

DEPARTMENT OF REVENUE

Taxation Division

INCOME TAX

1 CCR 201-2

Rule 39-22-516. Innovative Motor Vehicle and Innovative Truck Tax Credits.

Basis and Purpose. The bases for this rule are sections 39-21-112(1), 39-22-516.7, and 39-22-516.8, C.R.S. The purpose of this rule is to provide guidance regarding the innovative motor vehicle and innovative truck credits, the requirements for the credits, and the assignment of credits.

- (1) **General Rule.** An income tax credit is allowed pursuant to section 39-22-516.7 or 39-22-516.8, C.R.S., to any person for the purchase or lease of a qualifying motor vehicle or a qualifying truck. For income tax years commencing on or after January 1, 2024, the credit is also allowed to a person or political subdivision of the state that is exempt from taxation under section 39-22-112(1), C.R.S.
- (2) **New Motor Vehicles and Trucks.** A motor vehicle or truck must be new at the time of purchase or lease to qualify for a credit. For the purpose of this paragraph and sections 39-22-516.7(1)(r)(II)(A) and 39-22-516.8(1)(ee)(II), C.R.S., a motor vehicle or truck is new if it is being transferred for the first time from a manufacturer or importer, or dealer or agent of a manufacturer or importer, to the end user or customer. A motor vehicle or truck that has been used by a dealer for the purpose of demonstration to prospective customers is considered new unless such demonstration use has been for more than one thousand five hundred miles. Any motor vehicle or truck that has been titled or registered or both in Colorado or any other state or jurisdiction prior to purchase or lease is not considered new.
- (3) **Titling and Registration.**
 - (a) *Colorado Titling and Registration.*
 - (i) A credit is allowed only with respect to:
 - (A) motor vehicles and trucks that are titled in Colorado under article 6 of title 42, C.R.S., and registered in Colorado by the purchaser or lessee in accordance with article 3 of title 42, C.R.S., and
 - (B) trucks registered by the purchaser or lessee under the International Registration Plan and base plated in Colorado.
 - (ii) For the purpose of sections 39-22-516.7 and 39-22-516.8, C.R.S., and this rule, a motor vehicle or truck with an active temporary registration described in section 42-3-203(3)(b), C.R.S., is not considered registered in Colorado.
 - (b) *Titling and Registration in Another State.* A motor vehicle or truck that has been titled or registered or both in any other state prior to being titled and registered in Colorado does not qualify for a credit. If a purchaser or lessee takes possession of a motor vehicle or truck in another state, the issuance of a temporary license plate for the purpose of

moving the motor vehicle or truck to Colorado does not constitute registration in that state.

(4) Tax Year of the Purchase or Lease and Amount.

- (a) The credit is allowed for the tax year in which the purchase or lease of the qualifying motor vehicle or truck is completed. A purchase or lease is not considered complete prior to the date on which the purchaser or lessee takes possession of the motor vehicle or truck. If the purchaser or lessee enters into an agreement to purchase or lease a qualifying motor vehicle or truck in a tax year prior to the tax year in which the purchaser or lessee takes possession of the motor vehicle or truck, the credit is allowed for the tax year in which the purchaser or lessee takes possession of the motor vehicle or truck.
- (b) The amount of the credit is determined with respect to the tax year that the credit is allowed to the purchaser or lessee pursuant to paragraph (4)(a) of this rule, regardless of whether the purchaser or lessee assigns the credit to a financing entity or motor vehicle dealer pursuant to section 39-22-516.7(2)(e), 39-22-516.7(2)(f), 39-22-516.8(13.5), or 39-22-516.8(13.7), C.R.S.
- (c) With respect to tax years commencing on or after January 1, 2021, but prior to January 1, 2023, the amount of the credit allowed pursuant to section 39-22-516.7, C.R.S., is determined under section 39-22-516.7(4)(a)(IV), C.R.S., regardless of whether the category 1 motor vehicle was sold or leased on or after January 1, 2023.
- (d) With respect to tax years commencing on or after January 1, 2023, but prior to January 1, 2025, the amount of the credit allowed pursuant to section 39-22-516.7, C.R.S., is determined under section 39-22-516.7(4)(a)(V) or (VI), C.R.S., as applicable based on the date the category 1 vehicle was purchased or leased.

(5) Manufacturer's Suggested Retail Price.

- (a) "Manufacturer's suggested retail price" is defined in section 39-22-516.7(1)(p.5), C.R.S., by reference to section 42-1-102(50), C.R.S., which states: "Manufacturer's suggested retail price" means the retail price of such motor vehicle suggested by the manufacturer plus the retail price suggested by the manufacturer for each accessory or item of optional equipment physically attached to such vehicle prior to the sale to the retail purchaser." As used in this definition, for the purpose of the credit allowed pursuant to section 39-22-516.7, C.R.S.:
 - (i) "the retail price of such motor vehicle suggested by the manufacturer" is the retail price of the motor vehicle suggested by the manufacturer and disclosed on the label the manufacturer affixed to the windshield or side window of the motor vehicle pursuant to 15 U.S.C. sec. 1232(f)(1); and
 - (ii) "the retail price suggested by the manufacturer for each accessory or item of optional equipment physically attached to such vehicle prior to the sale to the retail purchaser" is the retail price suggested by the manufacturer for each accessory or item of optional equipment physically attached to the motor vehicle and disclosed on the label the manufacturer affixed to the windshield or side window of the motor vehicle pursuant to 15 U.S.C. sec.1232(f)(2).
- (b) "Manufacturer's suggested retail price" does not include the amount charged, if any, to the dealer for the transportation of the motor vehicle to the location at which it is delivered to such dealer, commonly known as the destination fee or destination charge, that is

disclosed on the label the manufacturer affixed to the windshield or side window of the motor vehicle pursuant to 15 U.S.C. sec. 1232(f)(3).

(6) **Leases.**

- (a) A leased motor vehicle or truck qualifies for a credit only if the lease term is not less than two years.
- (b) For the lease of a qualifying motor vehicle or truck, the lessee, not the lessor, is allowed to claim the credit.
- (c) For the purpose of this paragraph (6), a “short-term rental” described in section 39-22-516.7(9.5), C.R.S., is not considered a lease.
- (d) In the case of a leased motor vehicle or truck, the credit is allowed for the tax year determined pursuant to paragraph (4)(a) of this rule. No additional credit is allowed for any subsequent tax year during which the lease continues.
- (e) *Early Termination of Leases.* The lease of a qualifying motor vehicle or truck must be for a term of not less than two years to qualify for a credit. If a lessee enters into a bona fide lease agreement of not less than two years, but terminates the lease early, such early termination will not abrogate the lessee’s right to any allowable credit or require any recapture of the allowable credit claimed for the lease.

(7) **Credit Assignment.**

- (a) *Election to Assign a Credit.* For qualifying motor vehicles or trucks sold or leased on or after January 1, 2017, but prior to January 1, 2024, a purchaser or lessee may, by mutual agreement with a financing entity, assign an allowable credit to the financing entity pursuant to section 39-22-516.7(2)(e) or 39-22-516.8(13.5), C.R.S. For qualifying motor vehicles or trucks sold or leased on or after January 1, 2024, a purchaser or lessee may, by mutual agreement with a financing entity or motor vehicle dealer, assign an allowable credit to the financing entity or motor vehicle dealer pursuant to section 39-22-516.7(2)(f) or 39-22-516.8(13.7), C.R.S. For the purpose of this paragraph (7), the term “assignee” means a financing entity or motor vehicle dealer that has accepted assignment of a credit.
- (b) *Compensation.* An assignee must compensate the purchaser or lessee as prescribed in section 39-22-516.7(2)(e)(I)(D), 39-22-516.7(2)(f)(I)(D), 39-22-516.8(13.5)(a)(IV), or 39-22-516.8(13.7)(a)(IV), C.R.S., as applicable. Compensation must be made in the form of a cash payment, a reduction in the cash price, a capitalized cost reduction, or some similar consideration and must be reflected as a separate line item in the sales, loan, or lease agreement for the motor vehicle or truck. Such compensation must be made effective on the date the election statement to assign the credit is executed and not applied at any subsequent date. [The compensation provided by the assignee to the purchaser or lessee does not affect the purchase price, determined pursuant to section 39-26-102\(7\), C.R.S., for the purpose of computing sales tax for the motor vehicle or truck. The applicable sales tax is calculated on the full purchase price without reduction for the compensation provided by the assignee to the purchaser or lessee.](#)
- (c) *Election Statement.* The purchaser or lessee and the assignee must complete the assignment of the credit at the time of purchase or lease by executing Department form DR 0618, Innovative Motor Vehicle Tax Credit – Election Statement. Pursuant to section 39-21-113(1)(b), C.R.S., an assignee must keep and preserve the executed election

statement in its records for a period of four years following the due date of the return for the tax year during which the assignment occurred.

- (i) For qualifying motor vehicles or trucks sold or leased on or after January 1, 2017, but prior to January 1, 2024, the assignee must file a copy of the election statement for each assigned credit along with its original tax return for the tax year in which the credit was assigned. If the assignee fails to file a copy of the election statement for each assigned credit with its return, the credit(s) claimed by the assignee may be disallowed.
 - (ii) For qualifying motor vehicles or trucks sold or leased on or after January 1, 2024, the assignee must provide a copy of election statement for any assigned credit to the Department upon request. If the assignee fails to provide a copy of any election statement requested by the Department, the credit(s) claimed by the assignee may be disallowed.
- (d) *Electronic Reports and Registration.* An assignee must [register with the Department and submit an electronic report to the Department](#) containing the information in the election statement as required by section 39-22-516.7 or 39-22-516.8, C.R.S., and this paragraph (7)(d). [Assignees may authorize an agent or designee to accept assignment on their behalf, but registration and electronic reports must be made through the assignee's Revenue Online account as set forth in this paragraph \(7\)\(d\).](#)
- (i) [Due Date for Submitting the Electronic Report for Qualifying Motor Vehicles and Trucks Sold or Leased on or After January 1, 2017, but Prior to January 1, 2024.](#) ~~Deadline for Submitting the Electronic Report.~~ For qualifying motor vehicles and trucks sold or leased on or after January 1, 2017, but prior to January 1, 2024, the assignee must submit the electronic report to the Department within thirty days of the date of assignment.
 - (ii) [Qualifying Motor Vehicles and Trucks Sold or Leased on or After January 1, 2024, but Prior to January 1, 2025.](#)
 - (B)(A) ~~For qualifying motor vehicles and trucks sold or leased on or after January 1, 2024, the~~ [Due Date for Submitting the Electronic Report.](#) The assignee must submit the electronic report to the Department on a quarterly basis. The due dates for the quarterly reports are the same as the due dates for estimated payments pursuant to section 39-22-606, C.R.S., determined with respect to the assignee's tax year. Each assigned credit must be included in the first quarterly report due after the month in which the credit was assigned.
 - (B) [Failure to Submit the Electronic Report Timely.](#) If the assignee fails to include any assigned credit in a timely filed quarterly electronic report, the assignee must include that assigned credit in an electronic report timely filed for a subsequent quarter within the same tax year.
 - (iii) [Qualifying Motor Vehicles and Trucks Sold or Leased on or After January 1, 2025.](#) The assignee must submit electronic reports to the Department on a quarterly basis as required by this paragraph (7)(d)(iii).
 - (A) [Registration.](#) An assignee must register with the Department through its Revenue Online account to file quarterly reports. An assignee that registers to file quarterly reports pursuant to this paragraph (7)(d)(iii)(A) satisfies the requirement to register with the Department for advanced

payments pursuant to section 39-22-629(2)(a), C.R.S., and such registration remains in effect unless and until the assignee revokes or withdraws its registration or the Department revokes the registration because an assignee no longer meets the qualifications to receive the credit or advanced payments.

(I) An assignee that is an affiliated corporation included in a combined report pursuant to section 39-22-303, C.R.S., or a consolidated return pursuant to section 39-22-305, C.R.S., must register under the account for the parent corporation or the filing member if the common parent is not the filing member.

(II) An assignee that is a partnership or S corporation, must register under the account for the partnership or S corporation.

(III) An assignee that is, for federal income tax purposes, disregarded as an entity separate from its owner, such as a single-member LLC that has not elected to be classified as an association, must register under the account of the member or owner.

(B) *Quarterly Electronic Reports.* Each electronic quarterly report must include all credits assigned to the assignee during the quarter.

(I) *First Quarter.* The first quarter consists of the first, second, and third months of the assignee's tax year.

(II) *Second Quarter.* The second quarter consists of the fourth and fifth months of the assignee's tax year.

(III) *Third Quarter.* The third quarter consists of the sixth, seventh, and eighth months of the assignee's tax year.

(IV) *Fourth Quarter.* The fourth quarter consists of the ninth, tenth, and eleventh months of the assignee's tax year.

(V) *Final Report.* The assignee must file a separate final electronic report that includes any credits assigned during the twelfth month of the assignee's tax year and any credits assigned during any prior month in the assignee's tax year but not included in any electronic quarterly report filed for the first, second, third, or fourth quarter of the assignee's tax year. The assignee must file the final report by the due date for the assignee's income tax return, determined without regard to any extensions. However, the final report must be filed before the assignee files their income tax return pursuant to section 39-22-601, C.R.S.

(C) *Due Date for Submitting Quarterly Electronic Reports.* An assignee must file each quarterly report after the close of the quarter and no later than the fifteenth day following the close of the quarter.

(D) *Failure to Submit Assigned Credits Timely.* If the assignee fails to include any assigned credit in a timely filed quarterly electronic report, the assignee must include that assigned credit in a quarterly electronic report timely filed for a subsequent quarter within the same tax year. Any

assigned credit not included in any quarterly electronic report must be included in the final report required by paragraph (7)(d)(iii)(B)(V) of this rule.

(E) Assignees must electronically report any necessary corrections to previously reported assigned credits, including, but not limited to, a vehicle returned to the dealer by the purchaser.

~~(ii) *Failure to Submit the Electronic Report Timely.* If the assignee fails to submit an electronic report for an assigned credit in a timely manner pursuant to paragraph (7)(d)(i)(A) of this rule, the assignee may thereafter submit an electronic report for the assigned credit. If the assignee fails to include any assigned credit pursuant to paragraph (7)(d)(i)(B) of this rule in a timely filed quarterly electronic report, the assignee may include that assigned credit in an electronic report timely filed for a subsequent quarter. However, if the assignee fails to report assignment of a credit in the time provided pursuant to paragraph (7)(d)(i) of this rule and the purchaser or lessee files an income tax return claiming any allowable credit prior to the assignee reporting the assignment of the credit late under this paragraph (7)(d)(ii), the credit is allowed to the purchaser or lessee and not to the assignee. If the assignee fails to electronically report an assigned credit by the deadline prescribed in paragraph (7)(d)(i) of this rule, the credit is allowed to the assignee only if:~~

~~(A) the assignee submits the electronic report before the assignee claims the credit; and~~

~~(B) the credit has not already been allowed to the purchaser or lessee.~~

(e) *Assignment by Exempt Entities.* A person or a political subdivision of the state that is exempt from taxation under section 39-22-112(1), C.R.S., that is a "purchaser" under section 36-22-516.7(1)(r.3)(II) or 39-22-516.8(1)(bb.3), C.R.S., and that assigns a credit to a financing entity or motor vehicle dealer pursuant to section 36-22-516.7(2)(f) or 39-22-516.8(13.7), C.R.S., is not required by section 39-22-516.7(10), 39-22-516.8(17.5), or 39-22-601(7)(b), C.R.S., to file a Colorado income tax return with respect to the assigned credit.

(f) *Disallowed Credits.* The Department will disallow a credit claimed by an assignee if the Department determines that the applicable requirements were not met or the credit was otherwise claimed in error. The Department will issue notice of the disallowance to the assignee pursuant to section 39-21-103 or 39-21-104, C.R.S., as applicable. The assignee will be liable for any resulting underpayment of tax, and any refund claimed by the assignee will be appropriately reduced, regardless of whether the assignee recovers any part of the compensation provided to the purchaser pursuant to section 39-22-516.7(2)(e)(I)(D), 39-22-516.7(2)(f)(I)(D), 39-22-516.8(13.5)(a)(IV), or 39-22-516.8(13.7)(a)(IV), C.R.S.