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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

CHRIS CAMPBELL, STAFF DIRECTOR
JOSHUA SHEINKMAN, DEMOCRATIC STAFF DIRECTOR

October 6, 2015

Matthias Müller
Chief Executive Officer
Volkswagen AG
D-38436
Wolfsburg, Germany

Michael Horn
President and Chief Executive Officer
Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Drive
Herndon, Virginia 20171

Dear Messrs. Müller and Horn:

As Chairman and Ranking Member of the United States Senate Committee on Finance, we write to request information concerning the activities of Volkswagen AG and Volkswagen Group of America (collectively, "Volkswagen"). The Committee has jurisdiction over revenue measures generally, and oversight jurisdiction of all tax matters. Under Senate Rule XXVI, the Committee is authorized to conduct oversight and investigations into matters within its jurisdiction, including possible fraud and abuse related to federal tax credits. We write today concerning activities related to the installation of "defeat devices" in diesel passenger cars and the subsequent certification of certain information to the Internal Revenue Service.

In 2005, Congress created the Alternative Motor Vehicle Credit, which applied to new purchases of qualifying fuel efficient vehicles.¹ Codified under Internal Revenue Code (IRC) Section 30B, the credit included the advanced lean-burn technology motor vehicle credit, which was available to purchasers of new, qualifying vehicles under IRC § 30B(a)(2) and as determined under 30B(c). In 2006, the Internal Revenue Service established the process by which vehicle manufacturers could certify that a vehicle model met certain standards, after which customers of qualifying models could claim the tax credit.² This process required a vehicle manufacturer to certify that the vehicle met specific fuel economy requirements, complied with certain emissions standards, and satisfied other criteria. After certification, the full credit was available for the first 60,000 qualifying vehicles sold by the manufacturer, after which the credit was reduced and eventually eliminated.

In 2008, Volkswagen certified to the Internal Revenue Service that the 2009 Volkswagen Jetta TDI Sedan and SportWagen qualified for \$1,300 in tax credits per vehicle sale. On October 6 of that year, the IRS acknowledged Volkswagen's certification.³ Other 2010 Turbocharged Direct Injection (TDI) Volkswagen and Audi vehicles were later certified for eligibility. Volkswagen

¹ Energy Policy Act of 2005 § 1341, 26 U.S.C. § 30B (2015).

² IRS Notice 2006-9, 2006-1 C.B. 413.

³ IR-2008-113, Oct. 6, 2008.

sold at least 60,000 of these vehicles by July 1, 2010, after which the credit amount was reduced in half until December 31 of that year.⁴ These figures suggest that well over \$50 million in tax subsidies went to purchasers of these vehicles, depending on the number of purchasers who claimed the credit.

Recent findings by the U.S. government show that Volkswagen manipulated emission control systems for as many as 482,000 diesel vehicles sold in the U.S. through the use of auxiliary emission control devices, classified by the U.S. government as “defeat devices.” The U.S. government has alleged that Volkswagen knew or should have known that this manipulation allowed the vehicles to bypass, defeat, or render inoperative elements of the vehicle design and cause the vehicles to underperform when the systems determined the vehicle was not undergoing federal testing, resulting in different emissions levels during testing than the vehicles produce in normal conditions.

The vehicles in which Volkswagen installed “defeat devices” included those that the company certified as qualifying for the advanced lean-burn technology motor vehicle credit. While investigations are ongoing, the Volkswagen Supervisory Board has confirmed that the company installed “defeat devices” on as many as 11 million vehicles marketed as model years 2009 through 2015. This activity raises questions of whether Volkswagen made false representations to the U.S. government in its certification for federal tax subsidies.

To assist the Committee in its inquiry on this matter, we ask that you provide the following information, communications, and documents in your possession, custody, or control by no later than October 30, 2015. The relevant time period for this request is January 1, 2007 to December 31, 2011.

1. All certifications and quarterly reports filed by Volkswagen related to eligibility of Volkswagen vehicles for the advanced lean-burn technology motor vehicle credit. In addition to these certifications and reports, provide the following information:
 - a. Did Volkswagen make false or misleading assertions in any of the materials submitted to, or communications made to, the U.S. government regarding eligibility of Volkswagen vehicles for the lean-burn technology motor vehicle credit?
 - b. Which Volkswagen employees were primarily responsible for preparing and submitting these certifications?
 - c. Which Volkswagen employees were the primary points of contact for communication with the Internal Revenue Service regarding the advanced lean-burn technology motor vehicle credit?
 - d. List the dates and attendees of any meetings between Volkswagen employees and the Department of the Treasury, Internal Revenue Service, or the Department of Energy regarding the certification.

⁴ IRS Notice 2010-42, June 7, 2010.

2. All documents and communications regarding certifications and quarterly reports filed by Volkswagen related to eligibility of Volkswagen vehicles for the advanced lean-burn technology motor vehicle credit.
3. All documents and communications between Volkswagen and the Department of the Treasury, Internal Revenue Service, or the Department of Energy referring or relating to the advanced lean-burn technology motor vehicle credit.
4. All documents and communications regarding the eligibility of the 2009 or 2010 Volkswagen Jetta 2.0L TDI, Golf 2.0L TDI, or Audi A3 2.0L TDI for the lean-burn technology motor vehicle credit.
5. All documents and communications from, to, or copying Ulrich Hackenberg, Wolfgang Hatz, or Heinz-Jakob Neusser regarding the eligibility of any Volkswagen vehicle for U.S. tax subsidies.
6. All documents and communications regarding U.S. federal tax subsidies and the manipulation of emissions testing by auxiliary emission control devices or any other method.
7. All promotional materials promoting or otherwise making potential vehicle purchasers aware of the availability of lean-burn technology motor vehicle credits.

Please refer to the information attached to this letter on responding to the Committee's request. Also note that this request covers documents in the possession, custody, or control of, and documents and communications produced by, representatives acting on Volkswagen's behalf.

When producing documents to the Committee, please deliver production documents to room 219 of the Dirksen Senate Office Building. The Committee prefers to receive all documents in electronic format. ~~If you have any questions, please contact [redacted] of the Committee's Majority staff and [redacted] of the Minority staff at [redacted].~~

Thank you for your timely attention to this matter.

Sincerely,



Orrin G. Hatch
Chairman



Ron Wyden
Ranking Member