

Legislative Oversight Committee Concerning Tax Policy

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October 2022

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Committee Charge

The Legislative Oversight Committee Concerning Tax Policy (committee) is charged with reviewing the state's current tax policy and the evaluations of tax expenditures that are statutorily completed by the Office of the State Auditor. The committee is also charged with oversight of the Task Force Concerning Tax Policy (task force). For purposes of the committee's work, tax policy includes:

- decisions by the state or local governments regarding taxes that have or may be levied; and
- analysis of the benefits and burdens of the state's overall tax structure with respect to the promotion of certainty, fairness, adequacy, transparency, and administrative ease.

In addition, the committee must annually define in writing the scope of tax policy to be considered for the committee and task force. For 2022, the scope of tax policy to be considered for the committee is:

- tax expenditure evaluations produced by the Office of the State Auditor, and the policy considerations contained therein;
- recommendations, proposals, and studies arising from the work of the task force; and
- other tax expenditure policy considerations arising during the work of the committee.

For 2022, the scope of tax policy to be considered for the task force is:

- applying the state income tax to federal adjusted gross income rather than federal taxable income; and
- options for expanding the sales and use tax to apply to services, including but not limited to tangible personal property services, real property services, and/or personal and professional services, with attention to the long-term impacts on the tax base, the effects on households of different incomes, business-to-business transactions, vertically integrated businesses, and tax pyramiding.

Committee Activities

During the 2022 interim, the committee held four meetings. The committee reviewed tax expenditure evaluations produced by the Office of the State Auditor (OSA) and received an update from the Task Force Concerning Tax Policy. The committee also heard presentations on several tax issues, including severance taxes, applying the sales and use tax to services, a national perspective on property taxes, and the taxation of tobacco products. The following subsections discuss the committee's actions during the 2022 interim.

Task Force Concerning Tax Policy. The committee received an update on the work of the Task Force Concerning Tax Policy and discussed the task force’s report on the property tax treatment of short term rentals. The committee also updated the scope of the tax policy to be considered by the task force for the 2022 interim. The scope includes:

- applying the state income tax to federal adjusted gross income rather than federal taxable income; and
- options for expanding the sales and use tax to apply to services, including but not limited to tangible personal property services, real property services, and/or personal and professional services, with attention to the long-term impacts on the tax base, the effects on households of different incomes, business-to-business transactions, vertically integrated businesses, and tax pyramiding.

OSA expenditure evaluations. Representatives of the OSA presented to the committee on their tax expenditure evaluation reports with policy considerations. OSA highlighted several categories of expenditures, including: income tax, enterprise zone tax, severance tax, sales and use tax, and insurance premium tax. In total, the OSA presented on 21 tax expenditures to the committee. Information on the tax expenditure evaluation reports covered may be found here: <https://tinyurl.com/jvwbn9v>

Severance Taxes. A representative from the Office of State Planning and Budgeting presented to the committee on Colorado severance taxes. The presentation included an overview of severance taxes in Colorado, severance tax collections, and severance tax revenues and distribution. The presentation also included information on severance tax volatility, U.S. and Colorado oil production, and an update on the Severance Tax Working Group created by [Senate Bill 21-281](#) and [House Bill 22-1391](#).

Sales and Use Taxation of Services. Representatives from the Department of Revenue (DOR) discussed the sales and use taxation of services. The presentation provided some background information on the sales and use tax as well the current law in Colorado. Department staff discussed topics to consider in determining what services should be taxed and noted several administrative, practical and legal issues related to expanding the sales and use tax to services.

National Perspective on Property Taxes. A representative of the Lincoln Institute on Land Policy presented to the committee a national perspective on property tax and how Colorado compares with others states. The presentation focused on an overview of property taxes in the United States and highlighted the distinctive features of Colorado’s property tax system. The presentation also included information on state-imposed property tax limits.

Taxation of Tobacco Products and Remote Retail Sellers. Representatives of the Premium Cigar Coalition and Cigar Association of America discussed [House Bill 20-1427](#) and collecting excise tax from delivery sellers. The tobacco products excise is a wholesale-level tax imposed upon distributors of tobacco products, including cigars and pipe tobacco. The representatives discussed some obstacles and concern related to compliance for online cigar and pipe tobacco retailers and brought forth a policy to address their concerns. In addition, the Department of Revenue presented their view of the excise tax issues and suggested statutory changes to improve administration.

Committee Recommendations

As a result of committee discussion and deliberation, the Legislative Oversight Committee Concerning Tax Policy recommends the following five bills for consideration in the 2023 legislative session.

Bill A – Repeal of Infrequently Used Tax Expenditures. The bill eliminates a number of tax expenditures, effective January 1, 2024, including:

- the insurance premium tax exemption for mutual protective associations that write only crop hail insurance;
- the insurance premium tax deduction for policies issued prior to 1959 by insurance companies making investments in Colorado;
- the income tax deduction for corporate capital gains from involuntary conversion;
- the income tax deduction for depletion of oil shale in addition to the federal depletion amount;
- the corporate income tax credit for providing assistance in solving the local government impacts of new mining or milling operations;
- the severance tax deduction for oil shale equipment and machinery;
- the severance tax deduction for oil shale processing and royalty costs;
- the severance tax rate reductions for oil shale producers;
- the severance tax exemption for oil shale or shale oil severed at non-commercial production rates; and
- the severance tax credit providing assistance in solving the local government impacts of new mineral or mineral fuel severance operations.

Bill B – Taxation Tobacco Products Remote Retail Sellers. The bill makes adjustments to the remittance of taxes on tobacco and nicotine products. First, the bill separates the current tobacco tax treatment of out-of-state retailers, which was established in Proposition EE, into two distinct, but largely parallel, tax treatments. Second, the bill clarifies how the “manufacturer’s list price” (the price used to determine the amount of taxes owed) should be calculated in specific instances.

Bill C – Earned Income and Child Tax Credits. Beginning in tax year 2024, the bill increases the Colorado earned income tax credit (EITC) from 25 percent of the federal EITC to 40 percent of the federal EITC. The bill also increases the amounts of the child tax credit (CTC), with the credit amount based on the taxpayer’s filing status and income beginning in tax year 2024. For purposes of the state CTC, the bill expands the definition of “eligible child” from under the age of 6 to under the age of 17, bringing the state CTC in line with the federal CTC. Finally, beginning in tax year 2024, the bill requires that DOR adjust the federal AGI thresholds for inflation.

Bill D – Tax Credit for Purchase Long-Term Care Insurance. The bill modifies the state income tax credit for purchasing long-term care insurance policies beginning in tax year 2024. The bill increases both the federal taxable income (FTI) threshold for taxpayers to be eligible to claim the tax credit, and the maximum credit amount allowable per taxpayer per year.

Bill E – Unauthorized Insurance Premium Tax Rate. The bill increases the tax rate that applies to insurance premiums paid to an unauthorized insurer from 2.25 percent to 3.0 percent beginning January 1, 2024.