

## DEPARTMENT OF REVENUE

### Division of Motor Vehicles – Title and Registration Sections

#### 1 CCR 204-10

#### **RULE 23. SPECIAL MOBILE MACHINERY RENTALS**

**Basis:** The statutory bases for this regulation are 42-1-204 and 42-3-107(16), C.R.S.

**Purpose:** The purpose of this regulation is to provide guidelines, clarify documents required, and provide processes to SMM Owners for the collection of specific ownership tax for special mobile machinery that is rented or leased.

- **Definitions**

- “2% Rental Specific Ownership Tax (SOT)” means the owner-elected, alternate method for payment of special mobile machinery SOT.
- “Authorized System” means the Department approved web-based portal and its infrastructure allowing SMM Owners to perform 2% Rental reporting and additional functions for the SMM 2% Rental Registration Exempt Program.
- “Commercial Fleet License Plate” means the Colorado red and white graphic license plate that contains the stacked letters “FLT”. Commercial Fleet license plates do not display validation year and month tabs.
- “Department” means the Department of Revenue of this state acting directly or through its duly authorized officers and agents.
- “DR 0160” means the document issued by the Department of Revenue Division of Taxation approving the collection of sales tax on rentals or

leases for the SMM Owner.

- “DR 0440” means the form used to apply to the Department of Revenue Division of Taxation for approval to collect sales tax on rentals or leases.
- “DR 2091” means the required authorization request provided to the County Motor Vehicle office for the SMM Owner to participate in the SMM 2% Rental program.
- “DR 2101” means the required authorization request provided to the Department of Revenue for an SMM 2% Rental company to authorize electronic filing access.
- “DR 2428” means the form requesting participation, and upon execution, authorization to participate in the SMM 2% Rental Fleet program. Upon approval the DR 2428 shall have the SMM Owners’ assigned fleet number placed upon it.
- “DR 2671” means the required SMM Rental Equipment Monthly Tab Report. The DR 2671 serves as the SMM Owners’ remittance form for SMM participating in the SMM 2% Rental program, the SMM 2% Rental Fleet program, and the SMM 2% Rental Registration Exempt program.
- “DR 2689” means the application completed by the SMM Owner to provide information required to title, register, or perform a suspended title transaction by the County Motor Vehicle office.
- “DR 2192” means the required authorization request to participate in the SMM 2% Rental Registration Exempt program provided to the Department

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- “DR 2851” means the required SMM Annual Statement for SMM Owners participating in the SMM 2% Rental Registration Exempt program. The DR 2851 serves as the SMM Owners’ inventory of equipment, and calculates annual fees due upon initial application, or annual renewal for the SMM 2% Rental Registration Exempt Program.
- “Lease” for the purpose of this regulation means the granting of use to operate SMM under an agreement with the SMM Owner.
- “Mounted Equipment” means any item weighing more than five hundred pounds that is permanently mounted on a vehicle including mounting by means such as welding or bolting the equipment to a vehicle.
- “New Special Mobile Machinery (SMM)” means SMM that has not been previously titled or Registered to the current SMM Owner in the State of Colorado.
- “Operate” means to pull, haul, or drive SMM over the highways or the use of SMM for its intended purpose (e.g., digging ditches, road repairs etc.).
- “Owner” for the purpose of this regulation means an equipment dealer regularly engaged in the sale or rental of special mobile machinery and who rents or leases such equipment to another person, or business in which the owner has not held an interest for at least thirty days.
- “Registration Period Certificate” means the DR 2428 form completed and executed by the Colorado Department of Revenue, Division of Motor

## Vehicles, Title and Registration Sections.

- “Rental” for the purpose of this regulation means the granting of use to operate SMM under an agreement with the SMM Owner.
  
- “Registered” means the SMM has been issued a number plate(s), validating tab or sticker, certificates, or identifying decal or a combination of number plate(s), validating tab or sticker, certificates, or identifying decal as determined by the Department evidencing the annual SMM requirements have been met pursuant to section 3 of title 42 of the Colorado Revised Statutes.
  
- “SMM License Plate” means the Colorado green and white graphic license plate that contains the stacked letters “SMM”. SMM license plates shall display validation year and month tabs.
  
- “SMM Registration Exempt Certificate” means the certificate issued by the Department showing the Owner is participating in the SMM 2% Rental Registration Exempt program.
  
- “Special Mobile Machinery (SMM)” means machinery that is pulled, hauled, or driven over a highway and is either:
  - A vehicle or equipment that is not designed primarily for the transportation of persons or cargo over the public highways; or
  
  - A motor vehicle that may have been originally designed for the transportation of persons or cargo over the public highways, and has been redesigned or modified by the addition of mounted equipment or machinery, and is only incidentally operated or moved over the

public highways.

- SMM includes vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells, and the digging of ditches.
  
- “Specific Ownership Tax (SOT)” means the annual tax, in lieu of ad valorem taxes, imposed on personal property by section 6 of article X of the State Constitution.
  
- **SMM 2% Rental Programs**
  - A SMM Owner who meets all the statutory and regulatory requirements for participation in the SMM 2% rental program may elect to participate in the SMM 2% Rental program. A SMM Owner who meets the statutory and regulatory requirements for the SMM 2% Rental program, the SMM 2% Rental Fleet program, or the SMM 2% Rental Registration Exempt program, may elect to participate in any program, but shall not be required to participate in any program.
  
  - SMM 2% Rental Program Eligibility
    - A SMM Owner regularly engaged in the sale or rental of SMM and who rents or leases SMM to another person, or business in which the SMM Owner has not held an interest for at least thirty days may elect to participate in the SMM 2% Rental program.
  
  - SMM 2% Rental Fleet Program Eligibility

- A SMM Owner who meet the requirements to participate in the SMM 2% Rental program and also meets the below criteria may elect to participate in the SMM 2% Rental Fleet program.
  - SMM Owner is paying specific ownership tax (SOT) under 42-3-107(16), C.R.S.; and
  - The SMM Owner regularly has more than ten pieces of SMM in the State of Colorado; and
  - The SMM Owner has applied for and received the approved and executed DR 2428.
  
- SMM 2% Rental Registration Exempt Program Eligibility
  - i. A SMM Owner who meets the requirements to participate in the SMM 2% Rental program and meets the below criteria may elect to participate in the SMM 2% Rental Registration Exempt program.
    - A. SMM Owner meets the requirements in 42-3-107, C.R.S., for participating in the SMM 2% Rental Registration Exempt program; and
    - B. The SMM Owner has applied for and received the approved and executed DR 2192; and
    - C. The SMM Owner has applied for and received the approved and executed DR 2101.
  
- A SMM Owner qualifying and electing to participate in either the SMM 2% Rental program or the SMM 2% Rental Fleet program must meet all the

requirements for that program in section 3.0 of this regulation before payment of SOT under 42-3-107(16), C.R.S., is granted.

- **SMM Rental Programs Participation and Processes**

- SMM 2% Rental program participation and registration shall be completed as listed below:
  - The SMM Owner shall submit the DR 0440 form to the Colorado Department of Revenue Division of Taxation. Upon approval and receipt of the DR 0160, the SMM Owner shall attached the DR 0160 to the DR 2091 and complete the processes below.
  - The SMM Owner shall apply to the County Motor Vehicle office in the county where the SMM Owners principal place of business is located by submitting a DR 2091 form with DR 0160 attached.
  - Upon county approval to participate in the SMM 2% Rental program the County Motor Vehicle office shall provide instructions for reporting and submitting of SOT for SMM to the SMM Owner. The SMM Owner shall be required to furnish the County Motor Vehicle office with a list of all SMM that the SMM Owner has elected to place into the SMM 2% Rental program with supporting ownership documents.
    - Only SMM that is Registered shall be permitted to participate in the SMM 2% Rental program.
    - The SMM Owner shall be required to pay all statutorily required fees in Title 42 of the Colorado Revised Statutes upon approval

and issuance of the SMM rental identifying decal. Participation in the SMM 2% Rental program does not exempt the payment of, or provide an alternate means for payment of, other statutorily required fees.

- A SMM rental identifying decal shall be issued to SMM that is Registered and participating in the SMM 2% Rental program. The SMM rental identifying decal shall expire concurrently with the registration of the SMM. The SMM rental identifying decal shall only denote participation in the SMM 2% Rental program and shall not be evidence of registration, or permit operation of, the SMM. Evidence of registration of the SMM shall be completed by the issuance of, and affixing to the SMM the below:
  - SMM designed to be operated on the highway shall be issued an SMM license plate with validation month and year tabs.
  - SMM not designed to be operated on the highway shall be issued an SMM ownership identifying decal with registration expiration month and year indicated on the decal by hole punching the appropriate areas.
- The County Motor Vehicle office will issue an SMM Rental identifying decal and SMM license plate or SMM ownership identifying decal for each item of SMM placed into the SMM 2% Rental program by the SMM Owner. The SMM rental identifying decal shall be hole punched in the appropriate areas to indicate the month and year of expiration. The SMM rental identifying decal shall be valid in every Colorado County where the SMM is operated.
- The SMM rental identifying decal shall be affixed to each item of SMM in a clearly visible location.



- The SMM Owner shall collect the 2% SOT upon the rental or lease of the SMM from the person or entity that is renting or leasing the SMM. The SMM Owner shall remit the 2% SOT collected to the County Motor Vehicle office.
- No later than the twentieth day of each month the SMM Owner must submit the DR 2671 together with taxes collected for the preceding month to each county where the SMM was being operated and to the county where the SMM is Registered in for the month or portion of the month the DR 2671 is being reported.
- The SMM Owner shall include on the DR 2671 all SMM with assigned SMM rental identifying decal that were not rented or leased during the reporting period.
- The SMM Owner shall include on the DR 2671 any SMM authorized to participate in the SMM 2% Rental program that were sold, and indicate the name and address, if the address is available, of the purchaser. The SMM Owner shall remove the SMM rental identifying decal, SMM ownership identifying decal, and SMM license plate upon delivery of the SMM to the purchaser.
- The DR 2671 shall be submitted to the County Motor Vehicle office that issued the SMM rental identifying decal, and to each County Motor Vehicle office for which the DR 2671 reflects the SMM being operated in during that monthly reporting period.
- No later than the twentieth day of each month the SMM Owner must submit the DR 0100 Colorado Retail Sales Tax Return simultaneously with a copy of the DR 2671 to the Colorado Department of Revenue Division of Taxation-following the

instructions on the DR 0100 for submittal requirements.

- No credit, reimbursement or refund shall be granted for payment of 2% Rental SOT.
  
- Failure to submit the DR 2671 in a period of sixty days shall be grounds for the termination of such SMM Owners' right to participate in the SMM 2% Rental program. If the SMM Owner fails to remit SOT received from a renter or lessee during such sixty-day period the county may collect such delinquent taxes in the manner authorized in 42-3-107(21), C.R.S.
  
- SMM 2% Rental Fleet program participation and registration shall be completed as listed below:
  - A SMM Owner that meets the requirements and elects to participate in the SMM 2% Rental Fleet program must first be approved to participate in the SMM 2% Rental program as detailed above in section 3.1 of this regulation.
  
  - A SMM Owner that meets the requirements and elects to participate in the SMM 2% Rental Fleet program shall apply to the Title and Registration Sections, Division of Motor Vehicles, Department of Revenue using the DR 2428 form for assignment of a fleet number.
    - Upon validation that the SMM Owner qualifies to participate in the SMM 2% Rental Fleet program the Title and Registration Sections will assign a 2% rental fleet number that is unique to the approved SMM Owner and all SMM Registered in the SMM Owners' fleet.

- SMM Registered in the SMM 2% Rental Fleet program must be titled and Registered in the SMM Owners name as declared on the DR 2428.
  
- In the event of a legal name change or if the SMM being Registered in the SMM 2% Rental Fleet program are not titled and Registered in the SMM Owners name the SMM Owner must complete the following before participation in the SMM 2% Rental Fleet is permitted. SMM owner shall be given up to sixty days to complete title and registration name changes. SMM Owner shall be permitted to rent, lease, and operate the SMM during these sixty days.
  - All SMM Registered in the SMM 2% Rental Fleet program associated with the SMM Owners' assigned fleet number must have their titles and registrations properly transferred to the new name; and
  
  - The SMM Owner shall complete the SMM 2% Rental Fleet approval processes in section 3.2b above in the regulation.
  
- The SMM Owner must declare one common expiration month, and alternate expiration months, during which the registrations for all SMM Registered in the SMM Owner SMM 2% Rental Fleet registrations will expire. The county in which the SMM will be Registered shall be permitted to elect, from the months declared by the SMM Owner, the month during which SMM registrations expire.
  
- SMM 2% Rental Fleet program registration.

- Registration of SMM into the SMM 2% Rental Fleet program is completed in the county in which the SMM Owners' principal place of business is located. Payment of taxes and registration fees due shall be required at the time of the 2% Rental Fleet registration.
  
- The SMM Owner shall be required to furnish to the County Motor Vehicle office in which the SMM Owners' principal place of business is located a list of all SMM that the SMM Owner has elected to place into the SMM 2% Rental Fleet program with supporting ownership documents.
  
- SMM initially being Registered in the SMM 2% Rental Fleet program shall have taxes and registration fees prorated by the remainder of the time remaining from the month of registration to the expiration month.
  
- The SMM Owner will be issued and shall affix to the SMM being Registered in the SMM 2% Rental Fleet program:
  - For SMM designed to be operated on the highway.
    - A permanent commercial fleet license plate without validation month or year tab; and
  
    - A permanent SMM rental identifying decal hole punched to indicate the fleet expiration month and that the decal is a permanent decal.

- For SMM not designed to be operated on the highway.
  - A permanent SMM SOT identifying decal hole punched to indicate the fleet expire month and in an area on the decal indicating it is a permanent decal; and
  - A permanent SMM rental identifying decal hole punched to indicate the fleet expiration month and that the decal is a permanent decal.
  
- Upon registration of the SMM in the SMM 2% Rental Fleet the SMM Owner shall collect, report, and remit specific ownership tax pursuant to 42-3-107(16)(c) and (d), C.R.S., and sections 3.1 of this regulation.
  
- Renewal of SMM 2% Rental Fleet
  - Annual renewal of SMM Registered in the SMM 2% Rental Fleet program shall be completed for all SMM Registered in the fleet on the SMM Owners declared fleet expiration date. Renewal shall be completed using an annual fleet declaration in lieu of the registration renewal post card. The fleet declaration shall be completed by the SMM Owner and submitted to the County Motor Vehicle office together with the DR 2091. If available, the SMM Owner should attach the previously issued DR 0160 to assist in processing of SMM renewals. A newly executed DR 0160 shall not be required annually.
  - Renewals are complete upon payment of annual taxes and registrations fees required and issuance of a registration

receipt for the permanent Commercial Fleet license plate or permanent SMM SOT identifying decal. An annual registration receipt for the permanent SMM rental identifying decal will also be issued.

- Replacement of the permanent SMM SOT identifying decal or permanent SMM rental identifying decal is not required. Damaged, unreadable, or lost identifying decals shall be replaced.
  
- SMM 2% Rental Registration Exempt program participation and registration shall be completed as listed below:
  - SMM 2% Rental program participants must apply for acceptance into the SMM 2% Rental Registration Exempt Program.
    - The SMM Owner shall submit the initial application DR 2192 form, DR 2851, and DR 2101 Request for access to the Colorado Department of Revenue State Office by email (at the email listed on the DR 2192).
  
    - Upon approval of the application, the SMM Owner will be required to pay all annual fees described in 42-3-107, C.R.S.
      - A. The Owner will be required to log in to the Approved System to pay annual fees.

- A. Upon approval of the application and payment of all annual fees described in 42-3-107, C.R.S., a Registration Exemption Certificate will be issued by the Department. The certificate will be valid for a period of one year from the month the described payment was made. This certificate must be available for review by DOR representatives, law enforcement, those renting equipment, and other interested parties.
- iii. No credit, reimbursement or refund shall be granted for any equipment entering or exiting the SMM 2% Rental Registration Exempt program.
- iv. SMM participating in this program will not be required by the Department to be Registered. The Department will not issue any identifying decals or plates, (for both on-highway or off-highway).
  - A. If SMM has a decal or plate that was associated with a previous registration as part of the SMM 2% Rental program or SMM 2% Rental Fleet program, the Owner shall remove the SMM rental identifying decal, SMM ownership identifying decal, and SMM license plate upon entering the SMM 2% Rental Registration Exempt program.
- SMM 2% Rental Registration Exempt program participants must collect, report, and remit specific ownership tax pursuant to 42-3-107(16)(c) and (d), C.R.S., and sections 3.1 of this regulation.
  - i. The SMM Owner shall collect the 2% SOT upon the rental or lease of the SMM from the person or entity that is renting or leasing the SMM. The SMM Owner shall remit the 2% SOT collected to the Department.
    - A. No later than the twentieth day of each month the SMM Owner must submit the DR 2671 for the preceding month using the Department Authorized System.
    - A. The SMM Owner will use the Department Authorized

System to pay the monthly 2% SOT within 3 business days after the DR 2671 has been reviewed and approved by the Department.

- A. The SMM Owner shall include a DR 2851 with the DR 2671 to indicate any New SMM added mid-cycle and pay any pro-rated annual fees for the SMM.
- No credit, reimbursement or refund shall be granted for payment of 2% Rental SOT.
- Annual renewal of SMM in the SMM 2% Rental Registration Exempt program shall be required for all SMM in the 2% Rental Registration Exempt program prior to the expiration of the SMM Registration Exempt Certificate.
  - Renewal shall be completed using the DR 2851. The form shall be completed by the SMM Owner and submitted to the Department using the Authorized System, at least 30 days prior to the expiration of the SMM Registration Exempt Certificate.
    - A. Renewals are complete upon payment of Registration fees, using the Department Authorized System.
    - B. A SMM Registration Exempt Certificate will be issued with a new expiration date, one year from the date of the previous expiration date.
- Participation in the SMM 2% Rental Registration Exempt program shall require SMM Owners to comply with the following requirements.
  - The Department may require that files containing evidence of compliance and proper use be provided using the Departments Authorized System, at the request of the Department.
    - A. These files may include, but not be limited to, images, weight slips, forms, and rental receipts.
  - The Department may verify requirements of the program and ensure integrity of the information provided by the SMM Owner



on a monthly or annual basis via on-site visits.

- SMM in the SMM 2% Rental Registration Exempt program, is required to be titled pursuant to 42-1-102, C.R.S., to achieve compliance in this program.
  
- SMM in the SMM 2% Rental Registration Exempt program that are designated as used on-highway and utilize toll roads or lanes, are required to submit payment to tolling authorities pursuant to 43-3-302, C.R.S.
  
- SMM Owners are prohibited from using any registration credit that may generate for previously registered SMM, as a result of entering the SMM 2% Rental Registration Exempt program, per 42-3-107(25)(a)(I), C.R.S.
  
- vi. Refunds will not be issued by the Department, for SMM renewed or registered in error for SMM covered in the SMM 2% Rental Registration Exempt program.
  
- Failure to comply with any regulation set forth in these rules and/or Colorado Revised Statutes may result in a permanent or temporary suspension from the SMM 2% Rental Registration Exempt program.
  
- Ownership of SMM shall be established by submitting the document required in Code of Colorado Regulation 1 CCR 204-10 Rule 18. Acceptable Evidence of Vehicle Proof of Ownership.

- A SMM Owner that is unable to provide acceptable evidence of vehicle proof of ownership should be permitted to register the SMM by completing a suspended title transaction with the County Motor Vehicle office. The SMM Owner shall complete and provide to the County Motor Vehicle Office the DR 2689 form prior to the suspended title transaction being performed. The suspended title transaction shall permit registration and operation of the SMM, but shall not issue a Colorado Certificate of Title to the SMM Owner until such time the SMM Owner provides acceptable evidence of vehicle proof of ownership. The suspended title transaction shall be completed using the DR 2689. Additional documents, forms, or a VIN verification shall not be required.
  
- Upon successful completion of the suspended title transaction the County Motor Vehicle Office shall register the SMM and issue to the SMM Owner a registration receipt and identifying decals and/or license plates.

### 3.5 Appeals

- a. If an SMM 2% Rental Registration Exempt application has been denied, the SMM Owner may request a hearing in writing, within 60 days after the date of notice of denial. Written hearing requests shall be submitted to the Department of Revenue, Hearings Division.
- b. The hearing shall be held with the Department of Revenue, Hearings Division. The presiding hearing officer shall be an authorized representative designated by the Executive Director. The department's representative need not be present at the hearing unless the presiding hearing officer requires his or her presence in writing. If the Department's representation is not present at the hearing, the hearing officer has the discretion to consider any written documents and affidavits submitted by the Department.