

CHAPTER 189

TAXATION

SENATE BILL 01-037

BY SENATOR(S) Hillman, Cairns, Entz, Evans, Musgrave, and Teck;
also REPRESENTATIVE(S) Stengel, Lee, Marshall, Spradley, and Williams S.

AN ACT

CONCERNING THE CONVERSION OF CERTAIN AMOUNTS OF MONEY OWED BY THE DEPARTMENT OF REVENUE TO A TAXPAYER THAT IS REPRESENTED BY A WARRANT THAT HAS BEEN CANCELLED INTO UNCLAIMED PROPERTY FOR WHICH A CLAIM MAY BE FILED UNDER THE "UNCLAIMED PROPERTY ACT".

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

SECTION 1. 38-13-102 (7) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

38-13-102. Definitions and use of terms. As used in this article, unless the context otherwise requires:

(7) (a) "Intangible property" includes:

(VII) ON AND AFTER OCTOBER 1, 2002, ANY AMOUNT DUE AND PAYABLE AS A REFUND OF COLORADO INCOME TAX.

SECTION 2. The introductory portion to 38-13-104 (1), Colorado Revised Statutes, is amended to read:

38-13-104. General rules for taking custody of intangible unclaimed property. (1) Unless otherwise provided in this article or by other statute or local law, intangible property is subject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment under section 38-13-103 or sections 38-13-105 to ~~38-13-109.5~~ 38-13-109.7 are satisfied and:

SECTION 3. Article 13 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

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

38-13-109.7. Income tax refunds. ON AND AFTER OCTOBER 1, 2002, ANY AMOUNT DUE AND PAYABLE AS A REFUND OF COLORADO INCOME TAX OR GRANT FOR PROPERTY TAXES, RENT, OR HEAT OR FUEL EXPENSES ASSISTANCE REPRESENTED BY A WARRANT THAT HAS NOT BEEN PRESENTED FOR PAYMENT WITHIN SIX MONTHS FROM THE DATE OF ISSUANCE OF THE WARRANT AND THAT HAS BEEN FORWARDED BY THE DEPARTMENT OF REVENUE TO THE ADMINISTRATOR PURSUANT TO SECTION 39-21-108 (5), C.R.S., IS PRESUMED ABANDONED.

SECTION 4. 39-21-108, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-21-108. Refunds. (5) (a) ON AND AFTER OCTOBER 1, 2002, ANY WARRANT REPRESENTING A REFUND OF INCOME TAX IMPOSED BY ARTICLE 22 OF THIS TITLE OR A GRANT FOR PROPERTY TAXES, RENT, OR HEAT OR FUEL EXPENSES ASSISTANCE ALLOWED BY ARTICLE 31 OF THIS TITLE THAT IS NOT PRESENTED FOR PAYMENT WITHIN SIX MONTHS FROM ITS DATE OF ISSUANCE SHALL BE VOID. ON AND AFTER OCTOBER 1, 2002, UPON THE CANCELLATION OF A WARRANT IN ACCORDANCE WITH THE STANDARD OPERATING PROCEDURES OF THE DEPARTMENT OR THE STATE CONTROLLER, THE DEPARTMENT SHALL FORWARD TO THE STATE TREASURER THE NAME OF THE TAXPAYER AS IT APPEARS ON THE WARRANT, THE TAXPAYER IDENTIFICATION NUMBER, THE TAXPAYER'S LAST KNOWN ADDRESS, THE AMOUNT OF THE CANCELLED WARRANT, AND AN AMOUNT OF MONEY EQUAL TO THE AMOUNT SPECIFIED IN THE WARRANT SO THAT THE STATE TREASURER MAY MAKE THE REFUND PURSUANT TO THE PROVISIONS OF THE "UNCLAIMED PROPERTY ACT", ARTICLE 13 OF TITLE 38, C.R.S.

(b) THE DEPARTMENT MAY RECLAIM FROM THE UNCLAIMED PROPERTY FUND AND CREDIT TO THE APPROPRIATE STATE REVENUE FUND ANY AMOUNT FORWARDED BY THE DEPARTMENT TO THE STATE TREASURER PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5) THAT WAS BASED ON A WARRANT REPRESENTING AN ERRONEOUS REFUND OR GRANT. IF THE STATE TREASURER ISSUED AN ERRONEOUS REFUND OR GRANT TO THE PERSON NAMED ON THE WARRANT, THE TREASURER SHALL PROVIDE PROOF OF THAT PAYMENT TO THE DEPARTMENT AND THE DEPARTMENT MAY ASSESS THAT AMOUNT PURSUANT TO SECTION 39-21-103 (1).

SECTION 5. 39-21-113, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-21-113. Reports and returns. (12) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, ON AND AFTER OCTOBER 1, 2002, FOR THE PURPOSE OF ENABLING THE STATE TREASURER TO MAKE INCOME TAX REFUNDS PURSUANT TO THE PROVISIONS OF THE "UNCLAIMED PROPERTY ACT", ARTICLE 13 OF TITLE 38, C.R.S., THE DEPARTMENT SHALL SUPPLY THE STATE TREASURER WITH INFORMATION AS REQUIRED BY SECTION 39-21-108 (5).

SECTION 6. 39-22-604 (12) (a), Colorado Revised Statutes, is amended to read:

39-22-604. Withholding tax - requirement to withhold - tax lien - exemption from lien. (12) (a) (I) Moneys remitted by employers under this section shall be deposited with the state treasurer and by him OR HER credited to a fund hereby established, denominated the "income tax withholding fund". Refunds as provided

for by this section shall be made from this fund in the same manner as refunds are made under section 39-21-108. EXCEPT FOR MONEYS TO BE TRANSFERRED TO THE STATE TREASURER PURSUANT TO SECTION 39-21-108 (5), all unexpended balances on hand in said fund on June 30, 1971, and each June 30 thereafter, or at any time as shall be determined by the controller, with the approval of the state treasurer, shall be credited to the general fund of the state. The unexpended balance shall include all moneys ~~which~~ THAT for any reason cannot be refunded. All warrants ~~which~~ THAT cannot be delivered to the taxpayer and ~~which~~ THAT are not presented for payment within six months from the date of issuance thereof shall be void, and the moneys represented thereby shall be included in the unexpended balance in said fund at the expiration of said year. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), persons entitled to the refund of moneys represented by warrants ~~which~~ THAT cannot be delivered to the taxpayer and ~~which~~ THAT are not presented for payment within six months from the date of issuance thereof may file claims for refund at any time within four years from the date the income tax return ~~which~~ THAT establishes the right to the refund was required to be filed. Claims for refund not filed within the prescribed four-year period shall not be allowed or paid BY THE DEPARTMENT OF REVENUE.

(II) ON AND AFTER OCTOBER 1, 2002, IF THE DEPARTMENT OF REVENUE HAS CANCELLED A WARRANT PURSUANT TO SECTION 39-21-108 THAT HAS NOT BEEN PRESENTED AND HAS FORWARDED TO THE STATE TREASURER INFORMATION AND AN AMOUNT OF MONEY EQUAL TO THE AMOUNT OF THE WARRANT AS REQUIRED BY SECTION 39-21-108 (5), THE TAXPAYER MUST FILE THE CLAIM FOR THE AMOUNT OF THE REFUND WITH THE STATE TREASURER PURSUANT TO THE "UNCLAIMED PROPERTY ACT", ARTICLE 13 OF TITLE 38, C.R.S. THE DEPARTMENT AND THE STATE TREASURER SHALL COOPERATE TO ENSURE THAT ANY TAXPAYER WHO CONTACTS THE DEPARTMENT OF REVENUE TO CLAIM THE AMOUNT OF A REFUND REPRESENTED BY A CANCELLED WARRANT IS PROVIDED WITH THE INFORMATION OR ASSISTANCE NECESSARY TO OBTAIN THE REFUND FROM THE STATE TREASURER.

SECTION 7. Effective date - applicability. (1) 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.

(2) The provisions of this act shall apply to warrants representing income tax refunds that have not been presented and have been cancelled in accordance with the standard operating procedures of the department of revenue or the state controller on or after October 1, 2002.

Approved: May 30, 2001