



TaxNewsFlash

United States



No. 2020-350
May 28, 2020

Proposed regulations: Credit for carbon oxide sequestration under section 45Q

The U.S. Treasury Department and IRS this evening released a version of proposed regulations (REG-112339-19) concerning the credit for carbon oxide sequestration under section 45Q.

The [notice of proposed rulemaking](#) [PDF 477 KB] (108 pages) provides guidance regarding the credit for carbon oxide sequestration and with regard to the capture and disposal of qualified carbon oxide, the use of qualified carbon oxide as a tertiary injectant in a qualified enhanced oil or natural gas recovery project or the use of qualified carbon oxide in a manner that qualifies for the credit.

This version of the proposed regulations includes the following statement:

This document will be submitted to the Office of the Federal Register (OFR) for publication. The version of the final rule [sic] released today may vary slightly from the published document if minor editorial changes are made during the OFR review process. The document published in the Federal Register will be the official document.

In a related IRS release—[IR-2020-108](#)—the IRS explained that these proposed regulations provide guidance regarding two new credits for carbon oxide captured using equipment originally placed in service on or after February 9, 2018, allowing:

- Up to \$50 per metric ton of qualified carbon oxide for permanent sequestration
- Up to \$35 for enhanced oil recovery purposes.

According to the IRS, neither of these new credits is subject to a limitation on the number of metric tons of qualified carbon oxide captured. The carbon capture was expanded to include “qualified carbon oxide”—a broader term than “qualified carbon dioxide.” Prior to the change in law, carbon capture was limited to a total of 75,000,000 metric tons of qualified carbon oxide. The IRS also reported that the proposed regulations address: procedures to determine adequate security measures for the geological storage of qualified carbon oxide; exceptions to the general rule for determining who the credit is attributable to; procedures for a taxpayer to make an election to allow third-party taxpayers to

claim the credit; standards for measuring utilization of qualified carbon oxide; and rules for credit recapture.

The purpose of this report is to provide text of the proposed regulations

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