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# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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March 23, 2015

The Honorable John Koskinen  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue NW  
Washington, DC 20224

Dear Commissioner Koskinen:

I write to you today to express my concern with the ambiguity of the tax treatment of workplace electrical vehicle (EV) charging. The United States Department of Energy (DOE) has created the EV Everywhere Workplace Charging Challenge, a voluntary initiative to promote the development of charging infrastructure for the nation's electric vehicles. The Department is working with partner employers to install EV chargers for use by their employees. To date, more than 150 firms are participating in the program. However, due to the current lack of guidance by the IRS concerning workplace charging, employers interested in providing this benefit do not know how to properly treat this activity for tax purposes.

Promoting alternative vehicles and fuels is vital to our economy, our environment, and our national security. Growth in the EV sector promotes domestic manufacturing, reduces pollution, and lessens our reliance on foreign petroleum. This energy diversity is essential to a vibrant U.S. energy sector and to keeping energy costs low for American consumers. To that end, I applaud the Department of Energy for its efforts to promote the use of EVs. A similar initiative is underway in my home state of Oregon, which has more fast EV charging stations than any other state in the country. The electric vehicle industry in Oregon is valued at more than \$250 million annually and employs more than 1,500 Oregonians.

However, the continued deployment of electric charging infrastructure, and continued growth of the electric vehicle industry, is hampered by ambiguity in our tax law. Currently there is uncertainty as to whether workplace charging of EVs is a taxable benefit, and, although it has the authority to do so, the Internal Revenue Service (IRS) has not yet issued guidance providing clarity. Therefore, while one federal agency attempts to expand the adoption of EVs, by encouraging employers to offer free workplace charging, another, the IRS, is hampering such initiatives by not providing certainty to these same employers. This leaves employers in the unenviable position of potentially underreporting employees' income, and being at odds with our tax law, without knowing it.

I urge the IRS to issue guidance providing that workplace EV charging qualifies as a de minimis fringe benefit under Code Section 132(e) and, therefore, is not included in employees' gross income. The term "de minimis fringe" means any property or service the value of which is

(after taking into account the frequency with which similar fringes are provided by the employer to the employer's employees) so small as to make accounting for it unreasonable or administratively impracticable.

According to the National Highway Transportation Survey (NHTS), the average daily commute in the United States is 15 miles. Even in California, with the highest retail electricity prices in the continental states, an employee charging their EV every day would only receive an estimated monthly benefit of \$13. Additionally, in a study of electric vehicle owners between 2011 and 2013, the EV Project found that only a third of drivers primarily charge their vehicle at work – the vast majority charge their vehicle at home. Even for drivers commuting more than 30 miles (less than five percent of commuters) in high-priced electricity states, the benefit would be under \$40 per month.

Clearly the value of the EV charging benefit is very small and, in my opinion, it would be unreasonable and administratively impracticable for employers to account for such a benefit. Furthermore, the modest amount of charging benefits is contrasted with the burden placed on employers if they are required to track these benefits. Adding the necessary equipment for payment and tracking can nearly triple the cost of an EV charging station, in addition to service fees in excess of \$200 per month. These costs dwarf the value of the benefits, especially for small- and medium-sized firms.

The current ambiguity over the tax treatment of workplace EV charging benefits is unnecessary and is creating a barrier to the expanded use of electric vehicles. Over time, the way Americans travel to and from work has changed. Consistent with the goals of the DOE's Workplace Charging Challenge, the IRS should eliminate this uncertainty and issue guidance providing that workplace EV charging benefits qualify as a de minimis fringe benefit.

Thank you for your attention to this matter. If you should have any questions or need additional information, please contact Robert Andres ([robert\\_andres@finance.senate.gov](mailto:robert_andres@finance.senate.gov)) on my staff.

Sincerely,



Ron Wyden  
Ranking Member