

Position

US draft legislation for tax incentives to promote electromobility

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VDA position

In principle, the VDA welcomes tax incentives for transitioning to electromobility to encourage more consumers to purchase electric vehicles and thus contribute to the realization of global climate goals. Such incentives, however, should be fair and effective.

Policies that incentivize all electric vehicles and promote jobs and trade relations are preferred to those that are likely to result in job cuts, trade conflicts, and a slower achievement of climate goals.

With this in mind, the VDA takes a critical view of the proposals currently being discussed in the USA to modify the tax breaks for battery-powered vehicles. Unilateral eligibility criteria run contrary to the revitalized spirit of transatlantic cooperation. According to the current proposals, special support will be given to vehicles that are manufactured within the USA and whose manufacturers have collective agreements with the US trade unions.

State of affairs

Draft legislation is currently under discussion in the USA regarding tax incentives for the purchase of battery-powered vehicles. These incentives are part of an overall package (of \$3.5 trillion) including numerous tax measures.

US President Biden has set the goal that, by 2030, 50% of all new cars sold should have electric drives and that this should also promote the US economy and US jobs.

The new proposals are designed to offer buyers tax breaks of up to \$12,500 when purchasing EVs.

To date, buyers of battery-powered vehicles have been eligible for a tax break of only \$7,500, regardless of the price of the vehicle or the buyer's income. Furthermore, the subsidy only applies to cars from manufacturers who have sold less than 200,000 electric vehicles in total. As a result, electric vehicles from GM and Tesla currently cannot benefit from the funding.

Differing proposals are currently being advanced in both the US Senate and the House of Representatives regarding tax relief for the purchase of a battery-powered vehicle (see the chart in the appendix).

What both proposals have in common is the aim to increase local added value/production in the USA and trade union representation within the companies.

Proposal of the House of Representatives:

- \$4,000: Base credit
- \$3,500: For vehicles with battery packs of 40 kWh (until 01.01.2027; thereafter, 50 kWh)
- \$4,500: If the final assembly of the vehicle occurs at a unionized, domestic plant in the United States
- \$500: If the vehicle is produced by a manufacturer that uses at least 50% domestic components and battery cells manufactured in the United States

- \$12,500: Maximum possible EV tax credit

Source: https://waysandmeans.house.gov/sites/democrat.waysandmeans.house.gov/files/documents/SUBFGHJ_xml.pdf (pp. 282 et sqq.)

- The current ceiling of 200,000 e-vehicles sold is to be phased out.
- The EV credit is to be limited to e-cars priced at no more than \$55,000 and to trucks priced at no more than \$74,000.
- To take advantage of the new EV tax relief, buyers should have an adjusted gross income of no more than \$400,000. The entire program is due to expire on December 31st, 2031 (but could be extended).
- As of 2027, all imported vehicles will no longer qualify for any of the credit.
- The program in its entirety is due to expire on 31 December 2031 (but could be extended).

Proposal of the US Senate:

Regarding the base credit and battery capacity, the US Senate adheres to the regulation already in force:

\$2,500: Base credit

\$5,000: Maximum (\$417 for the first 5kWh of battery capacity; an additional \$417 for each additional kWh)

The additional tax credit will be structured as follows:

\$2,500: If the final assembly of the vehicle is conducted at a domestic plant within the United States

\$2,500: If the vehicle is assembled by workers covered by a union-negotiated labor agreement

\$12,500: Maximum possible EV tax credit

Source: https://www.finance.senate.gov/imo/media/doc/Clean_Energy_for_America_Act_Chairmans_Modified_Mark.pdf (see page 8)

- The tax credit is to be limited to e-vehicles priced at no more than \$80,000.
- As of 2026, the base credit is to be increased to \$5,000. The additional funding of \$2,500 for final assembly in the USA will end. At the same time, all imports will no longer qualify for any of the credit.

Conclusions:

If the proposals were to be implemented, of the more than fifty electric vehicles currently on the market in the US, only six (US Senate) and/or only two (House of Representatives) would fully benefit from the credit. All of them are exclusively US models. The vast majority of the electric vehicles currently on offer in the US, however, including products offered by German manufacturers, would be excluded from the tax incentives.

VDA assessment and arguments

In principle, the VDA welcomes tax incentives for transitioning to electromobility to encourage more consumers to purchase electric vehicles and thus contribute to the realization of global climate goals. Such incentives, however, should be fair and effective. In Germany, for example, import models are equally eligible.

The following arguments show why the VDA takes a critical view of the proposed incentives.

Discrimination against non-unionized manufacturers:

- Incentive criteria dependent on the involvement of trade union organizations do not seem constructive. Working conditions in the US are demonstrably not influenced by American trade unions.
- The bill would discriminate against American workers who have chosen not to join a union.
- More than half of all vehicles in the US and the vast majority of e-vehicles manufactured there are produced by non-unionized manufacturers.

Incompatibility of the two proposals with the US climate goals:

- The conditions for emission-free mobility and other future technologies must be created. A differentiation between local/union-produced vehicles and imports, however, does not promote but instead weakens the ramp-up of electromobility due to the associated massive restriction of choice.
- It would be much more expedient, for example, to focus on the goal of expanding electromobility regardless of the manufacturing site and labor organization.

Risk of trade conflicts:

- Many EVs are imported from Canada, Mexico, Europe, South Korea, Japan, and China.
- Since the entire tax relief is to be granted only for vehicles with final assembly in the USA or that are produced by unionized manufacturers, indirect discrimination against foreign (automotive) companies arises. Their employees are unionized to a lesser extent than the US companies but work under comparable or better working conditions.
- Criteria that make funding conditional on local content rates discriminate against international trade. Local content criteria may even be contrary to the WTO – an issue that needs to be looked into.
- The proposed criteria would once again put the US at risk of trade conflicts; the initial negative reactions (for example, from Japan) underpin this.
- Due to the required batteries, electromobility continues to be heavily dependent on imports from Asia.

Limitation of consumer choice:

- A tax incentive limited to only a few vehicles restricts the choice of vehicles for consumers.
- Consumers would have fewer options to receive the full amount of support. This could encourage buyers to purchase conventional vehicles.
- Furthermore, the current proposals would make the purchase of an electrified vehicle substantially more difficult for the customer: in comparison to the current situation, significantly more criteria – many of which are also not fully transparent – have to be taken into account by the potential buyer.
- To promote electromobility, non-discriminatory measures should be used that leave the choice to the consumer.

Proposed EV Tax Credits Restrict Consumer Choice



Source: Autos Drive America: Advocating For a Healthy and Growing Auto Industry | Autos Drive America | Autos Drive America

The planned legal changes regarding the tax relief for battery-powered vehicles could consequentially lead to a decline in investment, a discrimination against foreign car manufacturers, restrictions on consumer choices and, last but not least, unequal treatment of American workers (unionized/non-unionized) combined with job cuts. This means that the planned changes stand in the way of both the ramp-up of electromobility in the USA and the achievement of climate targets.

VDA suggestions

In light of their presumed negative consequences, the VDA does not view the proposals of the US Senate and the House of Representatives as constructive.

- To increase the share of electric vehicles to 40-50% by 2030, it makes more sense to initially grant the maximum amount of support for all electric vehicles on offer in the US – regardless of whether they are imported or manufactured by unionized workers in the USA.
- The proposed price caps, as well as the differentiation of caps according to vehicle type, found in the proposal of the House of Representatives also do not seem expedient.
- In this regard, it would be more useful to increase the basic credit amount and to drop the additional proposed conditions. This would also lead to less complexity and bureaucracy

The German automotive industry as an economic factor in the USA

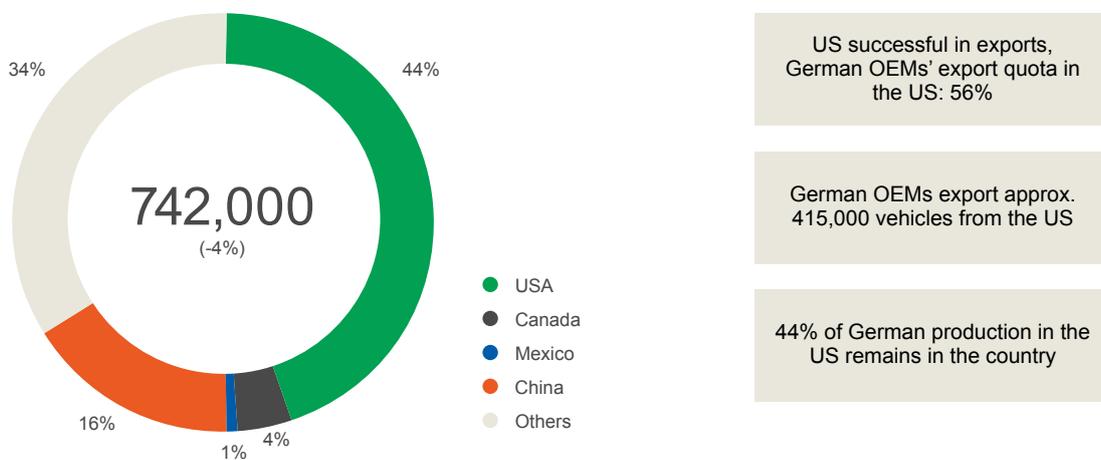
The German automotive industry has established a strong presence in the USA and represents an important economic factor – a few key figures:

- With more than 330 production sites (2018) and over 125,000 employees (2020), the German automotive industry has a strong presence in the USA.
- German suppliers alone have almost quadrupled the number of their US sites since 1996, making a significant contribution to the creation of new jobs. Last year, the US was the third largest foreign location of German car manufacturers.
- For example, the production of German OEMs more than tripled in 2020 compared to 2009, while the US production of light vehicles as a whole increased by „only“ 53% during this same period.
- In 2020, 742,000 cars, or 8.7% of the light vehicles in the US, were produced by German OEMs.
- The USA is an important partner for the German automotive industry. With automotive exports from Germany to the USA worth 18.9 billion euros in 2020, the US is the second most important export partner for manufacturers and suppliers, following China.
- At the same time, however, the US is also a crucial production and export hub. Of the 742,000 passenger cars (including SUVs) produced by German manufacturers in the USA in 2020, more than half were exported from the USA, including to Europe and China. Companies in the German automotive industry reliably provide employment and value creation in hundreds of US municipalities. In this way, the German automotive industry is already making a fundamental contribution to American prosperity.

- Battery-powered vehicles in particular, but also other technologies such as e-fuels, are an important component of the German automotive industry's climate strategy. To date in 2021, the market share of German OEMs in US electric vehicle sales is 13.5% (2020: 9.3%). Thus, German manufacturers are making an important contribution to achieving the US climate targets.
- The exclusion of German vehicles from funding could jeopardize this presence – with a correspondingly negative impact on economic growth, innovation, and employment.

Production and Sales by German OEM in the US

German OEMs' US production with sales regions (2020)



Source: VDA

Political status of the proposals

The tax incentives to be passed by the Democrats as part of the budget are an important tool for implementing Joe Biden's climate goals. The president wants to convert at least 40–50% of US vehicle sales to electric vehicles by 2030 as well as to promote unionized employment at US plants.

The tax credits have been backed by U.S. President Joe Biden, the United Auto Workers (UAW) union and many congressional Democrats, but opposed by major international automakers. The proposals are supported by 60 American organizations (e.g., Sierra Club, United Auto Workers, and the Alliance of Automobile Manufacturers) as well as the three major US car companies, Ford, GM, and Chrysler.

Tesla, Toyota, Kia, Nissan, Hyundai, and Honda have spoken out against the new regulations, claiming that conditioning the incentives to union representation is unfair and discriminatory. Tesla, like Toyota and other foreign automakers, makes most vehicle batteries and electric cars in the United States, but their workers are not represented by a US union.

In a letter dated September 30, 2021, 12 international manufacturers (including BMW, Daimler, and VW) called on Nancy Pelosi, Speaker of the House of Representatives, for the withdrawal and amendment of the proposals because they massively restrict consumer choice and endanger the attainment of the climate goals of the United States. The intention is to create tax incentives to promote electrified vehicles; therefore, the policies should provide incentives for all electric vehicles produced by all American autoworkers. Policies that slow down progress towards achieving climate goals should be rejected.

On October 29, 2021, the European Union, along with Germany, Canada, Mexico, Japan, France, South Korea, Italy and further 17 countries wrote U.S. lawmakers saying the proposed electric vehicle tax credit violates international trade rules. 25 Ambassadors signed the letter.

Dated November 30, 2021, twelve international automakers invested in the USA wrote to Senate Majority Leader Schumer and Minority Leader McConnell, copying all members of the US-Senate. As the Senate prepares to debate and vote on the Build Back Better Act, automakers ask that Senate members give serious consideration to the way section 136401 – Refundable New Qualified Plug-In Electric Drive Motor Vehicle Credit for Individuals, as drafted, creates a discriminatory \$4,500 supplemental tax credit given only to buyers of EVs assembled by workers who have chosen to work under a collective bargaining agreement. Additionally, federal incentives that are inconsistent with commitments made at the World Trade Organization and with US trading partners, including the United States-Mexico-Canada Agreement, would further slow the adoption of EVs and hinder the ability to expand the U.S. EV manufacturing base.

On December 3, 2021, the Vice-President and Trade Commissioner of the European Commission, Valdis Dombrovskis, wrote a letter to the Senate. While recognizing the potential importance of the proposals for U.S. citizens and the U.S. economy, Dombrovskis very much hopes that it will not lead to unnecessary friction or create new barriers in the transatlantic relationship, the single biggest trade and investment relationship in the world.

Other arguments and positions

In addition to the criticism from those manufacturers affected, US representatives have also now begun campaigning for the implementation of the proposals (see, for example: <https://www.reuters.com/business/autos-transportation/more-than-100-us-lawmakers-urge-pelosi-back-union-ev-tax-credit-2021-10-12/>).

On October 11, 2021, more than 100 members of the US House of Representatives called on House Speaker Nancy Pelosi to set a tax credit of \$4,500 for electric vehicles built by unionized manufacturers.

Next steps

Following the vote in the House of Representatives on the Build Back Better Act on Friday 19 November 2021, the proposals will now be taken up by the Senate as part of the budget reconciliation package. The bill could be passed with only a simple majority in the Senate.

According to Office of the U.S. Trade Representative spokesman Adam Hodge, the Biden administration plans to consult with a “range of stakeholders,” including its closest trade partners.

VDA is engaging with major stakeholders in order to convince the US to change its plans.

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Anlagen:

EV Tax Credits USA: Comparison current program and proposals – September 2021

| Legislation | Current EV Tax Credit (\$30D) | Senate Proposed Modifications (May 26, 2021) | House Proposed Modifications (Sept. 10, 2021) |
|-----------------------------------|------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Vehicle | Vehicle must meet statutory definition of qualifying Plug-in Hybrids (PHEVs) or Battery Electric Vehicles (BEVs) | Vehicle must meet statutory definition of qualifying Plug-in Hybrids (PHEVs) or Battery Electric Vehicles (BEVs) | Vehicle must meet statutory definition of qualifying Plug-in Hybrids (PHEVs) or Battery Electric Vehicles (BEVs) <ul style="list-style-type: none"> In service ≤ Dec. 31, 2023: ≥ 7 kWh In service ≥ Jan. 1, 2024: ≥ 10 kWh |
| MSRP | N/A | MSRP must be <\$80,000 | Sedans: \$55,000 Vans: \$64,000 SUVs: \$69,000 Pickup Trucks: \$74,000 Vehicle classifications based off of criteria similar to those used by EPA and DOE for size and class determinations |
| Income Restrictions | N/A | N/A | Credit reduced by \$200 for each \$1,000 by which the taxpayer's modified adjusted gross income exceeds the threshold amount. <p>Thresholds:</p> <ul style="list-style-type: none"> \$800,000: joint filing or surviving spouse \$600,000: head of household \$400,000: others |
| Vehicle | N/A | December 31, 2025 | Vehicle placed into service > Dec. 31, 2026 must have final assembly in US to be eligible <p>“Final Assembly” means production of qualifying vehicle delivered to a dealer or importer with all component parts necessary for the mechanical operation of the vehicle included with the vehicle.</p> |
| Max Tax Credit | \$7,500 | \$12,500 | \$12,500 |
| Base Credit for Eligible Vehicles | \$2,500 | 2022-2025: \$2,500 ≥2026: \$5,000 | \$4,000 |

| Legislation | Current EV Tax Credit (\$30D) | Senate Proposed Modifications (May 26, 2021) | House Proposed Modifications (Sept. 10, 2021) |
|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Battery Capacity Credit | <p>\$417 credit for the first 5 kWh of battery capacity</p> <p>\$417 credit for each additional kWh of capacity above 5 kWh</p> | <p>\$417 credit for the first 5 kWh of battery capacity</p> <p>\$417 credit for each additional kWh of capacity above 5 kWh</p> | <p>\$3,500</p> <ul style="list-style-type: none"> • Vehicle placed in service < Jan. 1, 2027: ≥40 kWh • Vehicle placed in service > Dec. 31, 2026: ≥ 50 kWh |
| Vehicle | No US assembly credit | <p>2022-2025: \$2,500</p> <ul style="list-style-type: none"> • Incentive for vehicles with final assembly at a US facility <p>≥2026: \$5,000</p> <ul style="list-style-type: none"> • US final assembly a pre-condition for credit. This requirement is rolled into the base credit, resulting in a base increase from \$2,500 to \$5,000 | <p>\$4,500*</p> <p>“Domestic Assembly” means a production facility that is operating under a collective bargaining agreement negotiated by an employee organization.</p> <p>*The House approach combines the Senate proposed labor and final assembly incentives.</p> |
| Organized Labor Credit | No union-built credit | \$2,500 additional credit for vehicles assembled in a facility where production workers are represented by a labor organization | Captured in assembly credit |
| Domestic Content Credit | N/A | N/A | <p>\$500</p> <ul style="list-style-type: none"> • ≥50% domestic content in the component parts for final assembly, AND • Battery cells that are manufactured in the US |
| Phase Out Conditions | <p>200,000 OEM vehicle cap with credit phase out</p> <p>First 6-months of phase out, vehicles are eligible for 50% of applicable credit</p> <p>Second 6-months of phase out, vehicles are eligible for 25% of applicable credit</p> | <p>OEM vehicle cap eliminated and replaced with credit phase out after USG certifies new EV sales represent 50% of total annual sales</p> <p>Credit is reduced 25% during the second calendar year after 50% EV sales reached</p> <p>Credit is reduced 50% during the third calendar year after 50% EV sales reached</p> <p>Credit eliminated during fourth year after sales determination is made</p> | Credit shall not apply to vehicles acquired after Dec. 31, 2031 |

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