

What's Next for Excise Tax?

ELECTRIC VEHICLES

November 7, 2024

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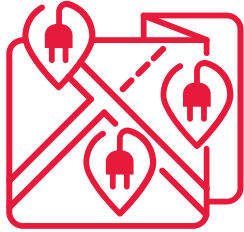


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Learning Objectives



Explore the shift to electric vehicles and impact on motor fuel excise tax



Identify how states and the U.S. are adapting to increase excise taxes



Recognize how other excise and sales taxes impact the EV industry and the challenges to safeguarding trade secrets

Agenda



Overview



The Emerging Area of Excise Tax on EVs and Electric Fuel



Review of Other Considerations Impacting the EV Industry



Questions

OVERVIEW

Electric Vehicles

- ▶ The emergence of electric vehicles to contribute to a lower carbon footprint
- ▶ What are the types or variations of electrical vehicles?



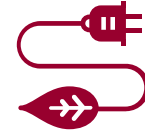
BEV

Battery Electric
Vehicles



PHEV

Plug-In Hybrid Electric
Vehicles



HEV

Hybrid Electric
Vehicles



FCEV

Fuel Cell Electric
Vehicles

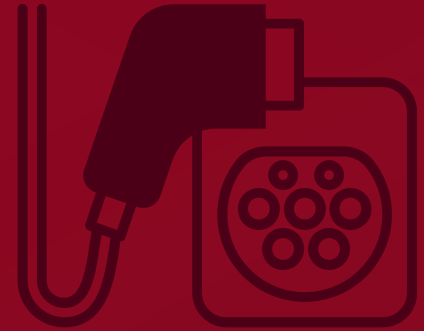


LDV

Light Duty Vehicles
Consisting of Cars and Light Trucks

OVERVIEW

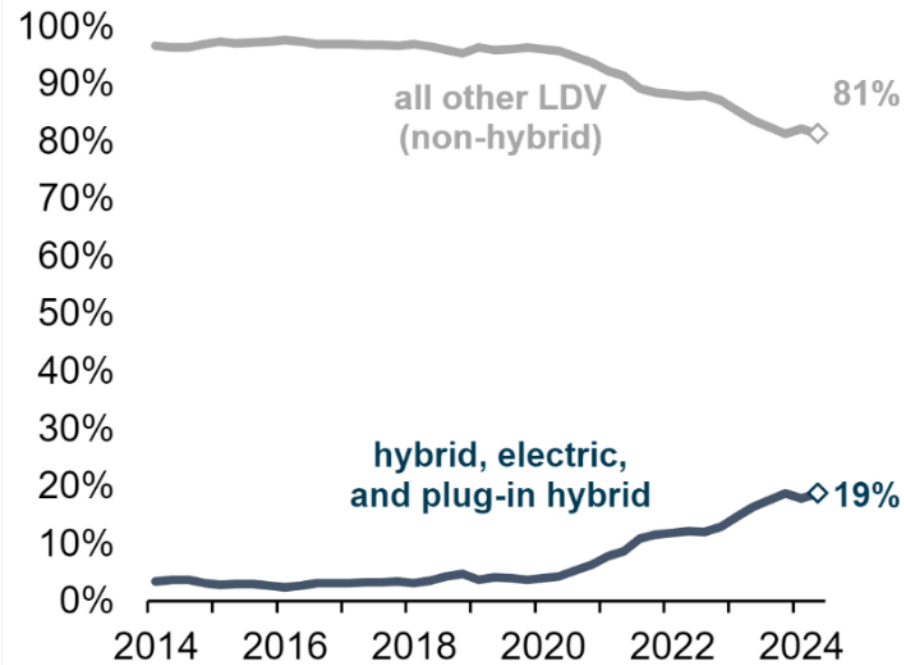
Electric Vehicles



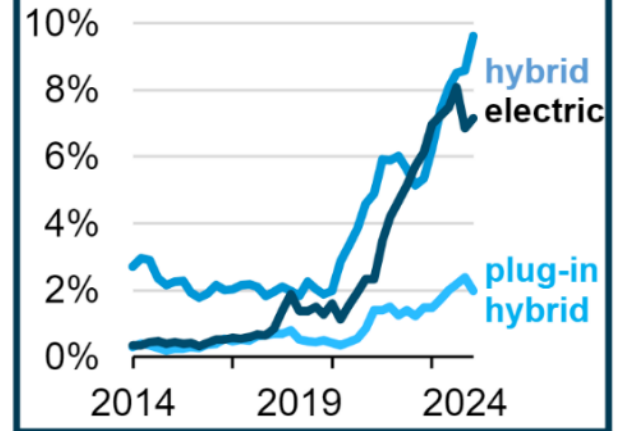
- ▶ Recent consumer demand on electric vehicles has slowed
- ▶ What are some of the contributing factors?
 - High sales price
 - Consumer depreciation costs (used vehicle values)
 - Election outcome impacts and tax policy
 - Confusion regarding existing tax credits
 - Charging infrastructure and range fatigue concerns
- ▶ Nevertheless, the leading EV producer is predicting substantial growth in 2025 and beyond

EXCISE TAX Electric Vehicles

Quarterly U.S. light-duty vehicle (LDV) sales by powertrain (Jan 2014–June 2024)
percentage of sales



Breakout of EV and hybrid sales
percentage



Data source: Wards Intelligence
Note: EV=electric vehicles, which include both battery electric and plug-in hybrid electric vehicles

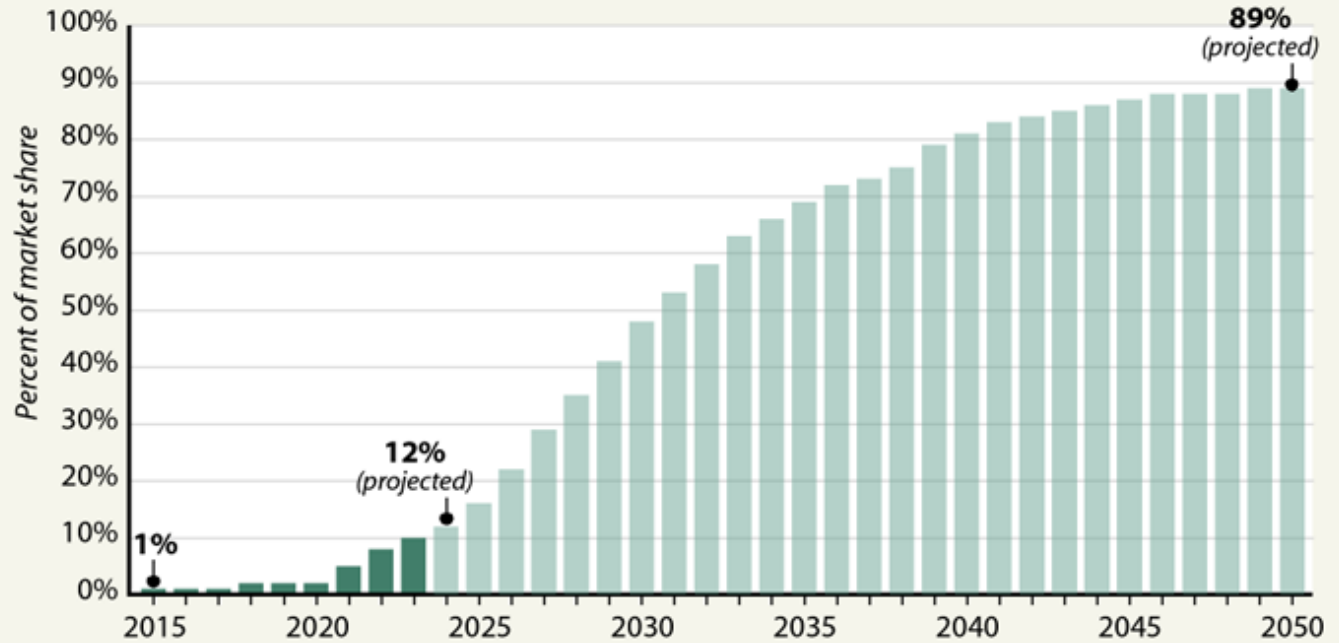
EXCISE TAX Electric Vehicles

Projected EV Market Share Growth

BloombergNEF expects slow growth for EV market share this year in the United States, followed by an acceleration in the following years. The forecast shows the research firm's "Economic Transition Scenario," which is based on economic forces and technology tipping points, and not on potential changes to policy.

U.S. EV MARKET SHARE

New all-electric and plug-in hybrid vehicle sales, 2015 projected to 2050



SOURCE: BloombergNEF

PAUL HORN / Inside Climate News

EXCISE TAX

Electric Vehicles

- ▶ Federal and state motor fuel excise tax is imposed on fuel placed in an internal combustion motor vehicle for the privilege of using the public roads and highways
- ▶ With vehicles being more fuel efficient and ultimately conversion to full electric vehicles, federal and state motor fuel excise tax revenue will be reduced significantly
- ▶ Electric vehicles/fuel is an emerging area for excise taxation

EXCISE TAX

Electric Vehicles

- ▶ Alternative sources of excise tax revenue needed for maintaining and repairing the public roads and highways
- ▶ More than 30 states impose higher registration fees for electric vehicles than combustion engine vehicles
 - Texas imposes a \$400 first time registration fee for new electric vehicles and \$200 for each subsequent annual renewal



EXCISE TAX

Electric Vehicles

- ▶ States are also looking at options for imposing an excise tax on charging electric vehicles to make up for lost revenue
- ▶ Charge Point Operators (CPOS) own and operate charging stations across the country
- ▶ Iowa imposes an electric fuel excise tax of 2.6 cents per kilowatt-hour at public charging stations



JANUARY 1, 2024

- ▶ Both Kentucky and Oklahoma impose an electric fuel excise tax of 3.0 cents per kilowatt-hour at public charging stations
- ▶ Utah imposes a 12.5% excise tax on EV charging station operators for the retail sale of electricity

EXCISE TAX
**Electric
Vehicles**

Other Methods for Excise Tax on Electric Fuel



Vehicle Miles Traveled (VMT) State Voluntary Pilot Programs



Utah: Pay .015 per mile versus a flat \$120 annual fee for electric vehicles



Road Usage Charge (RUC)

▶ Hawaii: July 2025, pay .008 per mile and eliminate \$50 annual fee for electric vehicles

EXCISE TAX

Electric Vehicles

Surface Transportation System Funding Alternatives Program

- ▶ Established in 2015 to address reduced motor fuel excise tax from fuel-efficient vehicles and alternative user-based funding to the Highway Trust Fund

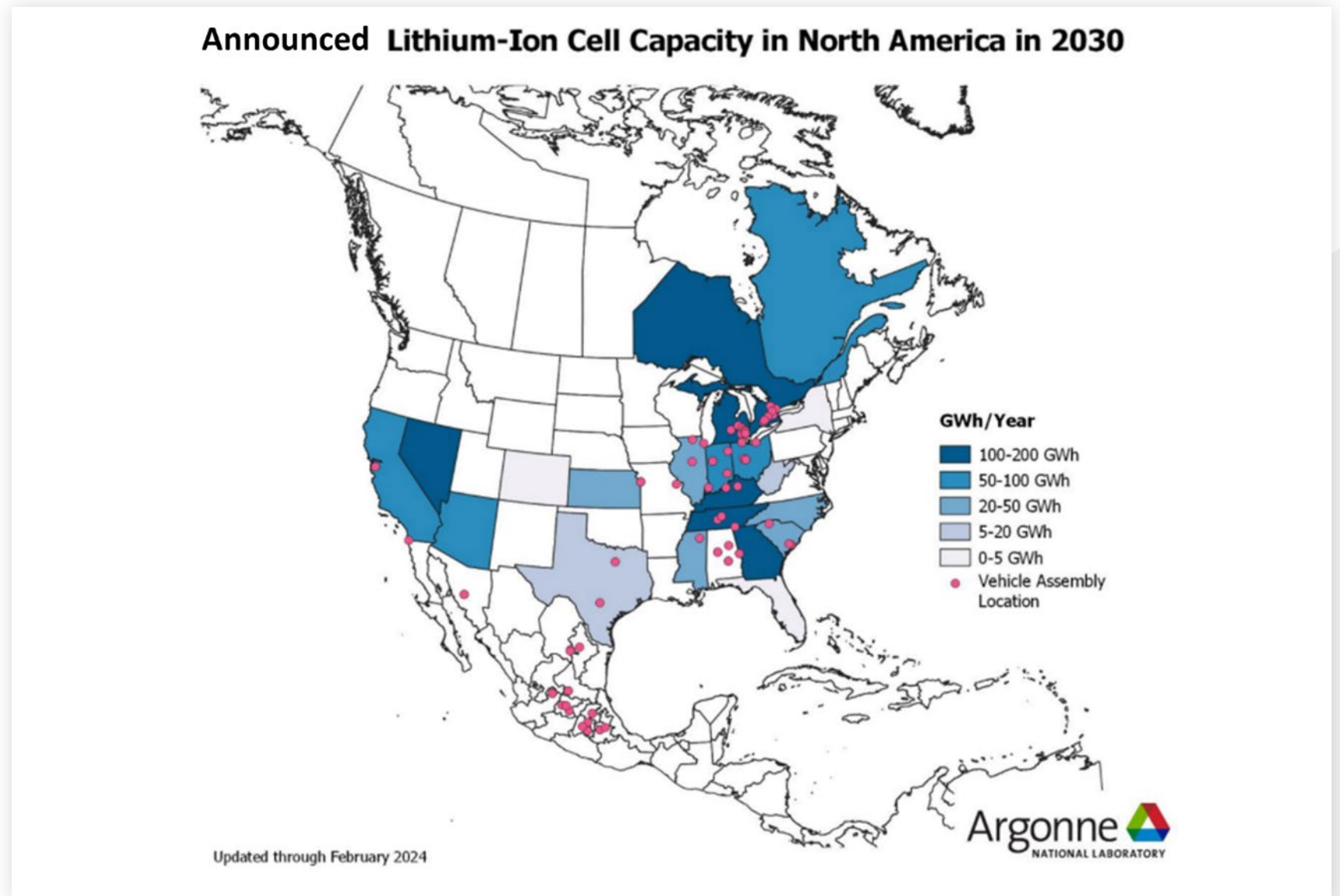
Infrastructure Investment and Jobs Act (IIJA) funding for VMT State Pilot Programs

- ▶ Consideration for a future model for a national Vehicle Miles Traveled (VMT) excise tax to make up for lost federal motor fuel excise taxes

Expansion of Charging Station Infrastructure and State Requirements to Exempt as Public Utilities

- ▶ Wisconsin Senate passed bill in January 2024 to exempt from public utility regulation businesses operating charging stations

Planned Battery Manufacturing Plants



Source: Argonne National Laboratory, Quantification of Commercially Planned Battery Component Supply in North America through 2035, March 2024, Figure 3. <https://publications.anl.gov/anlpubs/2024/03/187735.pdf>

Battery Capacity by State/Province

2030

Announced Lithium-Ion Battery Capacity by State/Province, 2030
U.S. Department of Energy, Vehicle Technologies Office

STATE/PROVINCE	GIGAWATT-HOURS/YEAR
Michigan	166.0
Nevada	139.0
Ontario	136.0
Georgia	121.0
Kentucky	114.0
Tennessee	100.0
Indiana	97.0
Ohio	82.0
California	64.0
Québec	69.0

Battery Capacity by State/Province

2030

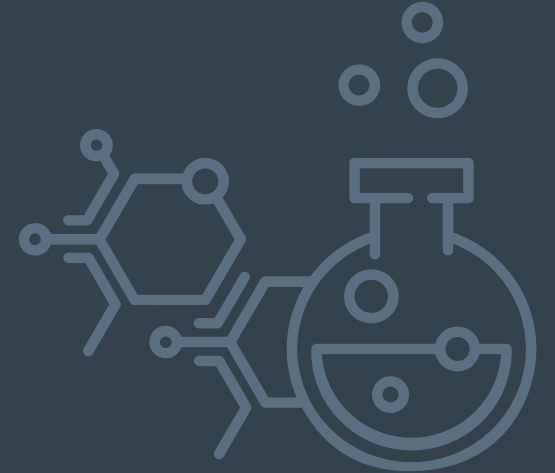
Announced Lithium-Ion Battery Capacity by State/Province, 2030
U.S. Department of Energy, Vehicle Technologies Office

STATE/PROVINCE	GIGAWATT-HOURS/YEAR
Arizona	61.0
Illinois	40.0
South Carolina	37.0
North Carolina	33.0
Kansas	30.0
Mississippi	20.0
West Virginia	15.0
Texas	10.0
New York	2.8
Colorado	0.5
Florida	0.4

EXCISE TAX

Superfund Chemical

- ▶ IRC 4661 imposes excise tax on the sale by a manufacturer, producer, or importer of 42 listed taxable chemicals
- ▶ IRC 4671 imposes excise tax on the sale or use by an importer of specified taxable substances
- ▶ The reinstated Superfund Chemical Excise Taxes of IRC 4661 and IRC 4671 are **effective July 1, 2022, and imposed through 2031** generating about \$14.5B over a 10-year period
- ▶ Tax rate determinations
 - Tax rates doubled for IRC 4661 chemicals
 - Tax rates for substances based on 4661 rates and default rate on value doubled to 10%

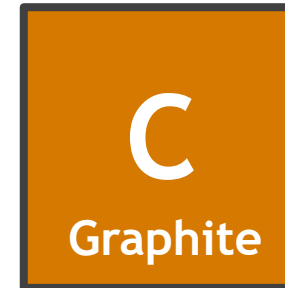


EXCISE TAX

Superfund Chemical

IMPACT ON BATTERY MANUFACTURING & RECYCLING

- ▶ Five minerals contained in EV batteries have been designated as critical minerals by the U.S. Geological Survey (USGS):



- ▶ Cobalt and nickel are listed taxable chemicals subject to the Superfund Chemical Excise Tax
- ▶ Recycling of batteries could also be impacted by the Superfund Chemical Excise Tax

RETAIL EXCISE TAX

Heavy Trucks and Trailers

IRC section 4051 imposes a 12% federal excise tax on the first retail sale of the following:

Automobile truck bodies and chassis having a gross vehicle weight of over 33,000 pounds

Truck trailer and semi-trailer bodies and chassis suitable for use with a trailer or semi-trailer having a gross vehicle weight of over 26,000 pounds

Tractors of the kind chiefly used for highway transportation in combination with a trailer or semi-trailer having a gross vehicle weight over 19,500 pounds and a gross combined weight over 33,000 pounds

RETAIL EXCISE TAX

Heavy Trucks and Trailers

“FIRST RETAIL SALE”

- ▶ Defined as the first sale, for a purpose other than resale or leasing in a long-term lease, after manufacture, production, or importation.
- ▶ The tax is 12% of the price for which the article is sold. The person making the first retail sale is liable for the tax.¹

¹IRC Section 4052(a)(1)



RETAIL EXCISE TAX

Heavy Trucks and Trailers

- ▶ Modern, Clean, and Safe Trucks Act of 2023 proposed legislation to repeal the 12% retail excise tax
 - Electric and alternative-fueled trucks have higher up-front costs and are disproportionately impacted by the 12% retail excise tax discouraging transition to zero emission vehicles
- ▶ Continued requests to suspend the 12% retail excise tax on zero-emission trucks to incentivize purchases
- ▶ The U.S. Department of Energy considers a fuel cell electric vehicle (FCEV) running on hydrogen a zero-emission vehicle
- ▶ Further consideration of commercial electric vehicle tax credits
- ▶ International Fuel Tax Agreement (IFTA) reporting alternative fuels including electricity

OTHER CONSIDERATIONS

Electric Vehicles



Safeguarding Proprietary Trade Secrets

Electric Vehicle and Battery Manufacturer Trade Secret Litigation

- ▶ March 2025 trial for Tesla v. Rivian over alleged misappropriation of EV battery and manufacturing technology
- ▶ Settlement of trade secret litigation between two large battery manufacturers with SK Innovation agreeing to pay \$1.8 billion to LG Chem

OTHER CONSIDERATIONS

Electric Vehicles

- ▶ Sales and Use Tax and Construction Contract Issues
 - Installation of electric vehicle infrastructure and charging stations

- ▶ ESG and Extended Producer Responsibility (EPR) Fees
 - More states imposing EPR fees and “cradle-to-grave” responsibility on manufacturers to reduce landfill waste

AUDIENCE SURVEY

Would you like someone from BDO to contact you to discuss today's topic more in-depth?

A

Yes, please, thank you!

B

No, not at this time.

Questions?



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