicles.

B. Applications for certification of the state tax credit shall be made no later than one year from the date on which the vehicle is purchased or the lease is entered into.

C. The application package shall meet the requirements of 3.3.36 NMAC. If an application package fails to meet a requirement, the department shall disapprove the application.

[3.3.36.10 NMAC - N, 8/XX/2024]

3.3.36.11 APPLICATION:

A. To apply for a state tax credit, an applicant shall submit an application for a certificate of eligibility to the division using a department-developed application or an approved electronic application system.

B. To be considered complete, an application must include the state tax credit application and all required attachments.

C. If there are multiple owners of the clean car, a joint application must be submitted.

D. A completed application shall consist of the following information:

- (1) The applicant's name, mailing address, e-mail address, telephone number, vehicle identification number (VIN) and the last four digits of the applicant's social security number or employer identification number (EIN) provided by a business applicant.
 - (2) A detailed description of the clean car, including year, make and model.
 - (3) A statement the applicant signed and dated, which signature may be a form of electronic signature if approved by the department, agreeing that all information provided in the application package is true and correct to the best of the applicant's knowledge.
 - (4) The vehicle's weight, battery capacity, and VIN as listed on the vehicle's window sticker.
- E.** A statement the applicant signed and dated, which may be a form of electronic signature if approved by the department, agreeing:
- (1) applicant has read the certification requirements contained in 3.3.36 NMAC;
 - (2) applicant understands that the department must certify the clean car documents in the application package before becoming eligible for a state tax credit.
- [3.3.36.11 NMAC – N, 8/XX/2024]

3.3.36.12 APPLICATION ATTACHMENTS:

- A.** An application for new vehicle shall contain the following information as attachments:
- (1) Purchase agreement, vehicle proof of purchase from or proof of new lease through a dealer licensed by the motor vehicle division of the department pursuant to Section 66-4-2 NMSA 1978 or a dealer located on tribal land within New Mexico;
 - (2) the vehicle's registration or current application for title and registration in New Mexico;
 - (3) vehicle purchase sticker and vehicle specification sheet;
 - (4) any additional information the energy, minerals, and natural resources department may require determining eligibility for the credit.
- B.** An application for previously owned motor vehicle certification of eligibility shall include:
- (1) proof of vehicle purchase from or lease through a dealer licensed by the motor vehicle division of the department pursuant to Section 66-4-2 NMSA 1978 or a dealer located on tribal land within New Mexico;
 - (2) the vehicle's registration or current application for title and registration in New Mexico;
 - (3) vehicle purchase sticker and vehicle specification sheet;
 - (4) proof that the dealer provided at least a one-year extended manufacturer's warranty against defects and repairs for the previously owned vehicle;
 - (5) any additional information the energy, minerals and natural resources department may require in determining eligibility for the credit.
- [3.3.36.12 NMAC-N, 8/XX/2024]

3.3.36.13 APPLICATION REVIEW PROCESS:

- A.** The department shall consider complete applications in the order received.
- B.** The department shall review the application package to calculate the state tax credit; check the accuracy of the applicant's documentation and determine whether the department shall certify the clean car personal income tax credit. The department shall disapprove an application that is not complete, correct, or does not meet the approval criteria.
- C.** If the department finds the application package meets the requirements of 3.3.36 NMAC, and a state tax credit is available, the department shall certify the applicant's clean car personal income tax credit.
- D.** If applicable, the department's disapproval notification shall state the reasons why the department disapproved the application. The applicant may resubmit the electronic application package for a disapproved project, but it shall be placed back at the beginning of the queue and reviewed as if it were a new application.
- [3.3.36.13 NMAC - N, 8/XX/2024]

3.3.36.14 WARRANTIES AND LEASES:

- A.** Clean car tax credit warranties that the department may accept for previously owned motor vehicles shall be provided by the dealer and shall cover a minimum of one-year extended manufacturer's warranty against defects and repairs.
- (1) Auto warranties accepted by the department must cover both the failed part and the labor to replace or repair it. The warranty types that the department may accept include the following:

- (a) an auto warranty that covers repairs for parts that fail due to defects or errors in how a vehicle was built;
 - (b) a bumper-to-bumper warranty. which may also be called a comprehensive or limited warranty, that covers nearly all a vehicle's systems;
 - (c) a certified pre-owned warranty that carries the balance of the original bumper-to-bumper and powertrain warranties;
 - (d) an extended warranty that covers a vehicle's problems after the original new vehicle warranty expires and which covers mechanical breakdowns and electrical failures;
 - (e) extended length warranty;
 - (f) factory warranty;
 - (g) new vehicle warranty;
 - (h) manufacturer warranty;
 - (i) any other warranty deemed eligible by the department.
- (2) The warranty types that the department will not accept include the following:
- (a) aftermarket accessories warranty;
 - (b) a basic used warranty for a car "as is," or for a period less than a year;
 - (c) corrosion and perforation warranties;
 - (d) emissions system warranty;
 - (e) hybrid and electric car battery warranties. The department will not accept a warranty covering *only* the high-voltage batteries installed in hybrids, plug-in hybrids and battery-electric vehicles;
 - (f) implied warranty;
 - (g) powertrain warranty. The department will not accept a warranty covering *only* the engine, transmission, and drivetrain components, even if it includes coverage of components in drive systems for electric vehicles and gas-electric hybrids;
 - (h) replacement parts warranty;
 - (i) restraint system warranty. The department will not accept a warranty covering *only* a vehicle's seat belts or restraint stem;
 - (j) roadside assistance warranty;
 - (k) tire warranty;
 - (l) any other warranty deemed ineligible by the department.
- B. The following new lease agreement types that the department will accept include the following:
- (1) closed-end lease where the applicant agrees to lease the car from a licensed dealer for a set term and certain mileage limits, and then return it at the end of the leasing period.
 - (2) open-end lease where the terms are flexible, and the applicant takes the depreciation risk of the vehicle.
 - (3) single payment lease where the applicant pays the entire amount for the lease upfront.
 - (4) long-term lease.
 - (5) used vehicle lease if it is longer than three years.
 - (6) any other type of lease deemed eligible by the department.
- C. The lease agreement types that the department will not accept include the following:
- (1) sub-vented or subsidized lease. The department will not accept a lease type that is offered with special incentives to make it more enticing to consumers. These incentives can include lower base interest rates, higher residual values, and manufacturer discounts
 - (2) A lease shorter than three years.
- [3.3.36.14 NMAC - N, 8/XX/2024]

3.3.36.15 CALCULATING THE STATE TAX CREDIT:

- A. The amount of the tax credit shall be:
- (1) for taxable years beginning January 1, 2024, and prior to January 1, 2027:
 - (a) \$3,000 for a new electric vehicle.
 - (b) \$2,500 for a new plug-in hybrid electric vehicle or fuel cell vehicle.
 - (c) \$2,500 for a previously owned electric vehicle.
 - (d) \$2,000 for a previously owned plug-in hybrid electric vehicle or fuel cell vehicle.
 - (2) for a taxable year beginning January 1, 2027, and prior to January 1, 2028:
 - (a) \$2,220 for a new electric vehicle.

- (b) \$1,850 for a new plug-in hybrid electric vehicle or fuel cell vehicle.
 - (c) \$1,850 for a previously owned electric vehicle.
 - (d) \$1,480 for a previously owned plug-in hybrid electric vehicle or fuel cell vehicle.
- (3) for a taxable year beginning on January 1, 2028, and prior to January 1, 2029:
 - (a) \$1,470 for a new electric vehicle.
 - (b) \$1,225 for a new plug-in hybrid electric vehicle or fuel cell vehicle.
 - (c) \$1,225 for a previously owned electric vehicle.
 - (d) \$980 for a previously owned plug-in hybrid electric vehicle or fuel cell vehicle.
 - (4) for the taxable year beginning January 1, 2029:
 - (a) \$960 for a new electric vehicle.
 - (b) \$800 for a new plug-in hybrid electric vehicle or fuel cell vehicle.
 - (c) \$800 for a previously owned electric vehicle.
 - (d) \$640 for a previously owned plug-in hybrid electric vehicle or fuel cell vehicle.
- B.** A state tax credit to an applicant for a clean car the department has certified shall not exceed:
- (1) \$3000 for a new clean car.
 - (2) \$2500 for a previously owned clean car

[3.3.36.15 NMAC - N, 8/XX/2024]

3.3.36.16 CERTIFICATION:

- A.** The energy, minerals and natural resources department shall provide the applicant with the certificates of eligibility in an electronic format.
- B.** The department shall provide certification through electronic notification to the applicant. The notification shall include the applicant's contact information, the last four digits of the social security number, or EIN, the clean car tax credit certification number and the tax credit amount.
- C.** If, after the department has issued a certification, any of the requirements are found to be insufficient, the department may rescind the certification.

[3.3.36.16 NMAC - N, 8/XX/2024]

3.3.36.17 CLAIMING THE STATE TAX CREDIT:

An applicant must apply for state tax credit certification with energy, minerals, and natural resource department. If an application package is approved, the department shall provide a certificate of eligibility to the applicant.

[3.3.36.17 NMAC - N, 08/XX/2024]

HISTORY OF 3.3.36 NMAC:

Pre-NMAC History: None.

History of Repealed Material: [RESERVED]