

CHAPTER 94

TAXATION

HOUSE BILL 04-1067

BY REPRESENTATIVE(S) Coleman, Frangas, Hefley, May M., Stengel, and Vigil;
also SENATOR(S) Taylor, Entz, and Evans.

AN ACT

CONCERNING THE CONVERSION OF STATE REFUNDS OF BUSINESS PERSONAL PROPERTY TAXES OWED BY THE DEPARTMENT OF REVENUE TO A TAXPAYER INTO UNCLAIMED PROPERTY FOR WHICH A CLAIM MAY BE FILED UNDER THE "UNCLAIMED PROPERTY ACT" WHEN THE REFUND IS REPRESENTED BY A WARRANT THAT HAS BEEN CANCELLED IN ACCORDANCE WITH LAW.

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:

(VIII) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (VIII), ANY AMOUNT DUE AND PAYABLE AS A REFUND OF STATE TAXES REFUNDED PURSUANT TO SECTION 39-22-124, C.R.S.

SECTION 2. 38-13-109.7, Colorado Revised Statutes, is amended to read:

38-13-109.7. Tax refunds. (1) 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.

(2) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2), ANY AMOUNT

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

DUE AND PAYABLE AS A REFUND OF STATE TAXES REFUNDED PURSUANT TO SECTION 39-22-124, C.R.S., 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 (6), C.R.S., IS PRESUMED ABANDONED.

SECTION 3. 39-21-108, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-21-108. Refunds. (6) (a) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (6), ANY WARRANT REPRESENTING A REFUND OF STATE TAXES REFUNDED PURSUANT TO SECTION 39-22-124 THAT IS NOT PRESENTED FOR PAYMENT WITHIN SIX MONTHS FROM ITS DATE OF ISSUANCE SHALL BE VOID. ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (6), WITHIN EIGHTEEN MONTHS AFTER 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) IF THE DEPARTMENT HAS FORWARDED TO THE STATE TREASURER INFORMATION AND AN AMOUNT OF MONEY EQUAL TO THE AMOUNT OF THE WARRANT PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6), 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 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.

(c) THE DEPARTMENT MAY RECLAIM FROM THE UNCLAIMED PROPERTY TRUST FUND CREATED IN SECTION 38-13-116.5, C.R.S., 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 (6) THAT WAS BASED ON A WARRANT REPRESENTING AN ERRONEOUS REFUND. IF THE STATE TREASURER ISSUED AN ERRONEOUS REFUND TO THE TAXPAYER 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 4. 39-21-113 (12), Colorado Revised Statutes, is amended to read:

39-21-113. Reports and returns. (12) (a) 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).

(b) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, ON AND AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (b), FOR THE PURPOSE OF ENABLING THE STATE TREASURER TO MAKE 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 (6).

SECTION 5. 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 (August 4, 2004, if adjournment sine die is on May 5, 2004); 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 state tax refunds of business personal property tax 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 the applicable effective date of this act.

Approved: April 7, 2004