

DEPARTMENT OF REVENUE

Taxation Division

INCOME TAX

1 CCR 201-2

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**Rule 39-22-509. Alternative Transportation Options Credit.**

**Basis and Purpose.** The statutory bases for this rule are sections 39-21-112(1) and 39-22-509, C.R.S. The purpose of this rule is to provide guidance regarding the requirements for claiming the alternative transportation options income tax credit.

(1) **General Rule.** For the income tax years specified in section 39-22-509, C.R.S., and subject to the limits established by that section, an income tax credit is allowed to an employer equal to 50% of the amount spent for providing alternative transportation options to its employees working in Colorado, utilizing generally accepted transportation demand management strategies in going to and returning from their places of employment.

(2) **Definitions.** As used in section 39-22-509, C.R.S., and this rule, unless the context otherwise requires:

(a) **“Administrative cost”** means an ordinary and necessary business expense for organizing, establishing, or administering an alternative transportation options program, which expense the employer would not have incurred and paid but for the alternative transportation options program.

(i) **“Administrative cost”** includes:

(A) **fees paid for services to study, establish, market, or administer the alternative transportation options program;**

(B) **the cost of tangible personal property used for organizing, establishing, or administering an alternative transportation options program, such as office supplies and marketing materials;**

(C) **technology used to administer or organize staff transportation benefits or to track use of staff transportation modes; and**

(D) **wages or salary paid for administrative staff, but only to the extent such amounts would not have been paid but for the alternative transportation options program.**

(ii) **“Administrative cost”** does not include the cost of:

(A) **real property improvements or maintenance;**

(B) **the alternative transportation itself; and**

(C) **tangible personal property used by program participants such as bike racks and lockers.**

- (b) “Cash incentive” means a monetary gift or award given by an employer to an employee to induce or fully or partially subsidize the employee’s use of a generally accepted transportation demand management strategy. “Cash incentive” does not include gifts or awards of property or paid time off.
  - (c) “Employee” means any person who is employed by an employer in Colorado and who routinely performs a labor or service on behalf of an employer in exchange for commissions, tips, a salary, hourly wages, or some combination thereof, whether full-time or part-time. “Employee” does not include a volunteer, an independent contractor, or a nonresident temporarily performing labor or services in Colorado.
  - (d) “Guaranteed ride home program” means a program that provides employees who commute to work using an alternative transportation option with a free or subsidized on-demand ride home for an unexpected circumstance.
  - (e) “Last-mile shuttle service” means transportation between an employee’s place of residence or employment and the mass transit systems utilized by the employee in commuting to and from their place of residence, employment, or both.
  - (f) “Mass transit” means a coordinated system of transit modes offered by local, regional, or state governments that provide transportation in rural, urban, or suburban areas for use by the general public.
  - (g) “Parking cash out” means cash paid to an employee in an amount equal to the out-of-pocket cost to the employer of a parking space in exchange for replacing a drive-alone commute with a mode such as carpool, mass transit, biking, or walking.
  - (h) “Shared micromobility option” means a tracked fleet of low-speed conveyances, as defined in section 42-4-1412.5(4)(b), C.R.S., available to improve access to other alternative transportation options.
  - (i) “Telework” means a flexible work arrangement in which an employee works at an alternative worksite, including the employee’s home, and is not expected to perform work at the employer’s worksite on a regular and recurring basis.
  - (j) “Transportation demand management strategy” means a strategy designed to reduce congestion on public roadways, lessen vehicle emissions, decrease fuel consumption, and improve the ability of an employee to travel to work from home (and return home from work) using one or more modes of transportation other than a single-occupancy vehicle.
  - (k) “Transportation management organization or association” means a Colorado entity responsible for the implementation of transportation demand management programs and services within a community. This includes transportation planning regions included in the Colorado Department of Transportation Statewide Transportation Demand Management Plan, adopted March 2019.
- (3) **Generally Accepted Transportation Demand Management Strategies.**
- (a) Except as provided in this paragraph (3), a transportation demand management strategy is “generally accepted” if it is:
    - (i) expressly listed as a credit-eligible alternative transportation option in section 39-22-509, C.R.S.; or





- (c) *Ridesharing Arrangements.* In the case of ridesharing arrangements that do not use an employer-provided vehicle, the amount spent includes:
- (i) fees or fares paid by the employer to a transportation management organization or association or a mass transit agency for providing a ridesharing arrangement; or
  - (ii) in the case of a carpool using an employee's vehicle, the amounts paid to the employee for the reimbursement of:
    - (A) mileage, calculated by multiplying the miles traveled by the carpool by a reasonable per-mile cost recovery rate determined by the Executive Director and published in the instructions for form DR 1323, *Annual Employer Plan Report.*
    - (B) costs or fees paid by the employee for high occupancy toll or express lane devices and related tolls; and
    - (C) amounts paid by the employee for parking.
- (d) An employer may not include in the amount spent any amount financed or reimbursed by a donation, grant, or gift.

**(6) Calculating Amount Spent Per Employee.**

- (a) For the purposes of this paragraph (6), "eligible employee" means an employee for whom the employer-offered alternative transportation option is feasible and accessible for regular commute to work.
- (b) *Apportionable Costs.*
- (i) Amounts spent by the employer that benefit all eligible employees are apportionable costs. For purposes of calculating the maximum per-employee cost pursuant to section 39-22-509(3)(a), C.R.S., apportionable costs must be divided by the total number of eligible employees and added to any direct costs attributable to the employee.
  - (ii) Examples of apportionable costs include the amount spent for bikesharing programs, whether human-powered or electric; electric scooter sharing programs; car sharing programs; guaranteed ride home programs; and ridesharing arrangements, including carpools and vanpools.
- (c) *Direct Costs.*
- (i) Amounts spent by the employer that benefit only one employee are direct costs. Direct costs are attributable to the benefitted employee in full.
  - (ii) Examples of direct costs include the amount spent for mass transit passes; cash incentives; and reimbursement amounts for individual employee costs such as employee-purchased mass transit passes.
- (d) To calculate the total amount spent per employee, the employer must add the direct costs for an employee to the apportionable costs for the employee.

**(7) Required Reporting.**

- (a) As a prerequisite for claiming a credit, an employer must file a complete and accurate form DR 1323, *Annual Employer Plan Report*, with the Department for each tax year that the employer intends to claim the credit allowed by section 39-22-509, C.R.S.
  - (i) For tax years beginning on or after January 1, 2025, the employer must file form DR 1323 on or before the last day of the third month of the employer's tax year. Unless form DR 1323 is filed by this due date, an employer may not claim the credit with respect to any amount spent before the form is filed.
  - (ii) Acceptance of form DR 1323 does not constitute approval of the income tax credit. The Department may disallow a credit that does not meet the requirements of section 39-22-509, C.R.S.
- (b) The employer must report the information required by section 39-22-509(1)(b), C.R.S., on form DR 1323 for the preceding tax year if the employer claimed the credit for that preceding tax year on or before the last day of the third month of the employer's tax year, even if the employer does not intend to claim a credit in a future year.
- (8) **Incorporation by Reference.** The Colorado Department of Transportation (CDOT) Statewide Transportation Demand Management Plan incorporated by reference in paragraph (2)(k) of this rule includes only that version in effect as of November 2024 and not later amendments to the incorporated material. The material incorporated by reference is available for public inspection during regular business hours at the Colorado Department of Revenue, Office of Tax Policy, 1881 Pierce Street, Lakewood, CO 80214. Copies of these materials are also available online at: [https://www.codot.gov/programs/innovativemobility/mobility-services/assets/tdm-plan-part1\\_february-27-2019\\_final\\_ebook-1-1.pdf](https://www.codot.gov/programs/innovativemobility/mobility-services/assets/tdm-plan-part1_february-27-2019_final_ebook-1-1.pdf).