

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
10.10.19

BILL 13

LLS NO. 20-0236.01 Pierce Lively x2059

INTERIM COMMITTEE BILL

Tax Expenditure Evaluation Interim Study Committee

BILL TOPIC: "Previous Taxed Income Gain Deduction C Corporation"

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE INCOME TAX DEDUCTION FOR**
102 **PREVIOUSLY TAXED INCOME OR GAIN DEDUCTION FOR C**
103 **CORPORATIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Tax Expenditure Evaluation Interim Study Committee. Under current law, the income tax deduction for previously taxed income or gain deduction for C corporations allows C corporations, when calculating their Colorado taxable income, to deduct from their federal taxable income any income or gain that was taxed by Colorado prior to 1965, to

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

the extent that such income or gain is included in their current federal taxable income. The bill repeals this income tax deduction.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) The income tax deduction for previously taxed income or gain
5 deduction for C corporations allows C corporations, when calculating
6 their Colorado taxable income, to deduct from their federal taxable
7 income any income or gain that was taxed by Colorado prior to 1965, to
8 the extent that such income or gain is included in their current federal
9 taxable income.

10 (b) The general assembly enacted this deduction the same year
11 that it established federal taxable income as the basis for Colorado taxable
12 income. Thus, it is likely that this deduction was a structural provision
13 necessary to prevent double taxation of transactions that were previously
14 taxed differently by Colorado and the federal government.

15 (c) To utilize this deduction, a C corporation must include the
16 income or gain it intends to deduct in its current federal taxable income,
17 and it must have been taxed by Colorado on the same income or gain
18 prior to 1965.

19 (2) Therefore, it is the intent of the general assembly to simplify
20 the administration of taxes for the state of Colorado by repealing tax
21 expenditures that are obsolete and can no longer be claimed.

22 **SECTION 2.** In Colorado Revised Statutes, 39-22-304, **repeal**
23 (3)(e) as follows:

24 **39-22-304. Net income of corporation - legislative declaration**
25 **- definitions - repeal.** (3) There shall be subtracted from federal taxable

1 income:

2 (e) ~~The amount necessary to prevent the taxation under this article~~
3 ~~of any annuity or other amount of income or gain which was properly~~
4 ~~included in income or gain and was taxed under the laws of this state, for~~
5 ~~a taxable year prior to January 1, 1965, to the taxpayer, or to a decedent~~
6 ~~by reason of whose death the taxpayer acquired the right to receive the~~
7 ~~income or gain, or to a trust or estate from which the taxpayer received~~
8 ~~the income or gain;~~

9 **SECTION 3. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2020 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.