

July 24, 2023

Taxpayers for Common Sense
651 Pennsylvania Ave, SE
Washington, D.C. 20003



The Honorable Lily L. Batchelder
Assistant Secretary for Tax Policy
Department of the Treasury

Mr. Seth Halon
Deputy Assistant Secretary of Tax and Climate Policy
Department of the Treasury
1500 Pennsylvania Avenue, NW

Subject: Request for Information on TIGTA Audit of 45Q Compliance with EPA Subpart RR and MRV Requirements

Dear Assistant Secretary Batchelder and Mr. Hanlon,

I am writing on behalf of Taxpayers for Common Sense (TCS) to request information related to the 45Q tax credit program administered by the U.S. Department of the Treasury. TCS is a national, nonpartisan budget watchdog working on behalf of the nation's taxpayers. We have closely followed the 2020 audit conducted by the U.S. Treasury Inspector General for Tax Administration (TIGTA) on the 45Q program, which provides tax credits for capturing carbon emissions. We appreciate TIGTA's efforts to ensure the integrity of this incentive program and its compliance with Environmental Protection Agency (EPA) regulations.

In 2020, an IRS review identified 672 taxpayers who claimed the I.R.C. § 45Q tax credits between 2010 and 2019, totaling over \$1 billion. In an audit to find out the discrepancies between the amount of sequestered carbon claimed under 45Q versus the amount reported to the EPA, the IRS focused efforts on 10 taxpayers who claimed over \$1 million each, accounting for 99.9% of all the credits. It was discovered that \$893,935,025 worth of credits were claimed by these 10 taxpayers without complying with the EPA's requirements. In a letter dated April 15, 2020, the IRS reported that it had examined 17 (68%) of 25 tax modules of credits claimed under the 45Q program that were noncompliant with Monitoring, Reporting, and Verification (MRV) requirements and disallowed credits in full for 14 modules, or 59 percent of noncompliant credits. Since then, no more updates on the investigation have been provided. Therefore, we kindly request that you provide us with additional information on the full result of the audit and the total amount of credits disallowed.

Operators injecting carbon dioxide underground are subject to the EPA's Greenhouse Gas Reporting Program requirements. UIC Class VI wells fall under subpart RR and require reporting on carbon dioxide received for injection, implementation of an approved MRV Plan, and reporting of carbon dioxide geologically sequestered. Considering the 2020 audit's findings regarding the improper submission of tax credits that did not meet EPA rules, we are particularly interested in understanding whether companies have complied with EPA Subpart RR MRV requirements since the 2020 audit.

Therefore, we kindly request that you provide us with additional information on the following:

1. **Compliance with EPA Subpart RR:** We would like to know if companies claiming tax credits under the 45Q program have adhered to the requirements outlined in EPA Subpart RR. Specifically, have companies accurately reported the amounts of carbon dioxide sequestration to the EPA as mandated by the rules? If there have been any instances of non-compliance, we seek details on the nature and extent of such violations.
2. **Compliance with MRV Requirements:** We are interested in understanding whether companies have effectively submitted and implemented MRV plans, as required by the EPA. Have companies adequately monitored, reported, and verified their carbon capture projects to ensure accurate accounting of emissions reductions? Please provide information on any instances of non-compliance and any corrective actions taken.

We would also like to request additional information regarding the compliance of companies that elect to comply with CSA/ANSI ISO 27916:2019 when reporting qualified carbon used as tertiary injectant for Enhanced Oil Recovery (EOR). Our focus is on whether these companies have provided the necessary documentation and certification that meet IRS requirements when claiming these credits.

To facilitate our analysis, we kindly request the following information:

1. **Findings and Observations:** Please provide us with a summary of the TIGTA findings and observations related to companies that have elected to comply with CSA/ANSI ISO 27916:2019. We are particularly interested in the extent to which these companies have provided documentation and certification that is compliant with IRS requirements for claiming the 45Q tax credits.
2. **Enforcement Actions:** If companies have failed to meet the documentation and certification requirements, we seek information on the enforcement actions taken by the IRS. Please provide details on any penalties, fines, or corrective measures applied to non-compliant companies.
3. **Recommendations and Future Oversight:** Considering the audit's findings, and your subsequent examination, we are interested in any additional recommendations or suggestions put forth by TIGTA to ensure better compliance and accountability in the 45Q program.

In a letter dated April 15, 2020, Inspector General George wrote, "To ensure that all claimants of the I.R.C. § 45Q credit are in compliance with the MRV requirements, the IRS Examination functions would have to consider a campaign or special project to examine every taxpayer that claimed the credit." Therefore, we kindly request that you provide us with information on whether such a campaign or special project has been initiated, and if so, any instances of noncompliance in addition to the 2020 audit results.

By obtaining this information, Taxpayers for Common Sense aims to evaluate and improve the effectiveness of the 45Q program in achieving its environmental goals while ensuring proper utilization of taxpayer funds. Transparency and accountability are essential to maintaining public trust and confidence in government programs.

We kindly request a response within 30 days of receiving this letter. If you require any clarification or have any questions, please do not hesitate to contact us. We appreciate your attention to this matter and look forward to your prompt response.

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "SE Ellis". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Stephen Ellis
President