

## **HB22-1026— Additional Information from the Colorado Department of Revenue** ***What qualifies, How to Engage, Forms & Process to Claim the Credit***

House Bill 22-1026 created a new income tax credit for tax years commencing on and after January 1, 2023, but before January 1, 2025, a two-year timeframe. ***The tax credit is not available for the 2022 tax year.*** The Department of Revenue, (DOR), is currently developing a form for employers to file their notification plan required by section 39-22-509(3)(c), C.R.S.

### **What Qualifies**

The bill is fairly detailed in describing the types of options eligible for the credit, (transit passes and fares, vans, shuttles, e-bikes, scooters, micromobility, administrative costs and cash incentives). It does, however, provide limited discretion for defining similar qualifying activities through the use of several exemplary ***"including, but not limited to"*** clauses. Although these clauses do not provide the Department substantial discretion, the Department will need to address those phrases through rulemaking which will take place this spring.

### **How To Engage**

The DOR welcomes feedback from stakeholders, businesses, Transportation Management Association (TMAs) or Organizations (TMOs) on provisions of the credit statute (section 39-22-509, C.R.S.) that are in need of further clarification and guidance. Visit the DOR's website (<https://tax.colorado.gov/rulemaking-process>) for more information about rulemaking workgroups.

### **How Employers Can Claim the Credit**

Employers may claim the credit by filing the Annual Employer Plan Report form still under development by the DOR. To claim the credit for the 2023 income tax year, a qualifying employer must file and submit a Colorado income tax return (DR0112) by the April 15, 2024, due date (or the October 15, 2024, extension deadline). A qualifying employer claiming the credit must file with their return an Alternative Transportation Options Credit Eligibility Certification. This form is in development and will be posted on DOR's website when available.

### **Forms and Guidance Documents**

The Department will provide taxpayers with a general guidance publication regarding the alternative transportation options income tax credit, including the Annual Employer Plan Report, and an Alternative Transportation Options Credit Eligibility Certification (which form is still in development). Taxpayers are encouraged to consult their tax advisors for guidance regarding specific situations.

### **Request for Private Rulings**

Taxpayers may request a private letter ruling to obtain binding guidance on proposed alternative transportation option credit claims by following the process described [here](#). Private letter rulings are advance rulings issued to specific taxpayers regarding the Department's application of tax statutes and rules to a proposed or completed transaction. Private letter rulings are generally binding upon the Department but may only be relied upon by the taxpayer to whom they are issued.



### **Cash Incentives**

The credit can be claimed for cash incentives paid to employees so long as the cash incentives do not exceed the value of the transportation demand management strategies. The Department anticipates defining “value of strategies” during the rulemaking process.

### **Taxpayer Data Collection to Provide to the DOR**

The employer must detail its plan for notifying its employees of the availability of the alternative transportation options that it offers. The employer must also explain the additional steps beyond such notification that it plans to take to encourage employees to use those alternative transportation options.

Employers must indicate the number of employees offered an alternative transportation option, and, to the extent feasible, the number of employees actually using an alternative transportation option and the number of trips taken by employees using an alternative transportation option.

Income tax credits are reported on return forms and are summarized with other credits. When data is available the Department can provide the total amount claimed and possibly the number of returns that claimed the credit. That information will generally be shared publicly in the DOR Tax Profile and Expenditure Report, a report that the Department is required to prepare every other year.

In order to obtain the non-summarized data necessary to provide the General Assembly with the information requested in HB22-1026, the Department will need to require the employer to complete a separate form requesting these details. Even so, there may be confidentiality issues with providing non-summarized data, particularly if the number of credit claims are small enough that it would be impossible to prevent the identification of particular reports or returns. See the Department’s duty of confidentiality with respect to statistics in section 39-21-113 (5), C.R.S