

## CHAPTER 120

---

**TAXATION**

---

**SENATE BILL 04-063**

BY SENATOR(S) Teck and Evans;  
also REPRESENTATIVE(S) May M., Garcia, and Stengel.

**AN ACT****CONCERNING COURT REVIEW OF THE REJECTION OF A CLAIM FOR CERTAIN TAX REFUNDS.**

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

**SECTION 1.** 39-21-104 (1), Colorado Revised Statutes, is amended to read:

**39-21-104. Rejection of claims.** (1) Upon rejection, in whole or in part, of a claim for refund filed by a taxpayer, with respect to any tax set forth in section 39-21-103 (1), the executive director of the department of revenue shall send a notice of rejection to the taxpayer in writing by first-class mail as set forth in section 39-21-105.5; and, within thirty days from the mailing thereof, the taxpayer may request a hearing or file a brief with the executive director, except where the claim is for refund of a deficiency in taxes assessed after hearing or determination on written brief had under the provisions of section 39-21-103. Thereafter, both the taxpayer and the executive director shall proceed as provided in section 39-21-103 with respect to the hearing or determination on written brief. Upon reaching a decision upon the claim for refund after hearing had thereon or consideration of the written brief, the executive director shall send to the taxpayer, by first-class mail as set forth in section 39-21-105.5, notice of final determination of claim for refund, stating therein the grounds for allowance or rejection in whole or in part. ~~This section shall not prevent a taxpayer from suing for a refund in the district court within the time provided by law whether or not the taxpayer requests a hearing or presents a written brief.~~

**SECTION 2.** 39-21-108 (1) (a), Colorado Revised Statutes, is amended to read:

**39-21-108. Refunds.** (1) (a) In the case of income tax imposed by article 22 of this title, the taxpayer must file any claim for refund or credit for any year not later than the period provided for filing a claim for refund of federal income tax plus one

---

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

year. However, any extensions of the period by agreement between the taxpayer and the federal taxing authorities shall extend the period established in this section by the same amount of time. The department shall not pay any refund for which the claim is filed later than the period provided for the payment of a refund of federal income tax plus one year. However, no refund or credit of income tax shall be made to any taxpayer who fails to file a return pursuant to section 39-22-601 within four years from the date the return was required to be filed. Except in the case of failure to file a return or the filing of a false or fraudulent return with intent to evade tax and otherwise notwithstanding any provision of law, the statute of limitations relating to claims for refund or credit for any year shall not expire prior to the expiration of the time within which a deficiency for such year could be assessed. In the case of the charge on oil and gas production imposed by article 60 of title 34, C.R.S., and the passenger-mile tax imposed by article 3 of title 42, C.R.S., or the severance tax imposed by article 29 of this title, or any tax or fee imposed by part 4 of article 37.5 of title 11, C.R.S., the taxpayer shall file any claim for refund or credit for any period not later than three years after the date of payment. Claims for refund of other taxes covered by this article shall be made within the time limits expressly provided for the specific taxes involved. EXCEPT AS PROVIDED IN SECTION 39-21-105, no suit for refund may be commenced. ~~before the expiration of six months after the date of filing the claim for refund required under this section unless the executive director of the department of revenue renders a decision thereon within that time, nor after the expiration of two years after the date of mailing, by first-class mail as set forth in section 39-21-105.5, by the executive director to the taxpayer of a notice of disallowance of the part of the claim to which the suit relates. The said two-year period shall be extended for the period as may be agreed upon in writing between the taxpayer and the executive director.~~ This subsection (1) shall not apply to sales and use taxes.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 8, 2004