

**Illinois Department of Revenue
Regulations**

Title 86 Part 130 Section 130.455 Motor Vehicle Leasing and Trade-In Allowances

TITLE 86: REVENUE

**PART 130
RETAILERS' OCCUPATION TAX**

SUBPART D: GROSS RECEIPTS

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

1) 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) 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
Traded-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

c) Use of Trade-in Credits

- 1) A dealer may reduce his gross receipts by the *value of or credit given* for a traded-in motor vehicle where: (Section 1 of the Act)
 - A) An individual trades a motor vehicle he owns on the purchase of a new or used motor vehicle;
 - B) A lessor trades a motor vehicle he owns on the purchase of a new or used motor vehicle for subsequent lease;
 - C) A lessor or other purchaser trades a motor vehicle owned by a prospective lessee or a third party where 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
 - D) A motor vehicle is traded-in as described in subsection (c)(1)(B) or (c)(1)(C) of this Section, and the dealer executes the lease but assigns the lease to a purchasing lessor, if the following requirements are part of the transaction:
 - i) the lease agreement states that the lease and vehicle will be assigned to the lessor making the trade of the motor vehicle, and
 - ii) 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 his 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) of this Section; 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) of this Section, would not be entitled to the isolated or occasional sale exemption if such 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 toward the purchase 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* 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 toward the purchase of one or more vehicles, 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. (Section 1 of the Act)
- 3) Documentation evidencing an advance trade-in transaction must include the following: The contract establishing the *value of or credit given* 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. (Section 1 of the Act)

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* for a vehicle offered for trade subsequent to the completion of the sales transaction. (Section 1 of the Act)

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.

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.

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, where 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 18 Ill. Reg. 16866, effective November 7, 1994)