



The Honorable Scott Bessent
Secretary, U.S. Department of Treasury
Acting Commissioner, Internal Revenue Service
1111 Constitution Avenue NW
Washington, D.C. 20224

December 15, 2025

Subject: Request for Information regarding IRS Implementation of the 45Q Tax Credit

Dear Secretary Bessent,

On behalf of Taxpayers for Common Sense and The Heartland Institute, we are writing to request information related to the 45Q tax credit for carbon capture and storage (CCS) administered by the Internal Revenue Service (IRS).

CCS is often discussed as an innovative solution for reducing carbon dioxide emissions. However, despite decades of federal financial support, CCS projects have consistently failed or underperformed. In addition to its lack of scalability and heavy dependence on taxpayer subsidies, CCS also has not proven to ensure that taxpayer dollars support real and measurable outcomes.

Under 45Q, the more carbon dioxide produced and then captured and stored, the larger the credit. Recipients are not required to demonstrate measurable climate impacts or provide sufficient evidence of permanent storage. Paying for activities that supposedly store carbon dioxide without clear proof of actually storing it, let alone measurably mitigating climate change, is a waste of taxpayer dollars. Current implementation of CCS and 45Q also raises serious concerns about private property rights, public safety, and accountability.

History of Waste, Fraud, and Abuse

The 45Q tax credit's track record has shown it to be prone to waste, fraud, and abuse. In 2020, an IRS review identified 672 taxpayers who claimed the I.R.C. § 45Q tax credits between 2010 and 2019, totaling over \$1 billion. The IRS focused its audit efforts on ten taxpayers who claimed over \$1 million each, accounting for 99.9% of all the credits. It was discovered that \$893,935,025 worth of credits were claimed by these ten taxpayers without complying with EPA's reporting requirements. These ten taxpayers failed to document whether the carbon dioxide they claimed to capture remained securely underground.

Such failures undermine both the credibility of the 45Q program and public confidence in government oversight. Without adequate verification and public transparency, taxpayers have little assurance that any claimed carbon dioxide sequestration is real or permanent.

Recent Expansion of 45Q Warrants More Scrutiny of the Credit's Implementation

The recent expansion of the 45Q tax credit warrants an immediate and closer examination of the program's implementation given its increased costs to taxpayers and heightened risk of waste, fraud, and abuse. The One Big Beautiful Bill Act (OBBBA, P.L. 119-21) increased the credit value for all uses,

including enhanced oil recovery (EOR), to match the credit amount for geological sequestration. This expansion of 45Q for EOR is estimated to cost taxpayers an additional \$14 billion over the next ten years, according to the Joint Committee on Taxation,¹ adding to the credit's pre-OBBA cost of \$30 billion.²

According to the U.S. Department of the Treasury's FY2026 tax-expenditure report, 45Q is already one of the largest energy tax expenditures, underscoring the magnitude of the fiscal exposure.

Given these high costs to taxpayers, it is imperative for the IRS to limit and strictly monitor the tax credit's use to prevent abuse and ensure that actual carbon dioxide sequestration takes place. As Congress and the Treasury Department face mounting fiscal pressures, the integrity of the 45Q credit is critical to maintaining taxpayer confidence in the tax code.

Compliance Gaps

Over the years 45Q has relied on EPA reporting requirements, which, as discussed above, recipients have routinely ignored. With the EPA's proposed repeal of the Greenhouse Gas Reporting Program (GHGRP), the IRS may soon have an even worse challenge in verifying compliance and confirming that carbon dioxide is securely stored underground. Without a reliable reporting framework, questions about permanence and accuracy will only grow.

Private Property Rights and Public Safety

Another alarming aspect of CCS is its threat to private property rights. Many CCS projects are claiming "common carrier" status to justify the use of eminent domain—despite serving only private corporate interests and not the broader public good—to seize private lands for CO₂ pipelines and storage sites, often against the will of landowners.³ In many cases, property owners have little meaningful recourse to challenge these eminent domain disputes.

A growing number of CCS developers are asserting this authority even where no clear public-utility function exists. This trend increases the need for strong federal oversight to ensure taxpayer subsidies are not facilitating private takings of land or diminishing community safety.

The abuse of eminent domain and the inherent risks of transporting and storing carbon are particularly concerning given that many CCS projects receive federal funding and are eligible for the 45Q tax credit. Taxpayer dollars should not be used to fund projects that undermine private property rights and threaten public health and safety. When tax credits are awarded to private companies at the expense of property owners, communities, and taxpayers, it undermines trust in government programs—especially when the public has little assurance that the 45Q program produces tangible benefits and is administered with strong taxpayer protections and increased oversight and accountability.

Requested Information

Given these deep concerns we have regarding 45Q, we kindly request that you provide us with additional information on the following:

¹ Joint Committee on Taxation (JCT), "Estimated Revenue Effects Relative to the Present Law Baseline of the Tax Provisions in "Title VII – Finance" of the Substitute Legislation as Passed by the Senate to Provide for Reconciliation of the Fiscal Year 2025 Budget," JCX-35-25. <https://www.jct.gov/publications/2025/jcx-35-25/>

² U.S. Department of Treasury, "Tax Expenditures," <https://home.treasury.gov/system/files/131/Tax-Expenditures-FY2026.pdf>

³ Heartland Institute, "Carbon Capture & Property Rights: There Is No Justification for Using Carbon Capture and Storage Projects to Abrogate Property Rights," January 2025. <https://heartland.org/opinion/new-paper-by-the-heartland-institute-dissects-how-carbon-capture-and-storage-projects-threaten-property-rights/>

1. **Issuance of New Rules:**

Will the IRS promptly issue new rules to reflect the expansions of 45Q made by the Inflation Reduction Act (IRA) and the One Big Beautiful Bill Act (OBBBA)? More importantly, how does the IRS plan to ensure verification, transparency, and accountability, and implement stronger taxpayer safeguards? Please include a timeline for any forthcoming rulemaking or guidance updates.

2. **Updates to Regulatory Framework:**

Given the EPA's proposal to repeal GHGRP, how will the IRS update its reporting and compliance requirements for demonstrating secure storage of captured carbon? Has the IRS identified alternative compliance standards, and will the agency pause credit issuance until reliable verification mechanisms are in place?

3. **Transparency in Credit Administration:**

Will the IRS commit to disclosing aggregate data on 45Q, including aggregate sequestered volumes and credit amounts—while protecting confidential business information? Without this transparency, taxpayers cannot evaluate the credibility of purported carbon sequestration activities.

4. **Transparency in Local Impact:**

Will the IRS track and report each specific instance in which a company claiming 45Q tax credits uses or proposes to use eminent domain to seize private property for 45Q-related pipelines or storage, including other possible routes which, though possibly less direct, would lead to less property seized, and the amount of credits associated with those actions?

Transparency and accountability are essential to maintaining public trust and confidence in government programs. We look forward to working with the IRS to ensure fair, transparent, and verifiable administration of the 45Q tax credit.

Thank you for your cooperation.

Sincerely,

Steve Ellis
President
Taxpayers for Common Sense

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Director, Arthur B. Robinson Center on Climate and Environmental Policy
The Heartland Institute