

CHAPTER 247

TAXATION

HOUSE BILL 99-1155

BY REPRESENTATIVES Spradley, Alexander, George, Hefley, Johnson, Larson, Lawrence, Lee, May, Sullivant, Swenson, Witwer, Young, Bacon, Clapp, Coleman, Dean, Gordon, Gotlieb, Hagedorn, Keller, Kester, Leyba, McPherson, Miller, Morrison, Nunez, Paschall, Plant, Scott, Sinclair, Spence, Tate, Tupa, Veiga, Zimmerman, and McElhany;
also SENATORS Owen, Chlouber, Congrove, Dennis, Dyer, Evans, Hernandez, Linkhart, Musgrave, Pascoe, Phillips, Reeves, Rupert, Tebedo, Wattenberg, Weddig, and Wham.

AN ACT

CONCERNING THE CREATION OF AN INCOME TAX CREDIT FOR TAXPAYERS WHO DONATE REAL PROPERTY INTERESTS FOR CONSERVATION PURPOSES.

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

SECTION 1. Part 5 of article 22 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-22-522. Credit against tax - conservation easements. (1) FOR PURPOSES OF THIS SECTION, "TAXPAYER" MEANS A RESIDENT INDIVIDUAL OR A DOMESTIC OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF THIS ARTICLE.

(2) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2000, SUBJECT TO THE PROVISIONS OF SUBSECTIONS (4) AND (6) OF THIS SECTION, THERE SHALL BE ALLOWED A CREDIT WITH RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE TO EACH TAXPAYER WHO DONATES DURING THE TAXABLE YEAR ALL OR PART OF THE VALUE OF A PERPETUAL CONSERVATION EASEMENT IN GROSS CREATED PURSUANT TO ARTICLE 30.5 OF TITLE 38, C.R.S., UPON REAL PROPERTY THE TAXPAYER OWNS TO A GOVERNMENTAL ENTITY OR A CHARITABLE ORGANIZATION DESCRIBED IN SECTION 38-30.5-104 (2), C.R.S.

(3) IN ORDER FOR ANY TAXPAYER TO QUALIFY FOR THE CREDIT PROVIDED FOR IN SUBSECTION (2) OF THIS SECTION, THE TAXPAYER SHALL FILE A QUALIFIED APPRAISAL, AS DEFINED IN 26 C.F.R. 1.170A-13 (c) (3) (1998), WITH THE DEPARTMENT OF REVENUE AT THE SAME TIME AS THE TAXPAYER FILES A RETURN FOR THE TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(4) FOR A CONSERVATION EASEMENT IN GROSS CREATED IN ACCORDANCE WITH ARTICLE 30.5 OF TITLE 38, C.R.S., THAT IS DONATED TO A GOVERNMENTAL ENTITY OR A CHARITABLE ORGANIZATION DESCRIBED IN SECTION 38-30.5-104 (2), C.R.S., THE CREDIT PROVIDED FOR IN SUBSECTION (2) OF THIS SECTION SHALL BE AN AMOUNT EQUAL TO THE FAIR MARKET VALUE OF THE DONATED PORTION OF SUCH CONSERVATION EASEMENT IN GROSS WHEN CREATED. THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS SUBSECTION (4) SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS PER DONATION.

(5) IF THE TAX CREDIT PROVIDED IN THIS SECTION EXCEEDS THE AMOUNT OF INCOME TAX DUE ON THE INCOME OF THE TAXPAYER FOR THE TAXABLE YEAR, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES IN SAID INCOME TAX YEAR MAY BE CARRIED FORWARD AND APPLIED AGAINST THE INCOME TAX DUE IN EACH OF THE TWENTY SUCCEEDING INCOME TAX YEARS BUT SHALL BE FIRST APPLIED AGAINST THE INCOME TAX DUE FOR THE EARLIEST OF THE INCOME TAX YEARS POSSIBLE. ANY AMOUNT OF THE CREDIT THAT IS NOT USED AFTER SAID PERIOD SHALL NOT BE REFUNDABLE.

(6) A TAXPAYER MAY CLAIM ONLY ONE TAX CREDIT UNDER THIS SECTION PER INCOME TAX YEAR. A TAXPAYER WHO HAS CARRIED FORWARD PART OF THE TAX CREDIT IN ACCORDANCE WITH SUBSECTION (5) OF THIS SECTION SHALL NOT CLAIM AN ADDITIONAL TAX CREDIT UNDER THIS SECTION FOR ANY INCOME TAX YEAR IN WHICH THE TAXPAYER APPLIES THE AMOUNT CARRIED FORWARD AGAINST INCOME TAX DUE.

SECTION 2. 39-22-104 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

39-22-104. Income tax imposed on individuals, estates, and trusts - single rate. (3) There shall be added to the federal taxable income:

(g) FOR THE INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2000, AN AMOUNT EQUAL TO THE CHARITABLE CONTRIBUTION DEDUCTION ALLOWED BY SECTION 170 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, TO THE EXTENT SUCH DEDUCTION INCLUDES A CONTRIBUTION OF REAL PROPERTY TO A CHARITABLE ORGANIZATION FOR A CONSERVATION PURPOSE FOR WHICH AN INCOME TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522.

SECTION 3. 39-22-304 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

39-22-304. Net income of corporation - repeal. (2) There shall be added to federal taxable income:

(f) FOR THE INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2000, AN AMOUNT EQUAL TO THE CHARITABLE CONTRIBUTION DEDUCTION ALLOWED BY SECTION 170 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, TO THE EXTENT SUCH DEDUCTION INCLUDES A CONTRIBUTION OF REAL PROPERTY TO A CHARITABLE ORGANIZATION FOR A CONSERVATION PURPOSE FOR WHICH AN INCOME TAX CREDIT IS CLAIMED PURSUANT TO SECTION 39-22-522.

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 28, 1999