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## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9975]

RIN 1545-BQ76

Pre-Filing Registration Requirements for Certain Tax Credit Elections

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Temporary regulations.

**SUMMARY:** This document contains temporary regulations setting forth mandatory information and registration requirements for taxpayers planning to make an elective payment election under the Inflation Reduction Act of 2022 and the CHIPS Act of 2022 to treat the amount of certain tax credits as a payment of Federal income tax, or in the case of a partnership or S corporation, to receive a payment in the amount of such credits. This document also contains temporary regulations setting forth mandatory information and registration requirements for taxpayers planning to make an election to transfer certain Federal income tax credits under the Inflation Reduction Act of 2022. These temporary regulations affect tax-exempt organizations, State and local governments, Indian tribal governments, Alaska Native Corporations, the Tennessee Valley Authority, rural electric cooperatives, and, in the case of three credits, certain taxpayers eligible to elect the elective payment of credit amounts in a taxable year under section 6417 of the Internal Revenue Code (Code). These temporary regulations also affect taxpayers eligible to make an elective payment election instead of claiming the advanced manufacturing investment credit under section 48D of the Code. These temporary regulations further affect taxpayers eligible to elect to transfer certain Federal income tax credits under section 6418 of the Code.

DATES: Effective date: This temporary regulation is effective on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Applicability date: For dates of applicability, see §§1.48D-6T(j), 1.6417-5T(d), and 1.6418-4T(d).

**FOR FURTHER INFORMATION CONTACT:** Concerning these temporary regulations, Lani M. Sinfield at (202) 317-5871 (not a toll free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

I. Overview

This document amends the Income Tax Regulations (26 CFR part 1) to add temporary regulations providing information and registration requirements that must be completed before elections available under sections 48D(d), 6417, and 6418 of the Code may be made.

In accordance with section 7805(e)(1) of the Code, concurrent with the publication of this Treasury Decision, the Department of the Treasury (Treasury Department) and the IRS are publishing in the Proposed Rules section of this issue of the ***Federal Register*** three notices of proposed rulemaking that contain proposed regulations under §§1.48D-6, 1.6417-5, and 1.6418-4, the text of which is identical to the text of §§1.48D-6T, 1.6417-5T, and 1.6418-4T of the temporary regulations. REG-105595-23 provides proposed regulations under section 48D(d). REG-101607-23 provides proposed regulations under sections 6241 and 6417. REG-101610-23 provides proposed regulations under section 6418.

Interested persons are directed to the **ADDRESSES** and **COMMENTS AND PUBLIC HEARING** sections of the preambles to REG-105595-23, REG-101607-23, and REG-101610-23 for information on submitting public comments or the public hearings for the proposed regulations.

## II. Sections 48D(d), 6417, and 6418

A notice of proposed rulemaking (REG-105595-23) in the Proposed Rules section in this issue of the **Federal Register** provides a background description of section 48D. A notice of proposed rulemaking (REG-101607-23) in the Proposed Rules section in this issue of the **Federal Register** provides a background description of section 6417. A notice of proposed rulemaking (REG-101610-23) in the Proposed Rules section in this issue of the **Federal Register** provides a background description of section 6418.

### **Explanation of Provisions**

#### I. Pre-filing Registration Requirements under Section 48D(d)

Temp. Reg. §1.48D-6T(b)(1) provides the mandatory pre-filing registration process that, except as provided in guidance, a taxpayer must complete as a condition of, and prior to, any amount being treated as a payment against the tax imposed under §1.48D-6(a)(1), or an amount paid to a partnership or S corporation pursuant to §1.48D-6(d)(2)(ii)(A). A taxpayer is required to use the pre-filing registration process to register each qualified investment in an advanced manufacturing facility. A taxpayer that does not obtain a registration number or report the registration number on its annual tax return with respect to an advanced manufacturing facility is ineligible to receive any elective payment amount with respect to the amount of any section 48D credit determined with respect to that advanced manufacturing facility. However, completion of the pre-filing registration requirements and receipt of a registration number does not, by itself, mean that the taxpayer is eligible to receive a payment with respect to the section 48D credits determined with respect to the advanced manufacturing facility.

The pre-filing registration requirements are that a taxpayer:

(1) must complete the registration process electronically through the IRS electronic portal and in accordance with the instructions provided therein, unless

otherwise provided in guidance;

(2) must satisfy the registration requirements and receive a registration number prior to making a section 48D(d)(1) elective payment election on the taxpayer's tax return for the taxable year at issue;

(3) is required to obtain a registration number for each qualified investment in an advanced manufacturing facility with respect to which a section 48D credit will be determined and for which the taxpayer wishes to make a section 48D(d)(1) elective payment election; and

(4) must provide the specific information required to be provided as part of the pre-filing registration process. The provision of such information, which includes information about the taxpayer and about the qualified investment in an advanced manufacturing facility, would allow the IRS to prevent duplication, fraud, improper payments, or excessive payments under section 48D. For example, verifying information about the taxpayer would allow the IRS to mitigate the risk of fraud or improper payments to entities that are not eligible taxpayers. Information about the taxpayer's taxable year would allow the IRS to ensure that an elective payment election is timely made on the entity's annual tax return. Information about the advanced manufacturing facility, including its address and coordinates (longitude and latitude), supporting documentation, beginning of construction date, and placed in service date would allow the IRS to mitigate the risk of duplication, fraud, and improper payments for properties that are not advanced manufacturing facilities.

Temp. Reg. §1.48D-6T(b)(7)(i) provides that, after a taxpayer completes pre-filing registration with respect to each qualified investment in an advanced manufacturing facility with respect to which the taxpayer intends to elect a section 48D(d) elective payment election for the taxable year, the IRS will review the information provided and will issue a separate registration number for each qualified

investment for which the taxpayer provided sufficient verifiable information.

Temp. Reg. §1.48D-6T(b)(7)(ii) provides that a registration number is valid only for the taxable year for which it is obtained. Temp. Reg. §1.48D-6T(b)(7)(iii) provides that, if an elective payment election will be made with respect to a qualified investment in an advanced manufacturing facility for a taxable year for which a registration number under this section has been obtained for a prior taxable year, the taxpayer must renew the registration each subsequent year in accordance with applicable guidance, including attesting that all the facts previously provided are still correct or updating any facts that are relevant in calculating the amount of the section 48D credit. Temp. Reg. §1.48D-6T(b)(7)(iv) provides that, if facts change with respect to the qualified investment in an advanced manufacturing facility for which a registration number has been previously obtained, the taxpayer must amend the registration to reflect these new facts. The regulations provide, for example, that if the facility previously registered for an elective payment election undergoes a change of ownership (incident to a corporate reorganization or an asset sale) such that the new owner has a different employer identification number (EIN) than the owner who obtained the original registration, the original owner would be required to amend the original registration to disassociate its EIN from the advanced manufacturing facility and the new owner must submit an original registration (or if the new owner previously registered other advanced manufacturing facilities, must amend its original registration) to associate the new owner's EIN with the previously registered advanced manufacturing facility.

Lastly, Temp. Reg. §1.48D-6(b)(7)(v) provides that the taxpayer is required to include the registration number of the advanced manufacturing facility on the taxpayer's annual return for the taxable year for an election under Temp. Reg. §1.48D-6(a)(1). The IRS will treat an elective payment election as ineffective with respect to any section 48D credit determined with respect to the advanced manufacturing facility for which the

taxpayer does not include a valid registration number on the annual tax return.

## II. Pre-filing Registration Requirements and Additional Information under Section 6417

Section 6417(d)(5) provides that, as a condition of, and prior to, any amount being treated as a payment that is made by the taxpayer under section 6417(a) or any payment being made pursuant to section 6417(c), the Secretary may require such information or registration as the Secretary deems necessary or appropriate for purposes of preventing duplication, fraud, improper payments, or excessive payments.

In general, stakeholders requested additional information about this provision and requested that the regulations balance the need to prevent fraud and abuse with the burden on taxpayers. Stakeholders recommended that the information required to be provided to the IRS should be provided in a manner that facilitates automated procedures to help catch potential fraud, discourages abusive or otherwise illegitimate claims, and allows efficient and prompt review (both before payment and through audits). Stakeholders recommended that all required documents and information should be able to be submitted easily via an online portal. Stakeholders recommended that information or registration should be as consistent as possible across sections 48D(d)(1), 6417(d)(5), and 6418(g)(1).

Temp. Reg. §1.6417-5T provides the mandatory pre-filing registration process. Temp. Reg. §1.6417-5T(a) provides an overview of this process and requires an applicable entity or electing taxpayer to satisfy the pre-filing registration requirements as a condition of, and prior to, making an elective payment election. An applicable entity or electing taxpayer is required to use the pre-filing registration process to register itself as intending to make the elective payment election, to list all applicable credits it intends to claim, and to list each applicable credit property that contributed to the determination of such credits as part of the pre-filing submission (or amended submission). An applicable entity or electing taxpayer that does not obtain a registration number and

report the registration number on its annual tax return with respect to an applicable credit property is ineligible to make an elective payment election to treat any elective payment amount with respect to the amount of any credit determined with respect to that applicable credit property as a payment of tax. However, completion of the pre-filing registration requirements and receipt of a registration number does not, by itself, mean that the applicable entity or electing taxpayer will receive a payment with respect to the applicable credits determined with respect to the applicable credit property.

Temp. Reg. §1.6417-5T(b) provides the following pre-filing registration requirements.

First, an applicable entity or electing taxpayer must complete the pre-filing registration process electronically through an IRS electronic portal in accordance with the instructions provided therein, unless otherwise provided in guidance. If the election is by a member of a consolidated group, the member must complete the pre-filing registration process as a condition of, and prior to, making an elective payment election. See §1.1502-77 (providing rules regarding the status of the common parent as agent for its members).

Second, an applicable entity or electing taxpayer must satisfy the registration requirements and receive a registration number prior to making an elective payment election on the applicable entity's tax return for the taxable year at issue.

Third, an applicable entity or electing taxpayer is required to obtain a registration number for each applicable credit property with respect to which an applicable credit will be determined and for which the applicable entity or electing taxpayer intends to make an elective payment election.

Finally, an applicable entity or electing taxpayer must provide the specific information required to be provided as part of the pre-filing registration process. The provision of such information, which includes information about the taxpayer, about the

applicable credits, and about the applicable credit property, will allow the IRS to prevent duplication, fraud, improper payments, or excessive payments under section 6417. For example, verifying information about the taxpayer will allow the IRS to mitigate the risk of fraud or improper payments to entities that are not applicable entities or electing taxpayers. Information about the taxpayer's taxable year will allow the IRS to ensure that an elective payment election is timely made on the entity's annual tax return. Information about applicable credit properties, including their address and coordinates (longitude and latitude), supporting documentation, beginning of construction date, and placed in service date will allow the IRS to mitigate the risk of duplication, fraud, and improper payments for properties that are not applicable credit properties. Information about whether an investment tax credit property was acquired using any Restricted Tax Exempt Amounts will allow the IRS to prevent improper payments.

Temp. Reg. §1.6417-5T(c) provides information about the required registration number. Temp. Reg. §1.6417-5T(c)(1) provides that, after an applicable entity or electing taxpayer completes the pre-filing registration process as provided in proposed §1.6417-5(b) for the applicable credit properties with respect to which the entity intends to make an elective payment election in the taxable year, the IRS will review the information provided and will issue a separate registration number for each applicable credit property for which the applicable entity or electing taxpayer provided sufficient verifiable information, as provided in guidance.

Temp. Reg. §1.6417-5T(c)(2) provides that a registration number is valid only for the taxable year for which it is obtained. Temp. Reg. §1.6417-5T(c)(3) provides that, if an elective payment election will be made with respect to an applicable credit property for which a registration number under proposed §1.6417-5 has been previously obtained, the applicable entity or electing taxpayer will be required to renew the registration each year in accordance with applicable guidance, including attesting that

all the facts previously provided are still correct or updating any facts. Temp. Reg. §1.6417-5T(c)(4) provides that, if specified changes occur with respect to one or more applicable credit properties for which a registration number has been previously obtained, an applicable entity or electing taxpayer is required to amend the registration (or may need to submit a new registration) to reflect these new facts. For example, one stakeholder asked that, if a taxpayer becomes a party to an internal reorganization under section 368(a) (such as a merger or distribution in a nonrecognition transaction) during the election period, the elective payment election should carry over to the successor entity. The temporary regulations provide that if a facility previously registered for an elective payment election undergoes a change of ownership (incident to a corporate reorganization or an asset sale) such that the new owner has a different employer identification number (EIN) than the owner who obtained the original registration, the original owner is required to amend the original registration to disassociate its EIN from the credit property and the new owner must submit an original registration (or if the new owner previously registered other credit properties, must amend its original registration) to associate the new owner's EIN with the previously registered credit property.

Lastly, Temp. Reg. §1.6417-5T(c)(5) provides that the applicable entity or electing taxpayer is required to include the registration number of the applicable credit property on their annual tax return for the taxable year. The IRS will treat an elective payment election as ineffective with respect to the portion of a credit determined with respect to an applicable credit property for which the applicable entity or electing taxpayer does not include a valid registration number on the annual tax return.

### III. Pre-filing Registration Requirements and Additional Information under Section 6418

Section 6418(g)(1) provides that as a condition of, and prior to, any transfer of any portion of an eligible credit under section 6418, the Secretary may require such

information (including, in such form or manner as is determined appropriate by the Secretary, such information returns) or registration as the Secretary deems necessary for purposes of preventing duplication, fraud, improper payments, or excessive payments under this section.

In general, consistent with section 6417, stakeholders requested additional information about this provision and requested that the regulations balance the need to prevent fraud and abuse with the burden on taxpayers. Stakeholders recommended a registration system that assigns a transfer number to an eligible taxpayer that can be used by transferee taxpayers to claim transferred credits and allows the IRS to track transfers of eligible credits. Stakeholders also recommended that information or registration requirements should be as consistent as possible across sections 48D(d)(1), 6417(d)(5), and 6418(g)(1). In order to meet the purpose of section 6418(g)(1), the Treasury Department and the IRS have determined that it is necessary to establish a mandatory registration process that is in place before the end of the 2023 calendar year, which is the first full taxable year during which a transfer election under section 6418 is available.

Temp. Reg. §1.6418-4T generally provides rules requiring that eligible taxpayers register before filing the return on which a transfer election is made and provide information related to each eligible credit property for which the eligible taxpayer intends to transfer a specified credit portion. Temp. Reg. §1.6418-4T(a), consistent with section 6418(g)(1), requires that, as a condition of, and prior to, making an election to transfer a specified credit portion, an eligible taxpayer satisfy the pre-filing registration requirements in Temp. Reg. §1.6418-4T(b). After the required pre-filing registration process is successfully completed, an eligible taxpayer will receive a unique registration number from the IRS for each registered eligible credit property for which the eligible taxpayer intends to transfer a specified credit portion. The Treasury Department and

the IRS intend for this pre-filing registration process to occur through an IRS electronic portal (unless otherwise allowed in guidance). An eligible taxpayer that does not obtain a registration number and report the registration number on its return with respect to an eligible credit property is ineligible to make a transfer election. However, completion of the pre-filing registration requirements and receipt of a registration number does not, by itself, mean the eligible taxpayer is eligible to transfer any specified credit portion determined with respect to the eligible credit property. The registration number also must be reported on the eligible taxpayer's return.

Temp. Reg. §1.6418-4T(b) provides the following pre-filing registration requirements.

First, an eligible taxpayer must complete the pre-filing registration process electronically through an IRS electronic portal in accordance with the instructions provided therein, unless otherwise provided in guidance. If the election is by a member of a consolidated group, the member must complete the pre-filing registration process as a condition of, and prior to, making an elective payment election. See §1.1502-77 (providing rules regarding the status of the common parent as agent for its members).

Second, an eligible taxpayer must satisfy the registration requirements and receive a registration number prior to making a transfer election for a specified credit portion on the eligible taxpayer's return for the taxable year at issue.

Third, an eligible taxpayer is required to obtain a registration number for each eligible credit property with respect to which a transfer election of a specified credit portion is made.

Finally, an eligible taxpayer must provide the specific information required to be provided as part of the pre-filing registration process. The provision of such information, which includes information about the taxpayer, about the eligible credits, and about the eligible credit property, will allow the IRS to prevent duplication, fraud, improper

payments, or excessive transfers under section 6418. For example, verifying information about the taxpayer will allow the IRS to mitigate the risk of fraud or improper transfers. Information about eligible credit properties, including their address and coordinates (longitude and latitude), supporting documentation, beginning of construction date, and placed in service date will allow the IRS to mitigate the risk of duplication, fraud, and improper transfers for properties that are not eligible credit properties.

Temp. Reg. §1.6418-4T(c) provides rules related to the registration number that is obtained after the IRS has reviewed and approved the taxpayer's submitted information. First, these rules provide that a registration number is valid for an eligible taxpayer only for the taxable year for which it is obtained, and for a transferee taxpayer's taxable year in which the specified credit portion is taken into account. Second, Temp. Reg. §1.6418-4T(c) provides rules for the renewal of a registration number that has been previously obtained. The eligible taxpayer is required to renew the registration with respect to an eligible credit property each year in accordance with guidance, including attesting that all the facts are still correct or updating any facts. Third, the temporary regulations provide that, if facts change with respect to an eligible credit property for which a registration number has been previously obtained, an eligible taxpayer is required to amend the registration to reflect these new facts. Lastly, the temporary regulations provide that an eligible taxpayer is required to include the registration number of the eligible credit property on the eligible taxpayer's return for the taxable year, as provided in Temp. Reg. §1.6418-2T(b), for an election to be effective with respect to any eligible credit determined with respect to any eligible credit property. The IRS will treat a transfer election as ineffective with respect to an eligible credit determined with respect to an eligible credit property for which the eligible taxpayer does not include a valid registration number on its return.

A transferee taxpayer is also required to report the registration number received from an eligible taxpayer on its return for the taxable year that the transferee taxpayer takes the transferred eligible credit into account.

### **Applicability Dates**

The temporary regulations under §1.48D-6T apply to taxable years ending on or after **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The temporary regulations under §1.48D-6T expire on **June 12, 2026**.

The temporary regulations under §1.6417-5T apply to taxable years ending on or after **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The temporary regulations under §1.6417-5T expire on **June 12, 2026**.

The temporary regulations under §1.6418-4T apply to taxable years ending on or after **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The temporary regulations under §1.6418-4T expire on **June 12, 2026**.

### **Special Analyses**

#### **I. Good Cause**

The Administrative Procedure Act (5 U.S.C. Subchapter II) provides an exception to generally applicable rulemaking requirements when an agency makes a finding of good cause (and incorporates the finding and a brief statement of reasons therefor in the rules issued).

The Treasury Department and the IRS find that good cause exists for making these temporary regulations immediately effective without notice and comment. The pre-filing registration process is critical to the implementation of sections 48D, 6417, and 6418. As expressly authorized by statute to prevent duplication, fraud, and improper or excessive payments, the temporary regulations condition elective payment and

transferability on pre-registration with the IRS.<sup>1</sup> Section 48D applies to property placed in service after December 31, 2022, and sections 6417 and 6418 each apply to taxable years beginning after that date. This means that filers will be able take advantage of these provisions for their 2023 tax years.

The Treasury Department and the IRS believe it is important to immediately put into effect these pre-registration requirements. The pre-registration process collects critical information to minimize fraudulent elections and prevent duplication and improper or excessive payments by ensuring basic eligibility requirements for eligible credits before the election is made. Validating certain information before the annual tax return process will result in more accurate review of the veracity of the information and fewer duplicate, fraudulent, improper, or excessive transfers or payments. In addition, the pre-filing registration requirement is expected to reduce the need for recovering erroneous payments and adjusting return positions via costly, burdensome, and inefficient examination, appeals, and litigation processes (which, in the case of section 6418, could potentially be needed with respect to both parties to the credit transfer transaction). Immediate implementation of these safeguards is important because it is anticipated that there will be an immediate and significant increase in utilization of the tax incentives described in sections 48D(d), 6417, and 6418 by entities that have not historically had return-filing obligations, increasing the risk of the duplicative, fraudulent, and improper or excessive payments that the pre-registration process is intended to mitigate.

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<sup>1</sup> Sections 48D(d)(2)(E) and 6417(d)(5) authorize the Secretary to require such information or registration as the Secretary deems necessary or appropriate for purposes of preventing duplication, fraud, improper payments, or excessive payments as a condition of, and prior to, any amount being treated as a payment made by or to the taxpayer. Section 6418(g)(1) states that, as a condition of, and prior to, any transfer of any portion of an eligible credit pursuant to section 6418(a), the Secretary may require such information (including, in such form or manner as is determined appropriate by the Secretary, such information returns) or registration as the Secretary deems necessary for purposes of preventing duplication, fraud, improper payments, or excessive payments under section 6418.

The Treasury Department and the IRS find that good cause exists for making these temporary regulations effective without notice and comment because failure to do so would be contrary to the public interest. Without these temporary regulations, the IRS may not be able to timely and effectively develop and implement a pre-filing registration system. Lack of a pre-registration process would create risk for the public fisc by increasing the likelihood of duplicate, fraudulent, improper, or excessive payments or transfers. The pre-filing registration system also must be developed sufficiently in advance of the filing season for taxpayers to have time to gather the necessary information and complete the registration process and for the IRS to be able to review the submitted information and issue registration numbers. Failing to pre-register taxpayers who have never before filed a tax return with the IRS could significantly delay the processing of those taxpayers' returns because procedures to allow them to file an annual tax return would need to be taken during the middle of filing season. Such delay would harm taxpayers and also potentially result in the IRS owing interest on any refunds due, further damaging the public fisc.

Additionally, it is in the public interest to have certainty regarding the requirements for pre-registration as far before the 2023 filing season as possible to ensure the ability to timely and accurately fulfill the requirements. This certainty is particularly crucial for those filers already or soon to be engaged in an activity that would qualify them to make an elective payment or transfer election. Taxpayer certainty is also especially important for particular populations of affected taxpayers such as entities that have not historically had return-filing obligations because they may need significant time to review and understand the underlying tax law and the pre-filing registration requirements.

The Treasury Department and the IRS also find that good cause exists for making these temporary regulations immediately effective because it would be

impracticable to comply with the notice and comments process. The processes established in sections 48D, 6417, and 6418 are novel and complex. Determining how these processes interact with established tax procedures is complicated and in some aspects very difficult to reconcile. The elections under sections 6417 and 6418 apply to numerous credits, each of which contain different substantive eligibility and other requirements, which had to be separately analyzed to understand what information should be collected as part of the pre-filing registration process. Developing a previously nonexistent registration process, new filing portal, and determining the necessary elements to protect the fisc has been time consuming. The Treasury Department and the IRS have moved quickly to understand these complex Code sections and determine technological elements needed to create the pre-filing registration process and portal.

To accomplish the purpose of the pre-filing registration process, the electronic portal must open by Fall 2023. The Treasury Department and the IRS understand the need to carefully consider all public comments and provide robust responses to all relevant comments. The few months available between the publication of proposed regulations and the opening of the electronic portal is insufficient time to receive, review, and meaningfully respond to public comments. Furthermore, there would not be sufficient time after all comments are considered to then make corresponding changes to the electronic portal, which would require technological development and user testing.

Comments are being solicited in the cross-referenced notices of proposed rulemaking that are in the Proposed Rules section in this issue of the *Federal Register*. Any comments will be considered before final regulations are issued.

## II. Paperwork Reduction Act

The collection of information contained in these temporary regulations has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act. Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions for the proposed information collection to the IRS via email at [pra.comments@irs.gov](mailto:pra.comments@irs.gov) (indicate REG-101607-23 on the Subject line). Comments on the collection of information should be received by **[INSERT DATE THAT IS 60 DAYS AFTER FILING OF THIS DOCUMENT WITH THE FEDERAL REGISTER]**. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collections of information in these temporary regulations contain reporting and recordkeeping requirements. The recordkeeping requirements are considered general tax records under Section 1.6001-1(e). These records are required for IRS to validate that taxpayers have met the regulatory requirements and are entitled to transfer

the credits. For PRA purposes, general tax records are already approved by OMB under 1545-0047 for tax-exempt organizations and government entities; under 1545-0074 for individuals; and under 1545-0123 for business entities.

These reporting requirements include a requirement to register with IRS to make the elective payment election or the transfer election in §§1.48D-6T, 1.6417-5T, 1.6418-4T. This pre-filing registration requirement is being submitted to OMB and will be processed in accordance with the PRA as required by 5 CFR 1320.10. This collection of information is necessary to prevent duplication, fraud, improper payments, or excessive payments under sections 48D, 6417 and 6418 of the Code. The IRS is seeking a new OMB control number (1545-NEW) for the pre-registration requirements. The respondents are:

(1) Under section 48D, taxpayers eligible to elect the elective payment election of the advanced manufacturing investment credit.

Estimated total annual reporting burden is 271 hours.

Estimated average annual burden per respondent is 5.41 hours.

Estimated number of respondents is 50.

(2) Under section 6417, tax-exempt organizations, State and local governments, Indian tribal governments, Alaska Native Corporations, the Tennessee Valley Authority, rural electric cooperatives, and certain taxpayers eligible to elect the elective payment of applicable credits in a taxable year.

Estimated total annual reporting burden is 126,200 hours.

Estimated average annual burden per respondent is 6.31 hours.

Estimated number of respondents is 20,000.

(3) Under section 6418, eligible taxpayers that elect to transfer eligible credits in a taxable year.

Estimated total annual reporting burden is 308,000 hours.

Estimated average annual burden per respondent is 6.16 hours.

Estimated number of respondents is 50,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103. The IRS anticipates opening the electronic portal for pre-filing registration in Fall 2023, after approval of the collection of information under the Paperwork Reduction Act.

### III. Regulatory Flexibility Act

For applicability of the Regulatory Flexibility Act, please refer to the cross-reference notices of proposed rulemaking (REG-105595-23, REG-101607-23, and REG-101610-23) published elsewhere in this issue of the Federal Register.

### IV. Section 7805(f)

Pursuant to section 7805(f), these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

### V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandate Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a state, local, or tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars (updated annually for inflation). These temporary regulations do not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector in excess of that threshold.

## VI. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on state and local governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. These temporary regulations do not have federalism implications and do not impose substantial, direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

## VII. Executive Order 12866

Pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order 12866 (June 9, 2023), tax regulatory actions issued by the IRS are not subject to the requirements of section 6 of Executive Order 12866, as amended. Therefore, a regulatory impact assessment is not required.

## VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as a major rule as defined by 5 U.S.C. 804(2). For good cause pursuant to 5 U.S.C. 808(2), see part I of this Special Analyses section.

### **Drafting Information**

The principal author of this temporary regulation is Lani M. Sinfield, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the Treasury Department and the IRS participated in their development.

### **List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

### **Amendments to the Regulations**

Accordingly, the Treasury Department and the IRS amend 26 CFR part 1 as

follows:

## **PART 1--INCOME TAXES**

**Paragraph. 1.** The authority citation for part 1 is amended by adding the following entries in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

\* \* \* \* \*

Section 1.48D-6T also issued under 26 U.S.C. 48D(d)(2)(E) and (6) \* \* \*

\* \* \* \* \*

Section 1.6417-5T also issued under 26 U.S.C. 6417(d)(5) and (h) \* \* \*

Section 1.6418-4T also issued under 26 U.S.C. 6418(g)(1) and (h) \* \* \*

\* \* \* \* \*

**Par. 2.** Section 1.48D-6T is added to read as follows:

### **§1.48D-6T Elective payment election.**

(a) [Reserved]

(b) *Pre-filing registration required--(1) In general.* Pre-filing registration by any taxpayer (including a partnership or an S corporation) in accordance with this paragraph (b) is a condition that must be successfully completed prior to making an elective payment election under section 48D(d)(1) and this section with respect to qualified property placed in service by the taxpayer as part of an advanced manufacturing facility of an eligible taxpayer. An elective payment election will not be effective with respect to the section 48D credit determined with respect to any such qualified property placed in service by any taxpayer unless the taxpayer received a valid registration number for the taxpayer's qualified investment in the advanced manufacturing facility of an eligible taxpayer in accordance with this paragraph (b) and provided the registration number for each qualified investment in each advanced manufacturing facility on its Form 3800, *General Business Credit*, attached to the tax return in accordance with guidance. For

purposes of this section, the term *guidance* means guidance published in the *Federal Register* or Internal Revenue Bulletin, as well as administrative guidance such as forms, instructions, publications, or other guidance on the IRS.gov website. See §§601.601 and 601.602 of this chapter. However, completion of the pre-filing registration requirements and receipt of a registration number does not, by itself, mean the taxpayer is eligible to receive a payment with respect to any section 48D credit determined with respect to the qualified property.

(2) *Manner of registration.* Unless otherwise provided in guidance, a taxpayer must complete the pre-filing registration process electronically through the IRS electronic portal and in accordance with the instructions provided therein.

(3) *Members of a consolidated group.* A member of a consolidated group is required to complete pre-filing registration as a condition of, and prior to, making an elective payment election. See §1.1502-77 (providing rules regarding the status of the common parent as agent for its members).

(4) *Timing of pre-filing registration.* A taxpayer must satisfy the pre-filing registration requirements of this paragraph (b) and receive a registration number under paragraph (b)(6) of this section prior to making any elective payment election under this section on the taxpayer's tax return for the taxable year at issue.

(5) *Each qualified investment in an advanced manufacturing facility must have its own registration number.* A taxpayer must obtain a registration number for each qualified investment in an advanced manufacturing facility of an eligible taxpayer with respect to which an elective payment election is made.

(6) *Information required to complete the pre-filing registration process.* Unless modified in future guidance, a taxpayer must provide the following information to the IRS to complete the pre-filing registration process:

(i) The taxpayer's general information, including its name, address, taxpayer

identification number, and type of legal entity;

(ii) Any additional information required by the IRS electronic portal;

(iii) The taxpayer's taxable year, as determined under section 441 of the Code;

(iv) The type of annual return(s) normally filed by the taxpayer with the IRS;

(v) A list of each qualified investment in an advanced manufacturing facility that the taxpayer intends to use to determine a section 48D credit for which the taxpayer intends to make an elective payment election;

(vi) For each qualified investment in an advanced manufacturing facility listed in paragraph (b)(5)(v) of this section, any further information required by the IRS electronic portal, such as—

(A) The type of qualified investment in the advanced manufacturing facility;

(B) Physical location (that is, address and coordinates (longitude and latitude) of the advanced manufacturing facility);

(C) Any supporting documentation relating to the construction, reconstruction or acquisition of the advanced manufacturing facility (such as, State and local government permits to operate the advanced manufacturing facility, certifications, and evidence of ownership that ties to the land deed, lease, or other documented right to use and access any land upon which the advanced manufacturing facility is constructed or housed);

(D) The beginning of construction date and the placed in service date of any qualified property that is part of the advanced manufacturing facility;

(E) The source of funds the taxpayer used to acquire the qualified property with respect to which the qualified investment was made; and

(F) Any other information that the taxpayer or entity believes will help the IRS evaluate the registration request;

(vii) The name of a contact person for the taxpayer. The contact person is the

person whom the IRS may contact if there is an issue with the registration. The contact person must either possess legal authority to bind the taxpayer or must provide a properly executed power of attorney on Form 2848, *Power of Attorney and Declaration of Representative*;

(viii) A penalties of perjury statement, effective for all information submitted as a complete application, and signed by a person with personal knowledge of the relevant facts that is authorized to bind the registrant; and

(ix) Any other information the IRS deems necessary for purposes of preventing duplication, fraud, improper payments, or excessive payments under this section that is provided in guidance.

(7) *Registration number--(i) In general.* The IRS will review the information provided and will issue a separate registration number for each qualified investment in an advanced manufacturing facility of an eligible taxpayer for which the taxpayer making the registration provided sufficient verifiable information.

(ii) *Registration number is only valid for one year.* A registration number is valid only with respect to the taxpayer that obtained the registration number under this section and only for the taxable year for which it is obtained.

(iii) *Renewing registration numbers.* If an elective payment election will be made with respect to any section 48D credit determined with respect to a qualified investment in an advanced manufacturing facility for a taxable year after a registration number under this section has been obtained, the taxpayer must renew the registration for that subsequent year in accordance with applicable guidance, including attesting that all the facts previously provided are still correct or updating any facts.

(iv) *Amendment of previously submitted registration information if a change occurs before the registration number is used.* As provided in instructions to the pre-filing registration portal, if specified changes occur with respect to a qualified investment

in an advanced manufacturing facility for which a registration number has been previously obtained, a taxpayer must amend the registration (or may need to submit a new registration) to reflect these new facts. For example, if an eligible taxpayer that is the owner of an advanced manufacturing facility previously registered for an elective payment election for a section 48D credit determined with respect to that advanced manufacturing facility and the advanced manufacturing facility undergoes a change of ownership (incident to a corporate reorganization or an asset sale) such that the new owner has a different employer identification number (EIN) than the owner who obtained the original registration, the original owner of the advanced manufacturing facility must amend the original registration to disassociate its EIN from the advanced manufacturing facility and the new owner must submit separately an original registration (or if the new owner previously registered other qualified investments or advanced manufacturing facilities, must amend its original registration) to associate the new owner's EIN with the previously registered advanced manufacturing facility.

*(v) Registration number is required to be reported on the return for the taxable year of the elective payment election.* The taxpayer must include the registration number of the qualified investment in the advanced manufacturing facility on the taxpayer's return as provided in paragraph (b) of this section for the taxable year. The IRS will treat an elective payment election as ineffective with respect to a section 48D credit determined with respect to a qualified investment in an advanced manufacturing facility for which the taxpayer does not include a valid registration number on the annual return.

(c) – (i) [Reserved]

*(j) Applicability date for pre-filing registration requirements.* The requirements of paragraph (b) of this section apply to property placed in service on or after December 31, 2022, and during a taxable year ending on or after **[INSERT DATE OF**

**PUBLICATION IN *FEDERAL REGISTER*].**

(k) *Expiration date.* The applicability of paragraph (b) of this section expires on **June 12, 2026.**

**Par. 3.** Section 1.6417-5T is added to read as follows:

**§1.6417-5T Additional information and registration.**

(a) *Pre-filing registration and election.* An applicable entity or electing taxpayer is required to satisfy the pre-filing registration requirements in paragraph (b) of this section as a condition of, and prior to, making an elective payment election. An applicable entity or electing taxpayer must use the pre-filing registration process to register itself as intending to make the elective payment election, to list all applicable credits it intends to claim, and to list each applicable credit property that contributed to the determination of such credits as part of the pre-filing submission (or amended submission). An applicable entity or electing taxpayer that does not obtain a registration number under paragraph (c)(1) of this section or report the registration number on its annual tax return, as defined in §1.6417-1(b), pursuant to paragraph (c)(5) of this section with respect to an otherwise applicable credit property, is ineligible to receive any elective payment amount with respect to the amount of any credit determined with respect to that applicable credit property. However, completion of the pre-filing registration requirements and receipt of a registration number does not, by itself, mean the applicable entity or electing taxpayer is eligible to receive a payment with respect to the applicable credits determined with respect to the applicable credit property.

(b) *Pre-filing registration requirements--(1) Manner of pre-filing registration.*

Unless otherwise provided in guidance, an applicable entity or electing taxpayer must complete the pre-filing registration process electronically through the IRS electronic portal and in accordance with the instructions provided therein.

(2) *Pre-filing registration and election for members of a consolidated group.* A

member of a consolidated group is required to complete pre-filing registration as a condition of, and prior to, making an elective payment election. See §1.1502-77 (providing rules regarding the status of the common parent as agent for its members).

(3) *Timing of pre-filing registration.* An applicable entity or electing taxpayer must satisfy the pre-filing registration requirements of this paragraph (b) and receive a registration number under paragraph (c) of this section prior to making an elective payment election under §1.6417-2(b) on the applicable entity's or electing taxpayer's annual tax return for the taxable year at issue.

(4) *Each applicable credit property must have its own registration number.* An applicable entity or electing taxpayer must obtain a registration number for each applicable credit property with respect to which it intends to make an elective payment election.

(5) *Information required to complete the pre-filing registration process.* Unless modified in future guidance, an applicable entity or electing taxpayer must provide the following information to the IRS to complete the pre-filing registration process:

(i) The applicable entity's or electing taxpayer's general information, including its name, address, taxpayer identification number, and type of legal entity.

(ii) Any additional information required by the IRS electronic portal, such as information regarding the taxpayer's exempt status under section 501(a) of the Code; that the applicable entity is a political subdivision of a State, the District of Columbia, an Indian Tribal government, or a U.S territory; or that the applicable entity is an agency or instrumentality of a State, the District of Columbia, an Indian Tribal government, or a U.S. territory.

(iii) The taxpayer's taxable year, as determined under section 441 of the Code.

(iv) The type of annual tax return(s) normally filed by the applicable entity or electing taxpayer, or that the applicable entity or electing taxpayer does not normally file

an annual tax return with the IRS.

(v) The type of applicable credit(s) for which the applicable entity or electing taxpayer intends to make an elective payment election.

(vi) For each applicable credit, each applicable credit property that the applicable entity or electing taxpayer intends to use to determine the credit for which the applicable entity or electing taxpayer intends to make an elective payment election.

(vii) For each applicable credit property listed in paragraph (b)(4)(vi) of this section, any further information required by the IRS electronic portal, such as--

(A) The type of applicable credit property;

(B) Physical location (that is, address and coordinates (longitude and latitude) of the applicable credit property);

(C) Any supporting documentation relating to the construction or acquisition of the applicable credit property (such as State, District of Columbia, Indian Tribal, U.S. territorial, or local government permits to operate the applicable credit property; certifications; evidence of ownership that ties to a land deed, lease, or other documented right to use and access any land or facility upon which the applicable credit property is constructed or housed; U.S. Coast Guard registration numbers for offshore wind vessels; and the vehicle identification number of an eligible clean vehicle with respect to which a section 45W credit is determined);

(D) The beginning of construction date and the placed in service date of the applicable credit property;

(E) If an investment-related credit property (as defined §1.6417-2(c)(3)), the source of funds the taxpayer used to acquire the property; and

(F) Any other information that the applicable entity or electing taxpayer believes will help the IRS evaluate the registration request.

(viii) The name of a contact person for the applicable entity or electing taxpayer.

The contact person is the person whom the IRS may contact if there is an issue with the registration. The contact person must either possess legal authority to bind the applicable entity or electing taxpayer or must provide a properly executed power of attorney on Form 2848, *Power of Attorney and Declaration of Representative*.

(ix) A penalties of perjury statement, effective for all information submitted as a complete application, and signed by a person with personal knowledge of the relevant facts that is authorized to bind the registrant.

(x) Any other information the IRS deems necessary for purposes of preventing duplication, fraud, improper payments, or excessive payments under this section that is provided in guidance.

(c) *Registration number--(1) In general.* The IRS will review the information provided and will issue a separate registration number for each applicable credit property for which the applicable entity or electing taxpayer provided sufficient verifiable information.

(2) *Registration number is only valid for one taxable year.* A registration number is valid only with respect to the applicable entity or electing taxpayer that obtained the registration number under this section and only for the taxable year for which it is obtained.

(3) *Renewing registration numbers.* If an elective payment election will be made with respect to an applicable credit property for a taxable year after a registration number under this section has been obtained, the applicable entity or electing taxpayer must renew the registration for that subsequent taxable year in accordance with applicable guidance, including attesting that all the facts previously provided are still correct or updating any facts.

(4) *Amendment of previously submitted registration information if a change occurs before the registration number is used.* As provided in instructions to the pre-

filing registration portal, if specified changes occur with respect to one or more applicable credit properties for which a registration number has been previously obtained but not yet used, an applicable entity or electing taxpayer must amend the registration (or may need to submit a new registration) to reflect these new facts. For example, if the owner of a facility previously registered for an elective payment election for applicable credits determined with respect to that facility and the facility undergoes a change of ownership (incident to a corporate reorganization or an asset sale) such that the new owner has a different employer identification number (EIN) than the owner who obtained the original registration, the original owner of the facility must amend the original registration to disassociate its EIN from the applicable credit property and the new owner must submit separately an original registration (or if the new owner previously registered other credit properties, must amend its original registration) to associate the new owner's EIN with the previously registered applicable credit property.

(5) *Registration number is required to be reported on the return for the taxable year of the elective payment election.* The applicable entity or electing taxpayer must include the registration number of the applicable credit property on its annual tax return as provided in §1.6417-2(b) for the taxable year. The IRS will treat an elective payment election as ineffective with respect to an applicable credit determined with respect to an applicable credit property for which the applicable entity or electing taxpayer does not include a valid registration number on the annual tax return.

(d) *Applicability date.* This section applies to taxable years ending on or after **[INSERT DATE OF PUBLICATION IN FEDERAL REGISTER]**.

(e) *Expiration date.* The applicability of this section expires on **June 12, 2026**.

**Par. 4.** Section 1.6418-4T is added to read as follows:

**§1.6418-4T Additional information and registration.**

(a) *Pre-filing registration and election.* As a condition of, and prior to, any

specified credit portion being transferred by an eligible taxpayer to a transferee taxpayer pursuant to an election under §1.6418-2, or a specified credit portion being transferred by a partnership or S corporation pursuant to §1.6418-3, the eligible taxpayer is required to satisfy the pre-filing registration requirements in paragraph (b) of this section. An eligible taxpayer that does not obtain a registration number under paragraph (c)(1) of this section, and report the registration number on its return pursuant to paragraph (c)(5) of this section, is ineligible to make a transfer election for a specified credit portion under §1.6418-2 or §1.6418-3, with respect to the eligible credit determined with respect to the specific eligible credit property for which the eligible taxpayer has failed to obtain and report a registration number. However, completion of the pre-filing registration requirements and receipt of a registration number does not, by itself, mean the eligible taxpayer is eligible to transfer any specified credit portion determined with respect to the eligible credit property.

*(b) Pre-filing registration requirements--(1) Manner of pre-filing registration.*

Unless otherwise provided in guidance, eligible taxpayers must complete the pre-filing registration process electronically through an IRS electronic portal and in accordance with the instructions provided therein.

*(2) Pre-filing registration and election for members of a consolidated group.* A member of a consolidated group is required to complete pre-filing registration to transfer any eligible credit determined with respect to the member. See §1.1502-77 (providing rules regarding the status of the common parent as agent for its members).

*(3) Timing of pre-filing registration.* An eligible taxpayer must satisfy the pre-filing registration requirements of this paragraph (b) and receive a registration number under paragraph (c) of this section prior to making a transfer election under §1.6418-2 or §1.6418-3 for a specified credit portion on the taxpayer's return for the taxable year at issue.

(4) *Each eligible credit property must have its own registration number.* An eligible taxpayer must obtain a registration number for each eligible credit property with respect to which a transfer election of a specified credit portion is made.

(5) *Information required to complete the pre-filing registration process.* Unless modified in future guidance, an eligible taxpayer is required to provide the following information to the IRS to complete the pre-filing registration process:

(i) The eligible taxpayer's general information, including its name, address, taxpayer identification number, and type of legal entity;

(ii) Any additional information required by the IRS electronic portal, such as information establishing that the entity is an eligible taxpayer;

(iii) The taxpayer's taxable year, as determined under section 441;

(iv) The type of annual tax return(s) normally filed by the eligible taxpayer, or that the eligible taxpayer does not normally file an annual tax return with the IRS;

(v) The type of eligible credit(s) for which the eligible taxpayer intends to make a transfer election;

(vi) Each eligible credit property that the eligible taxpayer intends to use to determine a specified credit portion for which the eligible taxpayer intends to make a transfer election;

(vii) For each eligible credit property listed in paragraph (b)(4)(vi) of this section, any further information required by the IRS electronic portal, such as—

(A) The type of eligible credit property;

(B) Physical location (that is, address and coordinates (longitude and latitude) of the eligible credit property);

(C) Any supporting documentation relating to the construction or acquisition of the eligible credit property (such as State, Indian Tribal, or local government permits to operate the eligible credit property, certifications, evidence of ownership that ties to a

land deed, lease, or other documented right to use and access any land or facility upon which the eligible credit property is constructed or housed, and U.S. Coast Guard registration numbers for offshore wind vessels);

(D) The beginning of construction date, and the placed in service date of the eligible credit property; and

(E) Any other information that the eligible taxpayer believes will help the IRS evaluate the registration request;

(viii) The name of a contact person for the eligible taxpayer. The contact person is the person whom the IRS may contact if there is an issue with the registration. The contact person must either possess legal authority to bind the eligible taxpayer, or must provide a properly executed power of attorney on Form 2848, *Power of Attorney and Declaration of Representative*;

(ix) A penalties of perjury statement, effective for all information submitted as a complete application, and signed by a person with personal knowledge of the relevant facts that is authorized to bind the registrant; and

(x) Any other information the IRS deems necessary for purposes of preventing duplication, fraud, improper payments, or excessive payments under this section that is provided in guidance.

(c) *Registration number--(1) In general.* The IRS will review the registration information provided and will issue a separate registration number for each eligible credit property for which the eligible taxpayer provided sufficient verifiable information.

(2) *Registration number is only valid for one taxable year.* A registration number is valid to an eligible taxpayer only for the taxable year in which the credit is determined for the eligible credit property for which the registration is completed, and for a transferee taxpayer's taxable year in which the eligible credit is taken into account under §1.6418-2(f).

(3) *Renewing registration numbers.* If an election to transfer an eligible credit will be made with respect to an eligible credit property for a taxable year after a registration number under this section has been obtained, the eligible taxpayer must renew the registration for that subsequent taxable year in accordance with applicable guidance, including attesting that all the facts previously provided are still correct or updating any facts.

(4) *Amendment of previously submitted registration information if a change occurs before the registration number is used.* As provided in instructions to the pre-filing registration portal, if specified changes occur with respect to one or more applicable credit properties for which a registration number has been previously obtained but not yet used, an eligible taxpayer must amend the registration (or may need to submit a new registration) to reflect these new facts. For example, if the owner of a facility previously registered for a transfer election under §1.6418-2 or §1.6418-3 for eligible credits determined with respect to that facility and the facility undergoes a change of ownership (incident to a corporate reorganization or an asset sale) such that the new owner has a different employer identification number (EIN) than the owner who obtained the original registration, the original owner of the facility must amend the original registration to disassociate its EIN from the eligible credit property and the new owner must submit separately an original registration (or if the new owner previously registered other credit properties, must amend its original registration) to associate the new owner's EIN with the previously registered eligible credit property.

(5) *Reporting of registration number by an eligible taxpayer and a transferee taxpayer--(i) Eligible taxpayer reporting.* As part of making a valid transfer election under §1.6418-2 or §1.6418-3, an eligible taxpayer must include the registration number of the eligible credit property on the eligible taxpayer's return (as provided in §1.6418-2(b) or §1.6418-3(d)) for the taxable year the specified credit portion was determined.

The IRS will treat an election as ineffective if the eligible taxpayer does not include a valid registration number on the return.

(ii) *Transferee taxpayer reporting.* A transferee taxpayer must report the registration number received (as part of the transfer election statement as described in §1.6418-2(b) or otherwise) from a transferor taxpayer on the Form 3800, *General Business Credit*, as part of the return for the taxable year that the transferee taxpayer takes the transferred specified credit portion into account. The specified credit portion will be disallowed to the transferee taxpayer if the transferee taxpayer does not include the registration number on the return.

(d) *Applicability date.* This section applies to taxable years ending on or after **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

(e) *Expiration date.* The applicability of this section expires on **June 12, 2026**.

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

Approved: June 5, 2023.

Lily Batchelder,

Assistant Secretary of the Treasury (Tax Policy).

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