TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130
RETAILERS' OCCUPATION TAX

Section 130.455 Motor Vehicle Leasing and Trade-In Allowances

a) Definitions

"Advance Trade Credit" means a trade-in credit earned as the result of the trade-in of a vehicle on the future purchase of a vehicle where the purchaser is contractually obligated to make a purchase within 9 months after the advance trade.

"Dealer" means any person engaged in the business of selling vehicles at retail.

"Dealer Credit" means an advance trade credit maintained on the books of the dealer where the purchaser is contractually obligated to make a purchase within 9 months after the advance trade.

"Lease" means a true lease of a vehicle for a term of more than one year.

"Lessee" means any person that acquires possession of a vehicle pursuant to a lease.

"Lessor" means any person engaged in the business of leasing vehicles to other persons.

"Purchaser" means any person, whether an individual consumer or a lessor, that purchases a vehicle from a dealer.

b) Valuation of Traded-in Vehicles; $10,000 Limit on Credit Allowed for Traded-in Motor Vehicles of the First Division

1) Except for traded-in motor vehicles of the first division as provided in subsection (b)(3), the selling price of a vehicle does not include *the value of or credit given* for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold. *The value of* a traded-in vehicle is the amount of value assigned to the vehicle without regard for outstanding debt owed on the traded-in vehicle by any party. (Section 1 of the Act)

2) Except for traded-in motor vehicles of the first division as provided in subsection (b)(3), the amount of *credit given* for a traded-in vehicle is the value assigned to the vehicle, reduced by any cash payments received by the purchaser or title holder of the traded-in vehicle. The reduction of the value by offsetting cash payments results in the actual *credit given* for the traded-in vehicle. Where cash

payment is made to the purchaser or the title holder of the traded-in vehicle, the trade-in credit is equal to the actual *credit given* for the vehicle. (Section 1 of the Act)

Example:

	Value of Trade-In	Credit Given	Trade-In Credit
Trade-In Vehicle	$10,000		$10,000
With $3,000 Lien	$10,000		$10,000
With $2,000 Cash Back to Purchaser	$10,000	$8,000	$8,000

3) Notwithstanding subsections (b)(1) and (b)(2), *beginning January 1, 2020, "selling price" includes the portion of the value of, or credit given for, traded-in motor vehicles of the First Division as defined in Section 1-146 of the Illinois Vehicle Code of like kind and character as that which is being sold that exceeds $10,000.* (Section 1 of the Act) On and after January 1, 2020, the full value of any trade-in may still be used to reduce the price of an item purchased; however, the trade-in credit taken on the return for the trade in of a first division motor vehicle is limited to $10,000.

EXAMPLE

	Value of Traded-In First Division Motor Vehicle	Credit Given	Trade-In Credit
Trade-In Vehicle	$20,000	$20,000	$10,000
With $3,000 Lien	$20,000	$20,000	$10,000
With $2,000 Cash Back to Purchaser	$20,000	$18,000	$10,000

c) Use of Trade-in Credits

1) Subject to the $10,000 limit on the reduction allowed for the trade in of a first division motor vehicle (see subsection (b)(3)), a dealer may reduce its gross receipts by the *value of or credit given* for a traded-in motor vehicle when: (Section 1 of the Act)

EXAMPLE 1

An individual trades a motor vehicle he owns on the purchase of a new or used motor vehicle;

EXAMPLE 2

A lessor trades a motor vehicle he owns on the purchase of a new or used motor vehicle for subsequent lease;

EXAMPLE 3

A lessor or other purchaser trades a motor vehicle owned by a prospective lessee or a third party when the prospective lessee or third party assigns the vehicle to the dealer and provides written authorization for the trade to the dealer, for the benefit of the lessor or other purchaser. The written authorization provided by the prospective lessee or third party should be specific to the immediate transaction, identifying the vehicle to be purchased by the lessor or other purchaser. A prospective lessee or third party trade-in authorization may not be used in conjunction with an advance trade transaction; or

EXAMPLE 4

A motor vehicle is traded-in as described in subsection (c)(1)(B) or (c)(1)(C), and the dealer executes the lease but assigns the lease to a purchasing lessor, if the following requirements are part of the transaction:

the lease agreement states that the lease and vehicle will be assigned to the lessor making the trade of the motor vehicle; and

title is issued directly to the lessor making the trade of the motor vehicle and not to the dealer so that the dealer remains outside the chain of title.

2) A dealer may not reduce its gross receipts by the *value of or credit given* for a traded-in motor vehicle where: (Section 1 of the Act)

A) The dealer is the owner (meaning the dealer holds either title or certificate of origin) of the traded-in motor vehicle;

B) The trade-in vehicle was disposed of in a sales transaction predating the trade but was not identified by contract or written agreement as an advance trade-in vehicle as required in subsection (d); or

C) The party holding title and offering the vehicle or vehicles for trade on behalf of another purchaser or lessor, as described in subsection (c)(1)(C), would not be entitled to the isolated or occasional sale exemption if the vehicle or vehicles were sold by that party, rather than traded.

d) Advance Trade-Ins

A transaction may constitute an advance trade-in if, at the time the vehicle is traded to the dealer, the purchaser becomes contractually obligated to purchase one or more vehicles from the dealer within 9 months after the date of the advance trade-in transaction. Advance trade credits not used within the time specified expire and may not be used subsequent to the 9 month credit period. Advance trade credits are non-transferable.

1) In order to apply the trade-in credit to reduce the taxable selling price of a vehicle, the documents recording the purchaser's contractual obligation to purchase need not specify the make, model or purchase price of a vehicle to be purchased, only that the purchaser is under an obligation to purchase within the specified amount of time.

2) Advance trade-in credit given by the dealer to the purchaser in the amount of the *value of or credit given* (Section 1 of the Act) for a traded-in vehicle at the time of the advance trade-in may be in the form of dealer credit or cash, and will not affect the purchaser's ability to apply the advance trade credit to reduce the taxable selling price of one or more vehicles (subject to the $10,000 limit on the reduction allowed for the advance trade-in of a first division motor vehicle (see subsection (b)(3)), so long as the purchaser is contractually obligated to purchase a vehicle from the dealer within the time specified. In completing the transaction, the purchaser may pay the dealer cash or other consideration for the purchase price of a vehicle or vehicles purchased.

3) Documentation evidencing an advance trade-in transaction must include the following: the contract establishing the *value of or credit given* (Section 1 of the Act) for a traded-in vehicle, the obligation to purchase a vehicle, and the date of expiration of the advance trade-in credit; the bill of sale for the traded-in vehicle; and the appropriate sales or use tax return evidencing the purchase of the new or used vehicle and recording the application of the advance trade-in credit. Advance trade-in transactions may not be structured so that the purchaser is not the owner of the automobile offered for trade.

e) Deferred Trade-Ins

No trade-in credit may be used in a transaction where the sales or use tax return does not reflect that a trade was offered at the time of the sales transaction. The appropriate sales or use tax return cannot be amended to reflect the *value of or credit given* (Section 1 of the Act) for a vehicle offered for trade subsequent to the completion of the sales transaction.

f) Multiple and Split Trade-in Transactions

1) Multiple Trade-In Transactions

A purchaser may utilize a trade-in credit when trading in more than one vehicle to a dealer on the purchase of a single new or used vehicle. The dealer may use the cumulative trade-in credits from the traded-in vehicles to reduce gross receipts from the sale of the newly purchased vehicle so long as the trade-ins and sale are recorded as a single transaction (subject to the $10,000 limit on the reduction in gross receipts allowed for the trade in of each first division motor vehicle (see subsection (b)(3)).

EXAMPLE (trade-in of multiple first division motor vehicles)

A motor vehicle retailer sells a new car for $60,000 and allows $50,000 for the trade-in of 2 vehicles on the transaction: $30,000 for the trade-in of one first division motor vehicle and $20,000 for the trade-in of another first division motor vehicle. The credit that the retailer may take on the return for the traded-in first division motor vehicles is $20,000 ($10,000 for each vehicle).

2) Split Trade-In Transactions
A purchaser may utilize a trade-in credit when trading in a single vehicle to a dealer on the purchase of more than one new vehicle. The dealer may split the amount of the trade-in credit from the traded-in vehicle, and apply it toward the purchase price of one or more new vehicles so long as the trade-in and purchases are recorded as a single transaction. The amount of trade-in credit to be applied to each new vehicle will be determined by the dealer and purchaser (subject to the $10,000 limit on the aggregate reduction in gross receipts allowed for the trade in of each first division motor vehicle (see subsection (b)(3)).

EXAMPLE (split trade-in of first division motor vehicle)

A motor vehicle retailer sells 2 new cars to the same purchaser, each for $7,000, and allows $12,000 for the trade-in of one first division motor vehicle. The aggregate credit that the retailer may take on both returns for the traded-in first division motor vehicle is $10,000. The retailer may split the credit and apply it to each return (e.g., $5,000 to each return or $7,000 to one return and $3,000 to the other), but the credit may not exceed $10,000 in the aggregate for both returns.

3) Combined Transactions
A multiple trade-in transaction or split trade-in transaction may only be used in conjunction with an advance trade-in transaction if the transfer of all vehicles involved in the trade are recorded as a single transaction and the purchaser is contractually obligated to purchase a vehicle from the dealer within the specified period of time.

g) Documentation of Trade-in Credits
Documentation and records evidencing a trade-in credit utilized for a particular transaction must be retained by the dealer and the purchaser and shall be made available to the Department for inspection or audit. With the exception of advance trade-in transactions, when a vehicle is offered for trade by a person other than the purchaser for the benefit of the purchaser, the owner of the vehicle must give written authorization that the vehicle is being offered for trade for the benefit of the purchaser. The written authorization must be specific to the transaction and must identify the vehicle for which the owner's vehicle is being traded.

(Source: Amended at 44 Ill. Reg. 13975, effective August 11, 2020)