

Wolfspeed Inc.  
4600 Silicon Drive  
Durham, North Carolina, 27703

November 4, 2022

Filed Electronically (Federal eRulemaking Portal – IRS-2022-0050)

Internal Revenue Service  
CC:PA:LPD:PR (Notice 2022-50)  
Room 5203  
P.O. Box 7604  
Ben Franklin Station, Washington, DC 20044

Dear Sir or Madam,

These comments request clarifying guidance relating to credit monetization under Internal Revenue Code (“IRC”) §6418.

Wolfspeed Inc. (“Wolfspeed”) appreciates the opportunity to submit the following comments to the Treasury Department and Internal Revenue Service (“IRS”) related to Notice 2022-50 concerning the newly enacted IRC §6418 in the Inflation Reduction Act (“IRA”) which allows for the transferability of the qualifying advanced energy credit under IRC §48C. We recognize the groundbreaking nature of the IRA as America’s largest-ever public investment in clean energy and the unprecedented support to combat the existential crisis of climate change while strengthening American innovation, supply chains, industrial competitiveness, and energy security.

Wolfspeed, headquartered in Durham, North Carolina, is a market leader in the worldwide production and adoption of Silicon Carbide and Gallium Nitride technologies. As *Charged* magazine noted, “Silicon Carbide is becoming the material of choice for EV power electronics.” Wolfspeed’s business is built on the power of Silicon Carbide and the innovative possibilities unleashed by the technology. Wolfspeed serves as a catalyst for driving change that transforms our communities, our industries, and our world **by powering more and consuming less.**

Wolfspeed’s solutions are driving change across the semiconductor market, enabling greater efficiency and performance, smaller systems, and lower costs. These solutions are key to the electrification of the drivetrain to support the shift to electric vehicles (“EVs”), wireless infrastructure to unlock the potential of smart cities, and power storage to enable broader adoption of alternative energy. Specifically, our product catalog includes Silicon Carbide and Gallium Nitride materials, power-switching devices, and radio frequency (“RF”) devices targeted for various applications such as EVs, fast-charging 5G, renewable energy and storage, and aerospace and defense. Our founders pioneered Silicon Carbide and Gallium Nitride solutions for both high power and RF applications.

Wolfspeed is uniquely positioned at the forefront of bolstering America's domestic manufacturing base, supporting the electrification of the drivetrain and shift towards EVs, as evidenced by our current U.S. workforce of approximately 4,000 employees and our predominately U.S. manufacturing footprint with manufacturing facilities located in New York, California, Arkansas, and North Carolina. As announced in early September, Wolfspeed will continue to invest in U.S. manufacturing through a new, state-of-the-art, multi-billion-dollar Materials manufacturing facility in Chatham County, North Carolina.<sup>1</sup> Additionally as discussed at our October Investor Day, we foresee the need for another fabrication manufacturing facility in the near-term to support the growing demand for Silicon Carbide. As President Biden highlighted on Twitter, Wolfspeed is one of many companies responding to his support for investments in the industries of the future.

### **Powering More. Consuming Less.™**

When drivers need to charge their EVs on the go, the best option available is off-board direct current ("DC") fast chargers, which enable the rapid charging of EV batteries. When it comes to switching electronic signals, traditional Silicon performance is limited, which means that even the fastest of Silicon-based chargers are going to be too slow for the average consumer's expectation. Alternatively, Silicon Carbide and its unique physical properties enable superior switching speed and higher power delivery – which means a faster and more efficient charge of EV batteries.

For EVs specifically, the need to have reliable and consistent power is paramount, and traditional Silicon cannot provide the reliability and speed of charging which EV drivers on the go will require. Silicon Carbide, on the other hand, is specially built to meet this need. With greater reliability and improved efficiency over any Silicon-based solution, Silicon Carbide is ready for the challenges that today's EVs present, especially when it comes to on-board DC/DDC converters.

By reducing power losses by nearly 80%, Silicon Carbide also reduces consumers' "range anxiety" by extending their EV's driving distance by up to 10%. Additionally, Silicon Carbide enables a simpler design that offers many benefits, including fewer components, reduced system cost, higher efficiency, smaller size, and better bidirectional charging for Vehicle to Grid ("V2G") capability.

According to a study led by the Biophysical Economics Institute ("BPEI"), when Silicon Carbide is used in the powertrain of an EV, it delivers a 13:1 energy savings versus the incremental energy invested, as compared to traditional Silicon. This significant energy conservation allows for longer range, lighter weight, and faster charging – all of which support the electrification of the drivetrain, lower long-term energy usage, and enhanced environmental sustainability.

The same study led by BPEI found that lifetime greenhouse gas emissions ("GHG") of an EV using Silicon Carbide were reduced by 690 kg CO<sub>2,eq</sub>, which is the equivalent of the CO<sub>2</sub> in 77 gallons of gasoline. If in 2030, 35 million EVs utilized Silicon Carbide, the lifetime savings for one model year would be

---

<sup>1</sup> <https://www.wolfspeed.com/company/news-events/news/wolfspeed-selects-north-carolina-for-worlds-largest-silicon-carbide-materials-facility/>



equivalent to 192 million barrels of oil, \$8.2B USD of electricity<sup>2</sup>, or lifetime GHG emissions equivalent to 2.7B gallons of gasoline.

For more information on how Wolfspeed is powering more and consuming less, we invite you to review our 2022 Sustainability Report.<sup>3</sup>

### **Request for clarifying guidance**

With Congress leaving much of the key details on the applicability of the IRA up for debate, the future of America's EV industry, wind and solar power, supply chains, and energy security largely rests in the hands of the Treasury Department and IRS. The IRA represents a once-in-a-generation opportunity to invest in a green, secure, and prosperous future. In order to capitalize on this consequential moment in history, it is crucial that the Executive Branch takes diligent steps to ensure the successful implementation of the IRA, and importantly, the provisions which allow taxpayers investing in the U.S. to timely and efficiently monetize credits under the IRA.

It is prudent for the Department of the Treasury and the IRS to act and restore the U.S. as a global leader in EV manufacturing. Wolfspeed is investing in the capital and people needed to support the growing adoption of EVs and the increasing adoption of Silicon Carbide within those EVs. As mentioned, we have announced our U.S. investment in the world's largest Silicon Carbide materials factory in North Carolina, and we are planning for the likelihood that we will need a third fabrication manufacturing facility. Wolfspeed stands ready to move at the speed and scale to support American jobs and manufacturing, and we respectfully request for you to take the below comments into consideration.

#### *Information, registration, and tracking of credits*

IRC §6418(g)(1) provides that as a condition to a transfer of credit the Secretary may require information deemed necessary to prevent duplication, fraud, improper payments, or excessive payments. Guidance is requested regarding the information that may be required.

In particular, to the extent the transferee is known at the time the transferor files its return, it is recommended that guidance provide that the transferor taxpayer file a statement which includes the transferee's U.S. tax identifying information.

There may be circumstances in which the transferor intends to transfer its allowable credits for a taxable year, but the credit transfer transaction may not be completed by the filing due date for the transferor's tax return. In these situations, it is recommended that guidance provide that the transferor taxpayer shall make an IRC §6418(a) election on its timely filed tax return and then be allowed a specific number of days, (e.g., 30 days) subsequent to the legal transfer of the credit to file a statement with the IRS providing the transferee's U.S. tax identifying information. In all cases such subsequent statement must be filed within 90 days from the filing of the transferor taxpayer's tax return on which the IRC §6418 election was made.

---

<sup>2</sup> Assumes U.S. average residential electricity price of \$0.1371/kWh

<sup>3</sup> <https://www.wolfspeed.com/company/sustainability/#reporting>

If guidance will require transferor taxpayers to provide information to the IRS as a condition to transfer, such information should include a brief description of the credit eligible project, including location and placed in service date. In the case of investment tax credits, the information should also include the eligible basis and a summary of the cost segregation. Additionally, in the case of production-based credits the information should include a summary of the relevant production for the taxable year.

#### *Excessive credit transfer*

IRC §6418(g)(2) provides rules and penalties around excessive credit transfers. IRC §6418(g)(2)(B) provides that the penalties shall not apply if the transferee demonstrates that the excessive credit transfer resulted from “reasonable cause,” however, IRC §6418 does not define what constitutes “reasonable cause” for this purpose.

Guidance is requested on this reasonable cause rule, in particular, examples of what constitutes “reasonable cause.” For instance, if an excessive credit transfer results from the transferor incorrectly computing the amount of credit, does this result in additional tax owed by the transferee under IRC § 6418(g)(2)(A)(i) & (ii), or is such a computational error considered reasonable cause?

Guidance is also requested on how to correct erroneous credit transfers that are deemed to not be excessive because they resulted from reasonable cause. In addition to general guidance on this point, it is recommended that guidance include a de minimis rule. For instance, if the amount that would be considered an excessive credit transfer, absent the application of reasonable cause, is less than a certain amount, then no penalty under IRC §6418(g)(2)(A)(i) & (ii) should be incurred.

#### *Limitations*

Guidance is requested to provide clarity on the application of certain credit limitations in the hands of the transferee of tax credits. For instance, do the limitations on pre-acquisition credits in IRC §383 apply and do the limitations imposed by the passive activity rules in IRC §469 to the credits in the hands of the transferee?

#### *Taxable year for claiming the credit*

IRC §6418(d) provides that when an election to transfer is made, “the credit shall be taken into account in the first taxable year of the transferee taxpayer ending with, or after, the taxable year of the eligible taxpayer with respect to which the credit was determined.” While it appears clear from this language that a calendar year taxpayer may purchase credits from a fiscal year taxpayer, or vice versa, clarification on this point is requested.

We appreciate your consideration of these matters and are available to answer any questions you may have.

Sincerely,



Bradley D. Kohn  
SVP Legal & General Counsel  
Brad.Kohn@wolfspeed.com