CHAPTER 290

TAXATION

HOUSE BILL 23-1277

BY REPRESENTATIVE(S) Marshall and Taggart, Bird, Boesenecker, Frizell, Jodeh, Lindsay, Lindstedt, Snyder, Weinberg, Wilson;
also SENATOR(S) Kolker and Smallwood, Bridges, Buckner, Exum, Gardner, Kirkmeyer, Lundeen, Mullica, Pelton B., Pelton R., Priola, Rodriguez, Will.

AN ACT

CONCERNING THE FILING OF INCOME TAX RETURNS BY BUSINESS ENTITIES.

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

SECTION 1. In Colorado Revised Statutes, 39-22-601, **amend** (6)(a); and **add** (2.5)(j), (2.7), (5)(j), (5.5), and (6)(h) as follows:

39-22-601. Returns - repeal. (2.5) (j) (I) THIS SUBSECTION (2.5) APPLIES TO TAX YEARS BEGINNING BEFORE JANUARY 1, 2024.

(II) THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE DECEMBER 31, 2028.

(2.7) (a) EVERY S CORPORATION THAT ENGAGES IN ACTIVITIES IN THE STATE THAT WOULD SUBJECT A C CORPORATION TO THE REQUIREMENT TO MAKE A RETURN UNDER THIS SECTION SHALL MAKE A RETURN THAT MUST CONTAIN A WRITTEN DECLARATION THAT IT IS MADE UNDER THE PENALTIES OF PERJURY IN THE SECOND DEGREE. THE RETURN MUST SET FORTH, IN SUCH DETAIL AS THE EXECUTIVE DIRECTOR SHALL PRESCRIBE, FEDERAL TAXABLE INCOME AND THE MODIFICATIONS AND CREDITS REQUIRED OR ALLOWED UNDER THIS ARTICLE 22 AND ANY OTHER INFORMATION NECESSARY TO CARRY OUT THE PURPOSES OF THIS ARTICLE 22. THE RETURN MUST BE SIGNED BY AN OFFICER OF THE S CORPORATION DULY AUTHORIZED TO ACT, WHICH AUTHORIZATION IS CONCLUSIVELY PRESUMED BY THE SIGNATURE.

(b) ON OR BEFORE THE DAY ON WHICH THE RETURN IS FILED PURSUANT TO SUBSECTION (2.7)(a) OF THIS SECTION, BUT NO LATER THAN THE DUE DATE FOR THE RETURN, INCLUDING ANY EXTENSIONS, IN ADDITION TO OTHER INFORMATION THAT

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

THE EXECUTIVE DIRECTOR MAY PRESCRIBE, THE S CORPORATION SHALL REPORT TO THE EXECUTIVE DIRECTOR:

(I) THE NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OR FEDERAL IDENTIFICATION NUMBER OF EACH SHAREHOLDER OF THE S CORPORATION;

(II) EACH SHAREHOLDER'S PRO RATA SHARE OF THE S CORPORATION'S INCOME, GAIN, LOSS, OR DEDUCTION;

(III) THE INCOME ATTRIBUTABLE TO THE STATE, WITH RESPECT TO EACH NONRESIDENT SHAREHOLDER OF THE S CORPORATION, AS DETERMINED UNDER SUBPART 2 OF PART 3 OF THIS ARTICLE 22;

(IV) THE MODIFICATIONS REQUIRED BY SECTION 39-22-323 WITH RESPECT TO EACH SHAREHOLDER;

(V) EACH SHAREHOLDER'S SHARE OF ANY CREDITS ALLOWED PURSUANT TO THIS ARTICLE 22 TO THE EXTENT THAT THE CREDIT IS NOT APPLIED TO THE COMPOSITE PAYMENT BY THE S CORPORATION PURSUANT TO SUBSECTION (2.7)(d)(III)(B) OF THIS SECTION; AND

(VI) EACH SHAREHOLDER'S SHARE, IF ANY, OF ANY COMPOSITE PAYMENT MADE PURSUANT TO SUBSECTION (2.7)(d)(III).

(c) ON OR BEFORE THE DAY ON WHICH THE RETURN IS FILED PURSUANT TO SUBSECTION (2.7)(a) OF THIS SECTION, BUT NO LATER THAN THE DUE DATE FOR THE RETURN, INCLUDING ANY EXTENSIONS, THE S CORPORATION SHALL FURNISH TO EACH PERSON WHO WAS A SHAREHOLDER OF THE S CORPORATION DURING THE YEAR A COPY OF THE INFORMATION REPORTED TO THE EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (2.7)(b) OF THIS SECTION WITH RESPECT TO THE SHAREHOLDER.

(d) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2.7)(d), EVERY S CORPORATION REQUIRED TO FILE A RETURN UNDER SUBSECTION (2.7)(a) OF THIS SECTION SHALL ALSO FILE A COMPOSITE RETURN AND MAKE A COMPOSITE PAYMENT OF TAX ON BEHALF OF ALL OF ITS NONRESIDENT SHAREHOLDERS.

(II) THE COMPOSITE RETURN MUST NOT INCLUDE:

(A) ANY RESIDENT SHAREHOLDER, INCLUDING A SHAREHOLDER WHO IS A RESIDENT OF COLORADO FOR ONLY PART OF THE TAXABLE YEAR;

(B) ANY NONRESIDENT SHAREHOLDER EXEMPT FROM TAX UNDER SECTION 39-22-112 (1); OR

(C) ANY NONRESIDENT SHAREHOLDER WHO TIMELY FILES AN AGREEMENT PURSUANT TO SUBSECTION (2.7)(e) OF THIS SECTION.

(III) (A) THE AMOUNT OF THE COMPOSITE PAYMENT IS THE AGGREGATE INCOME ATTRIBUTABLE TO THE STATE MULTIPLIED BY THE HIGHEST MARGINAL TAX RATE IN EFFECT UNDER SECTION 39-22-104. THE AGGREGATE INCOME ATTRIBUTABLE TO THE STATE IS THE SUM OF THE INCOME ATTRIBUTABLE TO THE STATE THAT EACH

NONRESIDENT SHAREHOLDER INCLUDED IN THE COMPOSITE RETURN MUST TAKE INTO ACCOUNT UNDER SECTION 39-22-322, AS MODIFIED PURSUANT TO SECTIONS 39-22-323 AND 39-22-325. IF THE INCOME CALCULATED FOR ANY NONRESIDENT SHAREHOLDER IS A NEGATIVE AMOUNT, THAT NONRESIDENT SHAREHOLDER'S INCOME IS EXCLUDED FROM THE CALCULATION OF AGGREGATE INCOME ATTRIBUTABLE TO THE STATE.

(B) THE S CORPORATION MAY CLAIM A NONRESIDENT SHAREHOLDER'S PRO RATA SHARE OF ANY CREDIT ALLOWED WITH RESPECT TO THE ACTIVITY OF THE S CORPORATION FOR THE TAXABLE YEAR ONLY IF THE NONRESIDENT SHAREHOLDER IS INCLUDED IN THE COMPOSITE RETURN AND ONLY TO THE EXTENT THAT THE NONRESIDENT SHAREHOLDER COULD HAVE, UNDER ANY APPLICABLE RESTRICTIONS, CLAIMED THE CREDIT THEMSELF ON A RETURN THAT THE NONRESIDENT FILED. THE TOTAL OF THE CREDITS CLAIMED UNDER THIS SUBSECTION (2.7)(d)(III)(B) FOR EACH NONRESIDENT SHAREHOLDER MUST NOT EXCEED THE AMOUNT OF THE COMPOSITE PAYMENT CALCULATED UNDER SUBSECTION (2.7)(d)(III)(A) OF THIS SECTION WITH RESPECT TO THE NONRESIDENT SHAREHOLDER. TO THE EXTENT THAT THE CREDIT EXCEEDS THE AMOUNT OF THE COMPOSITE PAYMENT, THE AMOUNT NOT APPLIED TO THE COMPOSITE PAYMENT IS PASSED THROUGH TO AND MAY ONLY BE CLAIMED BY THE NONRESIDENT SHAREHOLDER PURSUANT TO SUBSECTION (2.7)(d)(VI)(B) OF THIS SECTION.

(IV) EVERY S CORPORATION REQUIRED TO MAKE A COMPOSITE PAYMENT UNDER THIS SUBSECTION (2.7)(d) IS SUBJECT TO THE REQUIREMENTS OF SECTION 39-22-606. THE COMPOSITE PAYMENT CALCULATED PURSUANT TO SUBSECTION (2.7)(d)(III) OF THIS SECTION IS REGARDED AS THE "TAX" OR "TAX LIABILITY" FOR PURPOSES OF SECTION 39-22-606, AND THE S CORPORATION IS REGARDED AS THE "TAXPAYER" OR "CORPORATION". ANY REFUND ALLOWED PURSUANT TO SECTION 39-21-108 FOR ANY OVERPAYMENT OF ESTIMATED TAX MADE PURSUANT TO THIS SUBSECTION (2.7)(d)(IV) MUST BE MADE TO THE S CORPORATION THAT FILED THE COMPOSITE RETURN.

(V) AN S CORPORATION IS ENTITLED TO RECOVER FROM EACH NONRESIDENT SHAREHOLDER THAT NONRESIDENT SHAREHOLDER'S SHARE OF THE COMPOSITE PAYMENT MADE PURSUANT TO THIS SUBSECTION (2.7)(d), INCLUDING ANY PENALTY OR INTEREST PAID PURSUANT TO SECTION 39-22-621.

(VI) (A) A COMPOSITE RETURN FILED PURSUANT TO THIS SUBSECTION (2.7)(d) SATISFIES THE FILING REQUIREMENT IMPOSED BY THIS SECTION FOR EACH NONRESIDENT SHAREHOLDER INCLUDED THEREIN, UNLESS THAT NONRESIDENT SHAREHOLDER HAS ANY INCOME FROM COLORADO SOURCES THAT IS NOT INCLUDED IN A COMPOSITE RETURN OR THAT NONRESIDENT SHAREHOLDER HAS INCURRED ANY TAX LIABILITY UNDER THIS ARTICLE 22 THAT IS NOT INCLUDED IN A COMPOSITE RETURN.

(B) A NONRESIDENT SHAREHOLDER WHO IS INCLUDED IN A COMPOSITE RETURN, AND WHOSE FILING REQUIREMENT UNDER THIS SECTION IS SATISFIED THEREBY, MAY FILE A RETURN IN ACCORDANCE WITH THIS SECTION. A NONRESIDENT SHAREHOLDER WHO FILES A RETURN MAY CLAIM A CREDIT FOR ITS SHARE OF THE COMPOSITE PAYMENT MADE BY THE S CORPORATION ON BEHALF OF THE NONRESIDENT SHAREHOLDER PURSUANT TO SUBSECTION (2.7)(d)(III)(A) OF THIS SECTION. A

NONRESIDENT SHAREHOLDER WHO FILES A RETURN MAY CLAIM ITS PRO RATA SHARE OF ANY CREDIT ALLOWED BY THIS ARTICLE 22 TO THE EXTENT THAT THE CREDIT WAS NOT APPLIED TO THE COMPOSITE PAYMENT MADE BY THE S CORPORATION ON BEHALF OF THE NONRESIDENT SHAREHOLDER.

(C) THE EXCLUSION OF A SHAREHOLDER FROM THE COMPOSITE RETURN PURSUANT TO SUBSECTION (2.7)(d)(II) OF THIS SECTION DOES NOT EXEMPT THE SHAREHOLDER FROM THE OBLIGATION TO FILE A RETURN OR PAY THE TAX IMPOSED UNDER THIS ARTICLE 22.

(VII) THIS SUBSECTION (2.7)(d) DOES NOT APPLY TO:

(A) AN S CORPORATION THAT MAKES THE ELECTION ALLOWED UNDER SUBPART 3 OF PART 3 OF THIS ARTICLE 22; OR

(B) AN S CORPORATION CONSISTING ONLY OF SHAREHOLDERS DESCRIBED IN SUBSECTION (2.7)(d)(II) OF THIS SECTION.

(e) (I) THE AGREEMENT REFERRED TO IN SUBSECTION (2.7)(d)(II)(C) OF THIS SECTION IS AN AGREEMENT OF A NONRESIDENT SHAREHOLDER OF THE S CORPORATION FOR PURPOSES OF SUBSECTION (2.7)(d)(II)(C) OF THIS SECTION IF THE AGREEMENT:

(A) REQUIRES THE NONRESIDENT SHAREHOLDER TO FILE A RETURN IN ACCORDANCE WITH THIS SECTION AND TO MAKE TIMELY PAYMENT OF ALL TAXES IMPOSED ON THE SHAREHOLDER BY THE STATE WITH RESPECT TO THE INCOME OF THE NONRESIDENT SHAREHOLDER; AND

(B) PROVIDES THAT THE S CORPORATION IS SUBJECT TO PERSONAL JURISDICTION IN THE STATE FOR PURPOSES OF THE COLLECTION OF INCOME TAXES, TOGETHER WITH RELATED INTEREST AND PENALTIES, IMPOSED ON THE SHAREHOLDER BY THE STATE WITH RESPECT TO THE INCOME OF THE S CORPORATION.

(II) IN ORDER TO EXCLUDE A NONRESIDENT SHAREHOLDER FROM A COMPOSITE RETURN PURSUANT TO SUBSECTION (2.7)(d)(II)(C) OF THIS SECTION, THE S CORPORATION MUST OBTAIN THE AGREEMENT DESCRIBED IN THIS SUBSECTION (2.7)(e) FROM THE NONRESIDENT SHAREHOLDER AND FILE IT WITH THE RETURN REQUIRED BY SUBSECTION (2.7)(a) OF THIS SECTION. AN S CORPORATION THAT TIMELY FILES AN AGREEMENT FOR A TAXABLE PERIOD IS CONSIDERED TO HAVE TIMELY FILED SUCH AN AGREEMENT FOR EACH SUBSEQUENT TAXABLE PERIOD. AN S CORPORATION THAT DOES NOT TIMELY FILE SUCH AN AGREEMENT FOR A TAXABLE PERIOD IS NOT PRECLUDED FROM TIMELY FILING SUCH AN AGREEMENT FOR SUBSEQUENT TAXABLE PERIODS.

(f) THIS SUBSECTION (2.7) APPLIES TO INCOME TAX YEARS BEGINNING ON AND AFTER JANUARY 1, 2024.

(5) (j) (I) THIS SUBSECTION (5) APPLIES TO INCOME TAX YEARS BEGINNING BEFORE JANUARY 1, 2024.

(II) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE DECEMBER 31, 2028.

(5.5) (a) EVERY PARTNERSHIP THAT ENGAGES IN ACTIVITIES IN THE STATE THAT WOULD SUBJECT A C CORPORATION TO THE REQUIREMENT TO MAKE A RETURN UNDER THIS SECTION SHALL MAKE A RETURN THAT CONTAINS A WRITTEN DECLARATION THAT IT IS MADE UNDER THE PENALTY OF PERJURY IN THE SECOND DEGREE. THE RETURN MUST SET FORTH, IN SUCH DETAIL AS THE EXECUTIVE DIRECTOR PRESCRIBES, FEDERAL ORDINARY INCOME AND THE MODIFICATIONS AND CREDITS REQUIRED OR ALLOWED UNDER THIS ARTICLE 22 AND ANY OTHER INFORMATION NECESSARY TO CARRY OUT THE PURPOSES OF THIS ARTICLE 22. THE RETURN MUST BE SIGNED BY A PARTNER DULY AUTHORIZED TO ACT, AND THE AUTHORIZATION IS TO BE CONCLUSIVELY PRESUMED BY THE SIGNATURE.

(b) ON OR BEFORE THE DAY ON WHICH A RETURN IS FILED PURSUANT TO SUBSECTION (5.5)(a) OF THIS SECTION, BUT NO LATER THAN THE DUE DATE FOR THE RETURN, INCLUDING ANY EXTENSIONS, IN ADDITION TO OTHER INFORMATION THAT THE EXECUTIVE DIRECTOR MAY PRESCRIBE, THE PARTNERSHIP SHALL REPORT TO THE EXECUTIVE DIRECTOR:

(I) THE NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OR FEDERAL IDENTIFICATION NUMBER OF EACH PARTNER OF THE PARTNERSHIP;

(II) EACH PARTNER'S DISTRIBUTIVE SHARE OF PARTNERSHIP INCOME, GAIN, LOSS, OR DEDUCTION;

(III) THE INCOME DERIVED FROM SOURCES WITHIN COLORADO AS DETERMINED UNDER SECTION 39-22-203 WITH RESPECT TO EACH NONRESIDENT PARTNER;

(IV) THE MODIFICATIONS THAT MAY BE REQUIRED BY SECTION 39-22-202 OR 39-22-203, AS APPLICABLE, WITH RESPECT TO EACH PARTNER;

(V) EACH PARTNER'S SHARE OF ANY CREDITS ALLOWED PURSUANT TO THIS ARTICLE 22 TO THE EXTENT THAT THE CREDIT WAS NOT APPLIED TO THE COMPOSITE PAYMENT BY THE PARTNERSHIP PURSUANT TO SUBSECTION (5.5)(d)(III)(B) OF THIS SECTION; AND

(VI) EACH PARTNER'S SHARE, IF ANY, OF ANY COMPOSITE PAYMENT MADE BY THE PARTNERSHIP PURSUANT TO SUBSECTION (5.5)(d)(III) OF THIS SECTION.

(c) ON OR BEFORE THE DAY ON WHICH THE RETURN IS FILED PURSUANT TO SUBSECTION (5.5)(a) OF THIS SECTION, BUT NO LATER THAN THE DUE DATE FOR THE RETURN, INCLUDING ANY EXTENSIONS, THE PARTNERSHIP SHALL FURNISH TO EACH PERSON WHO WAS A PARTNER DURING THE YEAR A COPY OF THE INFORMATION REPORTED TO THE EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (5.5)(b) OF THIS SECTION WITH RESPECT TO THE PARTNER.

(d) (I) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (5.5)(d), EVERY PARTNERSHIP REQUIRED TO FILE A RETURN UNDER SUBSECTION (5.5)(a) OF THIS SECTION SHALL ALSO FILE A COMPOSITE RETURN AND MAKE A COMPOSITE PAYMENT OF TAX ON BEHALF OF ALL OF ITS NONRESIDENT PARTNERS.

(II) THE COMPOSITE RETURN MUST NOT INCLUDE:

(A) ANY RESIDENT PARTNER, INCLUDING A PARTNER WHO IS A RESIDENT OF COLORADO FOR ONLY PART OF THE TAXABLE YEAR;

(B) ANY NONRESIDENT PARTNER THAT IS A CORPORATION OR A PARTNERSHIP;

(C) ANY NONRESIDENT PARTNER EXEMPT FROM TAX UNDER SECTION 39-22-112 (1); AND

(D) ANY NONRESIDENT PARTNER WHO TIMELY FILES AN AGREEMENT PURSUANT TO SUBSECTION (5.5)(e) OF THIS SECTION.

(III) (A) THE AMOUNT OF THE COMPOSITE PAYMENT IS THE AGGREGATE INCOME DERIVED FROM SOURCES IN THE STATE MULTIPLIED BY THE HIGHEST MARGINAL TAX RATE IN EFFECT UNDER SECTION 39-22-104. THE AGGREGATE INCOME ATTRIBUTABLE TO THE STATE IS THE SUM OF THE DISTRIBUTIVE SHARE OF PARTNERSHIP INCOME, GAIN, LOSS, OR DEDUCTION DERIVED FROM SOURCES IN COLORADO FOR EACH NONRESIDENT PARTNER INCLUDED IN THE COMPOSITE RETURN, COMPUTED PURSUANT TO SECTION 39-22-203, INCLUDING THE MODIFICATIONS PROVIDED BY THAT SECTION. IF THE INCOME COMPUTED FOR ANY NONRESIDENT PARTNER IS A NEGATIVE AMOUNT, THAT NONRESIDENT PARTNER'S INCOME IS EXCLUDED FROM THE CALCULATION OF AGGREGATE INCOME DERIVED FROM SOURCES IN THE STATE.

(B) THE PARTNERSHIP MAY CLAIM A NONRESIDENT PARTNER'S DISTRIBUTIVE SHARE OF ANY CREDIT ALLOWED WITH RESPECT TO THE ACTIVITY OF THE PARTNERSHIP FOR THE TAXABLE YEAR ONLY IF THE NONRESIDENT PARTNER IS INCLUDED IN THE COMPOSITE RETURN AND ONLY TO THE EXTENT THAT THE NONRESIDENT PARTNER COULD HAVE, UNDER ANY APPLICABLE RESTRICTIONS, CLAIMED THE CREDIT THEMSELF ON A RETURN THAT THE NONRESIDENT FILED. THE TOTAL OF THE CREDITS APPLIED UNDER THIS SUBSECTION (5.5)(d)(III)(B) FOR EACH NONRESIDENT PARTNER MUST NOT EXCEED THE AMOUNT OF THE COMPOSITE PAYMENT CALCULATED UNDER SUBSECTION (5.5)(d)(III)(A) OF THIS SECTION WITH RESPECT TO THE NONRESIDENT PARTNER. TO THE EXTENT THAT THE CREDIT EXCEEDS THE AMOUNT OF THE COMPOSITE PAYMENT, THE AMOUNT NOT APPLIED TO THE COMPOSITE PAYMENT IS PASSED THROUGH TO AND MAY ONLY BE CLAIMED BY THE NONRESIDENT PARTNER PURSUANT TO SUBSECTION (5.5)(d)(VI)(B) OF THIS SECTION.

(IV) EVERY PARTNERSHIP REQUIRED TO MAKE A COMPOSITE PAYMENT UNDER THIS SUBSECTION (5.5)(d) IS SUBJECT TO THE REQUIREMENTS OF SECTION 39-22-606. THE COMPOSITE PAYMENT CALCULATED PURSUANT TO SUBSECTION (5.5)(d)(III) OF THIS SECTION IS REGARDED AS THE "TAX" OR "TAX LIABILITY" FOR PURPOSES OF SECTION 39-22-606, AND THE PARTNERSHIP IS REGARDED AS THE "TAXPAYER" OR "CORPORATION". ANY REFUND ALLOWED PURSUANT TO SECTION 39-21-108 FOR ANY OVERPAYMENT OF ESTIMATED TAX MADE PURSUANT TO THIS SUBSECTION (5.5)(d)(IV) MUST BE MADE TO THE PARTNERSHIP THAT FILED THE COMPOSITE RETURN.

(V) A PARTNERSHIP IS ENTITLED TO RECOVER FROM EACH NONRESIDENT PARTNER THAT NONRESIDENT PARTNER'S SHARE OF THE COMPOSITE PAYMENT MADE PURSUANT TO THIS SUBSECTION (5.5)(d), INCLUDING ANY PENALTY OR INTEREST PAID PURSUANT TO SECTION 39-22-621.

(VI) (A) A COMPOSITE RETURN FILED PURSUANT TO THIS SUBSECTION (5.5)(d) SATISFIES THE FILING REQUIREMENT UNDER THIS SECTION FOR EACH NONRESIDENT PARTNER INCLUDED IN THE RETURN UNLESS THAT NONRESIDENT PARTNER HAS ANY INCOME FROM COLORADO SOURCES THAT IS NOT INCLUDED IN A COMPOSITE RETURN OR THAT NONRESIDENT PARTNER HAS INCURRED ANY TAX LIABILITY UNDER THIS ARTICLE 22 THAT IS NOT INCLUDED IN A COMPOSITE RETURN.

(B) A NONRESIDENT PARTNER INCLUDED IN A COMPOSITE RETURN, AND WHOSE FILING REQUIREMENT UNDER THIS SECTION IS SATISFIED BY FILING THE COMPOSITE RETURN, MAY FILE A RETURN IN ACCORDANCE WITH THIS SECTION. A NONRESIDENT PARTNER WHO FILES A RETURN MAY CLAIM A CREDIT FOR ITS SHARE OF THE COMPOSITE PAYMENT MADE BY THE PARTNERSHIP ON BEHALF OF THE NONRESIDENT PARTNER PURSUANT TO SUBSECTION (5.5)(d)(III)(A) OF THIS SECTION. A NONRESIDENT PARTNER WHO FILES A RETURN MAY CLAIM ITS DISTRIBUTIVE SHARE OF ANY CREDIT AS ALLOWED BY THIS ARTICLE 22 TO THE EXTENT THE CREDIT WAS NOT APPLIED TO THE COMPOSITE PAYMENT MADE BY THE PARTNERSHIP ON BEHALF OF THE NONRESIDENT PARTNER.

(C) THE EXCLUSION OF A PARTNER FROM THE COMPOSITE RETURN PURSUANT TO SUBSECTION (5.5)(d)(II) OF THIS SECTION DOES NOT EXEMPT THE PARTNER FROM THE OBLIGATION TO FILE A RETURN OR PAY THE TAX IMPOSED UNDER THIS ARTICLE 22.

(VII) THIS SUBSECTION (5.5)(d) DOES NOT APPLY TO:

(A) A PARTNERSHIP THAT MAKES THE ELECTION ALLOWED UNDER SUBPART 3 OF PART 3 OF THIS ARTICLE 22;

(B) A PUBLICLY TRADED PARTNERSHIP, AS DEFINED IN SECTION 7704 (b) OF THE INTERNAL REVENUE CODE, THAT MEETS ANY OF THE EXCEPTIONS UNDER SECTION 7704 (c) OF THE INTERNAL REVENUE CODE AND IS NOT TREATED AS A CORPORATION UNDER SECTION 7704 (a) OF THE INTERNAL REVENUE CODE; AND

(C) A PARTNERSHIP CONSISTING ONLY OF PARTNERS DESCRIBED IN SUBSECTION (5.5)(d)(II) OF THIS SECTION.

(e) (I) THE AGREEMENT REFERRED TO IN SUBSECTION (5.5)(d)(II)(C) OF THIS SECTION IS AN AGREEMENT OF A NONRESIDENT PARTNER OF THE PARTNERSHIP FOR PURPOSES OF SUBSECTION (5.5)(d)(II)(C) OF THIS SECTION IF THE AGREEMENT:

(A) REQUIRES THE NONRESIDENT PARTNER TO FILE A RETURN IN ACCORDANCE WITH THIS SECTION AND MAKE TIMELY PAYMENT OF ALL TAXES IMPOSED ON THE PARTNER BY THE STATE WITH RESPECT TO THE INCOME OF THE PARTNERSHIP; AND

(B) PROVIDES THAT THE NONRESIDENT PARTNER IS SUBJECT TO PERSONAL JURISDICTION IN THE STATE FOR PURPOSES OF THE COLLECTION OF INCOME TAXES, TOGETHER WITH RELATED INTEREST AND PENALTIES, IMPOSED ON THE PARTNER BY THE STATE WITH RESPECT TO THE INCOME OF THE PARTNERSHIP.

(II) IN ORDER TO EXCLUDE A NONRESIDENT PARTNER FROM A COMPOSITE RETURN PURSUANT TO SUBSECTION (5.5)(d)(II)(D) OF THIS SECTION, THE PARTNERSHIP MUST OBTAIN THE AGREEMENT DESCRIBED IN THIS SUBSECTION (5.5)(e) FROM THE

NONRESIDENT PARTNER AND FILE IT WITH THE RETURN REQUIRED BY SUBSECTION (5.5)(a) OF THIS SECTION. A PARTNERSHIP THAT TIMELY FILES AN AGREEMENT FOR A TAXABLE PERIOD IS CONSIDERED TO HAVE TIMELY FILED SUCH AN AGREEMENT FOR EACH SUBSEQUENT TAXABLE PERIOD. A PARTNERSHIP THAT DOES NOT TIMELY FILE SUCH AN AGREEMENT FOR A TAXABLE PERIOD IS NOT PRECLUDED FROM TIMELY FILING SUCH AN AGREEMENT FOR SUBSEQUENT TAXABLE PERIODS.

(f) THIS SUBSECTION (5.5) APPLIES TO TAX YEARS BEGINNING ON AND AFTER JANUARY 1, 2024.

(6) (a) Any final determination of federal taxable income made PRIOR TO JANUARY 1, 2024, pursuant to the provisions of federal law under which federal taxable income is found to differ from the taxable income originally reported to the federal government ~~shall~~ MUST be reported by the taxpayer to the executive director by making and filing a Colorado amended return within thirty days of such final determination with a statement of the reasons for the difference, in such detail as the executive director may require. In addition thereto, any taxpayer filing an amended return with the federal internal revenue service that reflects any change in income reportable to the state of Colorado shall, within thirty days of such federal filing, make and file a corresponding Colorado amended return.

(b) THIS SUBSECTION (6) IS REPEALED, EFFECTIVE DECEMBER 31, 2028.

SECTION 2. In Colorado Revised Statutes, **add** 39-22-601.5 as follows:

39-22-601.5. Reporting federal adjustments - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADMINISTRATIVE ADJUSTMENT REQUEST" MEANS AN ADMINISTRATIVE ADJUSTMENT REQUEST FILED BY A PARTNERSHIP UNDER SECTION 6227 OF THE INTERNAL REVENUE CODE.

(b) "AUDITED PARTNERSHIP" MEANS A PARTNERSHIP SUBJECT TO A PARTNERSHIP LEVEL AUDIT RESULTING IN A FEDERAL ADJUSTMENT.

(c) "CORPORATE PARTNER" MEANS A PARTNER THAT IS SUBJECT TO TAX UNDER SECTION 39-22-301.

(d) "DIRECT PARTNER" MEANS A PARTNER THAT HOLDS AN INTEREST DIRECTLY IN A PARTNERSHIP.

(e) "EXEMPT PARTNER" MEANS A PARTNER THAT IS EXEMPT FROM TAXATION UNDER SECTION 39-22-112 (1), EXCEPT ON UNRELATED BUSINESS TAXABLE INCOME UNDER SECTION 39-22-112 (2).

(f) "FEDERAL ADJUSTMENT" MEANS A CHANGE TO AN ITEM OR AMOUNT DETERMINED UNDER THE INTERNAL REVENUE CODE THAT IS USED BY A TAXPAYER TO COMPUTE THE TAX DUE UNDER THIS ARTICLE 22 WHETHER THAT CHANGE RESULTS FROM ACTION BY THE INTERNAL REVENUE SERVICE, INCLUDING A PARTNERSHIP LEVEL AUDIT, OR THE FILING OF AN AMENDED FEDERAL RETURN, FEDERAL REFUND CLAIM, OR ADMINISTRATIVE ADJUSTMENT REQUEST BY THE

TAXPAYER. A FEDERAL ADJUSTMENT IS POSITIVE TO THE EXTENT THAT IT INCREASES FEDERAL TAXABLE INCOME AS DETERMINED UNDER THIS ARTICLE 22 AND IS NEGATIVE TO THE EXTENT THAT IT DECREASES FEDERAL TAXABLE INCOME AS DETERMINED UNDER THIS ARTICLE 22.

(g) "FEDERAL ADJUSTMENTS REPORT" INCLUDES METHODS OR FORMS REQUIRED BY THE EXECUTIVE DIRECTOR FOR USE BY A TAXPAYER TO REPORT FINAL FEDERAL ADJUSTMENTS, INCLUDING AN AMENDED COLORADO TAX RETURN, AN INFORMATION RETURN, OR A UNIFORM MULTISTATE REPORT.

(h) "FEDERAL PARTNERSHIP REPRESENTATIVE" MEANS THE PERSON THE PARTNERSHIP DESIGNATES FOR THE TAXABLE YEAR AS THE PARTNERSHIP'S REPRESENTATIVE, OR THE PERSON THE INTERNAL REVENUE SERVICE HAS APPOINTED TO ACT AS THE FEDERAL PARTNERSHIP REPRESENTATIVE PURSUANT TO SECTION 6223 (a) OF THE INTERNAL REVENUE CODE.

(i) "FINAL DETERMINATION DATE" MEANS:

(I) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (1)(i), IF THE FEDERAL ADJUSTMENT ARISES FROM AN INTERNAL REVENUE SERVICE AUDIT OR OTHER ACTION BY THE INTERNAL REVENUE SERVICE, THE FIRST DAY ON WHICH NO FEDERAL ADJUSTMENTS ARISING FROM THE AUDIT OR OTHER ACTION REMAIN TO BE FINALLY DETERMINED, WHETHER BY INTERNAL REVENUE SERVICE DECISION WITH RESPECT TO WHICH ALL RIGHTS OF APPEAL HAVE BEEN WAIVED OR EXHAUSTED, BY AGREEMENT, OR, IF APPEALED OR CONTESTED, BY A FINAL DECISION WITH RESPECT TO WHICH ALL RIGHTS OF APPEAL HAVE BEEN WAIVED OR EXHAUSTED. FOR AGREEMENTS REQUIRED TO BE SIGNED BY THE INTERNAL REVENUE SERVICE AND THE TAXPAYER, THE FINAL DETERMINATION DATE IS THE DATE ON WHICH THE LAST PARTY SIGNED THE AGREEMENT.

(II) FOR FEDERAL ADJUSTMENTS ARISING FROM AN INTERNAL REVENUE SERVICE AUDIT OR OTHER ACTION BY THE INTERNAL REVENUE SERVICE, IF THE TAXPAYER FILED A COMBINED REPORT, A CONSOLIDATED RETURN, OR A COMBINED AND CONSOLIDATED RETURN, THE FIRST DAY ON WHICH NO RELATED FEDERAL ADJUSTMENTS ARISING FROM THAT AUDIT REMAIN TO BE FINALLY DETERMINED, AS DESCRIBED IN SUBSECTION (1)(i)(I) OF THIS SECTION, FOR THE ENTIRE GROUP.

(III) IF THE FEDERAL ADJUSTMENT RESULTS FROM FILING AN AMENDED FEDERAL RETURN, A FEDERAL REFUND CLAIM, OR AN ADMINISTRATIVE ADJUSTMENT REQUEST, OR IF IT IS A FEDERAL ADJUSTMENT REPORTED ON AN AMENDED FEDERAL RETURN OR OTHER SIMILAR REPORT FILED PURSUANT TO SECTION 6225 (c) OF THE INTERNAL REVENUE CODE, THE DAY ON WHICH THE AMENDED RETURN, REFUND CLAIM, ADMINISTRATIVE ADJUSTMENT REQUEST, OR OTHER SIMILAR REPORT WAS FILED.

(j) "FINAL FEDERAL ADJUSTMENT" MEANS A FEDERAL ADJUSTMENT AFTER THE FINAL DETERMINATION DATE FOR THAT FEDERAL ADJUSTMENT HAS PASSED.

(k) "INDIRECT PARTNER" MEANS A PARTNER IN A PARTNERSHIP OR PASS-THROUGH ENTITY THAT ITSELF HOLDS AN INTEREST DIRECTLY, OR THROUGH ANOTHER INDIRECT PARTNER, IN A PARTNERSHIP OR PASS-THROUGH ENTITY.

(l) "NONRESIDENT PARTNER" MEANS A NONRESIDENT INDIVIDUAL, A NONRESIDENT ESTATE, OR A NONRESIDENT TRUST.

(m) "PARTNER" MEANS A PERSON THAT HOLDS AN INTEREST DIRECTLY OR INDIRECTLY IN A PARTNERSHIP OR OTHER PASS-THROUGH ENTITY.

(n) "PARTNERSHIP LEVEL AUDIT" MEANS AN EXAMINATION BY THE INTERNAL REVENUE SERVICE AT THE PARTNERSHIP LEVEL PURSUANT TO SUBCHAPTER C OF CHAPTER 63 OF SUBTITLE F OF THE INTERNAL REVENUE CODE THAT RESULTS IN FEDERAL ADJUSTMENTS.

(o) "PASS-THROUGH ENTITY" MEANS AN ENTITY, OTHER THAN A PARTNERSHIP, THAT IS NOT SUBJECT TO TAX UNDER SECTION 39-22-301.

(p) "RESIDENT PARTNER" MEANS A PARTNER WHO IS A RESIDENT INDIVIDUAL, A RESIDENT ESTATE, OR A RESIDENT TRUST.

(q) "REVIEWED YEAR" MEANS THE TAXABLE YEAR OF A PARTNERSHIP THAT IS SUBJECT TO A PARTNERSHIP LEVEL AUDIT FROM WHICH FEDERAL ADJUSTMENTS ARISE.

(r) "TAXPAYER" MEANS:

(I) A PERSON SUBJECT TO TAX UNDER THIS ARTICLE 22;

(II) A PARTNERSHIP SUBJECT TO A PARTNERSHIP LEVEL AUDIT AND A TIERED PARTNER OF THAT PARTNERSHIP; OR

(III) A PARTNERSHIP THAT HAS MADE AN ADMINISTRATIVE ADJUSTMENT REQUEST AND A TIERED PARTNER OF THAT PARTNERSHIP.

(s) "TIERED PARTNER" MEANS ANY PARTNER THAT IS A PARTNERSHIP OR PASS-THROUGH ENTITY.

(2) EXCEPT IN THE CASE OF FINAL FEDERAL ADJUSTMENTS THAT ARE REQUIRED TO BE REPORTED BY A PARTNERSHIP AND ITS PARTNERS USING THE PROCEDURES IN SUBSECTION (3) OF THIS SECTION, AND FINAL FEDERAL ADJUSTMENTS REQUIRED TO BE REPORTED FOR FEDERAL PURPOSES BY TAKING THOSE ADJUSTMENTS INTO ACCOUNT IN THE PARTNERSHIP RETURN FOR THE YEAR OF ADJUSTMENT, A TAXPAYER SHALL REPORT AND PAY ANY TAX DUE UNDER THIS ARTICLE 22 WITH RESPECT TO FINAL FEDERAL ADJUSTMENTS ARISING FROM AN AUDIT OR OTHER ACTION BY THE INTERNAL REVENUE SERVICE OR REPORTED BY THE TAXPAYER ON A TIMELY FILED AMENDED FEDERAL INCOME TAX RETURN, INCLUDING A RETURN OR OTHER SIMILAR REPORT FILED PURSUANT TO SECTION 6225 (c)(2) OF THE INTERNAL REVENUE CODE, OR FEDERAL CLAIM FOR REFUND BY FILING A FEDERAL ADJUSTMENTS REPORT WITH THE EXECUTIVE DIRECTOR FOR THE REVIEWED YEAR AND, IF APPLICABLE, PAYING THE ADDITIONAL TAX OWED UNDER THIS ARTICLE 22 BY THE TAXPAYER NO LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE FINAL DETERMINATION DATE.

(3) (a) EXCEPT FOR ADJUSTMENTS REQUIRED TO BE REPORTED FOR FEDERAL PURPOSES BY TAKING THOSE ADJUSTMENTS INTO ACCOUNT IN THE PARTNERSHIP

RETURN FOR THE YEAR OF ADJUSTMENT AND THE DISTRIBUTIVE SHARE OF ADJUSTMENTS THAT HAVE BEEN REPORTED AS REQUIRED UNDER SUBSECTION (2) OF THIS SECTION, PARTNERSHIPS AND PARTNERS SHALL REPORT FINAL FEDERAL ADJUSTMENTS ARISING FROM A PARTNERSHIP LEVEL AUDIT OR AN ADMINISTRATIVE ADJUSTMENT REQUEST AND MAKE PAYMENTS AS REQUIRED UNDER THIS SUBSECTION (3).

(b) (I) WITH RESPECT TO AN ACTION REQUIRED OR PERMITTED TO BE TAKEN BY A PARTNERSHIP UNDER THIS SUBSECTION (3) AND A PROCEEDING UNDER SECTION 39-21-103 OR 39-21-105 WITH RESPECT TO THAT ACTION, THE STATE PARTNERSHIP REPRESENTATIVE FOR THE REVIEWED YEAR HAS THE SOLE AUTHORITY TO ACT ON BEHALF OF THE PARTNERSHIP, AND THE PARTNERSHIP'S DIRECT PARTNERS AND INDIRECT PARTNERS ARE BOUND BY THOSE ACTIONS.

(II) THE STATE PARTNERSHIP REPRESENTATIVE FOR THE REVIEWED YEAR IS THE PARTNERSHIP'S FEDERAL PARTNERSHIP REPRESENTATIVE UNLESS THE PARTNERSHIP DESIGNATES IN WRITING ANOTHER PERSON AS ITS STATE PARTNERSHIP REPRESENTATIVE.

(III) THE EXECUTIVE DIRECTOR MAY ESTABLISH REASONABLE QUALIFICATIONS AND PROCEDURES FOR DESIGNATING A PERSON OTHER THAN THE FEDERAL PARTNERSHIP REPRESENTATIVE TO BE THE STATE PARTNERSHIP REPRESENTATIVE.

(c) FINAL FEDERAL ADJUSTMENTS SUBJECT TO THE REQUIREMENTS OF THIS SUBSECTION (3), EXCEPT FOR THOSE SUBJECT TO A PROPERLY MADE ELECTION UNDER SUBSECTION (3)(d) OF THIS SECTION, MUST BE REPORTED AS PROVIDED IN THIS SUBSECTION (3)(c).

(I) NO LATER THAN NINETY DAYS AFTER THE FINAL DETERMINATION DATE, THE PARTNERSHIP SHALL:

(A) FILE A COMPLETED FEDERAL ADJUSTMENTS REPORT WITH THE EXECUTIVE DIRECTOR INCLUDING ANY INFORMATION THE EXECUTIVE DIRECTOR MAY PRESCRIBE;

(B) NOTIFY EACH OF ITS DIRECT PARTNERS OF THEIR DISTRIBUTIVE SHARE OF THE FINAL FEDERAL ADJUSTMENTS INCLUDING ANY INFORMATION THE EXECUTIVE DIRECTOR MAY PRESCRIBE;

(C) FILE AN AMENDED COMPOSITE RETURN FOR DIRECT PARTNERS AS REQUIRED UNDER SECTION 39-22-601 (5)(d) OR (5.5)(d), AS APPLICABLE, OR AN AMENDED RETURN UNDER SUBPART 3 OF PART 3 OF THIS ARTICLE 22, AND PAY THE ADDITIONAL AMOUNT THAT WOULD HAVE BEEN DUE HAD THE FINAL FEDERAL ADJUSTMENTS BEEN REPORTED PROPERLY AS REQUIRED; AND

(D) FOR ANY DIRECT PARTNER FOR WHICH PAYMENT WAS MADE UNDER SECTION 39-22-601 (5)(h), PAY THE ADDITIONAL AMOUNT THAT WOULD HAVE BEEN DUE HAD THE FINAL FEDERAL ADJUSTMENTS BEEN REPORTED PROPERLY AS REQUIRED.

(II) EXCEPT AS PROVIDED UNDER SUBSECTION (4) OF THIS SECTION, NO LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE FINAL DETERMINATION DATE, EACH DIRECT PARTNER THAT IS NOT INCLUDED IN AN AMENDED COMPOSITE RETURN UNDER

SUBSECTION (3)(c)(I)(C) OF THIS SECTION AND THAT IS SUBJECT TO TAX UNDER SECTION 39-22-104 SHALL:

(A) FILE A FEDERAL ADJUSTMENTS REPORT REPORTING THEIR DISTRIBUTIVE SHARE OF THE ADJUSTMENTS REPORTED TO THEM UNDER SUBSECTION (3)(c)(I)(B) OF THIS SECTION; AND

(B) PAY ANY ADDITIONAL AMOUNT OF TAX DUE AS IF FINAL FEDERAL ADJUSTMENTS HAD BEEN PROPERLY REPORTED, PLUS ANY PENALTY AND INTEREST DUE UNDER SECTION 39-22-621 AND LESS ANY CREDIT FOR RELATED AMOUNTS PAID OR WITHHELD AND REMITTED ON BEHALF OF THE DIRECT PARTNER UNDER SUBSECTION (3)(c)(I)(D) OF THIS SECTION.

(d) (I) NO LATER THAN NINETY DAYS AFTER THE FINAL DETERMINATION DATE, AN AUDITED PARTNERSHIP MAKING AN ELECTION UNDER THIS SUBSECTION (3)(d) SHALL FILE A COMPLETED FEDERAL ADJUSTMENTS REPORT, INCLUDING SUCH INFORMATION AS THE EXECUTIVE DIRECTOR MAY PRESCRIBE, AND NOTIFY THE EXECUTIVE DIRECTOR THAT IT IS MAKING THE ELECTION UNDER THIS SUBSECTION (3)(d).

(II) NO LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE FINAL DETERMINATION DATE, AN AUDITED PARTNERSHIP MAKING AN ELECTION UNDER THIS SUBSECTION (3)(d) SHALL PAY THE AMOUNT DETERMINED UNDER SUBSECTION (3)(e) OF THIS SECTION IN LIEU OF TAXES OWED BY ITS DIRECT AND INDIRECT PARTNERS.

(III) FINAL FEDERAL ADJUSTMENTS SUBJECT TO THE ELECTION PROVIDED IN THIS SUBSECTION (3)(d) EXCLUDE:

(A) THE DISTRIBUTIVE SHARE OF FINAL AUDIT ADJUSTMENTS THAT UNDER PART 3 OF THIS ARTICLE 22 MUST BE INCLUDED IN THE UNITARY BUSINESS INCOME OF ANY DIRECT OR INDIRECT CORPORATE PARTNER IF THE AUDITED PARTNERSHIP CAN REASONABLY DETERMINE THIS; AND

(B) ANY FINAL FEDERAL ADJUSTMENTS RESULTING FROM AN ADMINISTRATIVE ADJUSTMENT REQUEST.

(IV) AN AUDITED PARTNERSHIP NOT OTHERWISE SUBJECT TO ANY REPORTING OR PAYMENT OBLIGATION TO THE STATE THAT MAKES AN ELECTION UNDER THIS SUBSECTION (3)(d) CONSENTS TO BE SUBJECT TO COLORADO LAWS RELATED TO REPORTING, ASSESSMENT, PAYMENT, AND COLLECTION OF COLORADO TAX CALCULATED UNDER THE ELECTION.

(e) SUBJECT TO THE LIMITATIONS IN SUBSECTION (3)(d)(III) OF THIS SECTION, THE AMOUNT DUE UNDER SUBSECTION (3)(d)(II) OF THIS SECTION IS CALCULATED AS FOLLOWS:

(I) EXCLUDE FROM FINAL FEDERAL ADJUSTMENTS THE DISTRIBUTIVE SHARE OF THESE ADJUSTMENTS REPORTED TO A DIRECT EXEMPT PARTNER NOT SUBJECT TO TAX UNDER SECTION 39-22-112 (1);

(II) FOR THE TOTAL DISTRIBUTIVE SHARES OF THE REMAINING FINAL FEDERAL ADJUSTMENTS REPORTED TO DIRECT CORPORATE PARTNERS SUBJECT TO TAX UNDER

SECTION 39-22-301, AND TO DIRECT EXEMPT PARTNERS SUBJECT TO TAX UNDER SECTION 39-22-112 (2), APPORTION AND ALLOCATE SUCH ADJUSTMENTS AS PROVIDED UNDER SECTION 39-22-303.6 AND MULTIPLY THE RESULTING AMOUNT BY THE HIGHEST TAX RATE IN EFFECT UNDER SECTION 39-22-301;

(III) FOR THE TOTAL DISTRIBUTIVE SHARES OF THE REMAINING FINAL FEDERAL ADJUSTMENTS REPORTED TO NONRESIDENT PARTNERS THAT ARE DIRECT PARTNERS SUBJECT TO TAX UNDER SECTION 39-22-104, DETERMINE THE AMOUNT OF SUCH ADJUSTMENTS DERIVED FROM SOURCES WITHIN COLORADO UNDER SECTION 39-22-203 AND MULTIPLY THE RESULTING AMOUNT BY THE HIGHEST TAX RATE IN EFFECT UNDER SECTION 39-22-104.

(IV) FOR THE TOTAL DISTRIBUTIVE SHARES OF THE REMAINING FINAL FEDERAL ADJUSTMENTS REPORTED TO TIERED PARTNERS:

(A) DETERMINE THE AMOUNT OF SUCH ADJUSTMENTS WHICH IS OF A TYPE THAT IT WOULD BE SUBJECT TO SOURCING BY A NONRESIDENT PARTNER UNDER SECTION 39-22-109 AND THEN DETERMINE THE PORTION OF THIS AMOUNT THAT WOULD BE SOURCED TO THE STATE APPLYING THE RULES OF THAT SECTION;

(B) DETERMINE THE AMOUNT OF SUCH ADJUSTMENTS WHICH IS OF A TYPE THAT IT WOULD NOT BE SUBJECT TO SOURCING BY A NONRESIDENT PARTNER UNDER SECTION 39-22-109;

(C) DETERMINE THE PORTION OF THE AMOUNT DETERMINED IN SUBSECTION (3)(e)(IV)(B) OF THIS SECTION THAT CAN BE ESTABLISHED, UNDER RULES PROMULGATED BY THE EXECUTIVE DIRECTOR, TO BE PROPERLY ALLOCABLE TO NONRESIDENT PARTNERS THAT ARE INDIRECT PARTNERS OR OTHER PARTNERS NOT SUBJECT TO TAX ON THE ADJUSTMENTS OR THAT CAN BE EXCLUDED UNDER PROCEDURES FOR A MODIFIED REPORTING AND PAYMENT METHOD ALLOWED UNDER SUBSECTION (3)(g) OF THIS SECTION;

(V) MULTIPLY THE TOTAL OF THE AMOUNTS DETERMINED IN SUBSECTION (3)(e)(IV)(A) AND (3)(e)(IV)(B) OF THIS SECTION AND THEN REDUCED BY THE AMOUNT DETERMINED IN SUBSECTION (3)(e)(IV)(C) OF THIS SECTION BY THE HIGHEST TAX RATE IN EFFECT UNDER SECTION 39-22-104;

(VI) FOR THE TOTAL DISTRIBUTIVE SHARES OF THE REMAINING FINAL FEDERAL ADJUSTMENTS REPORTED TO RESIDENT PARTNERS THAT ARE DIRECT PARTNERS SUBJECT TO TAX UNDER SECTION 39-22-104, MULTIPLY THAT AMOUNT BY THE HIGHEST TAX RATE IN EFFECT UNDER SECTION 39-22-104; AND

(VII) ADD THE AMOUNTS DETERMINED IN SUBSECTIONS (3)(e)(II), (3)(e)(III), (3)(e)(V), AND (3)(e)(VI) OF THIS SECTION ALONG WITH PENALTY AND INTEREST AS PROVIDED IN SECTION 39-22-621.

(f) THE DIRECT AND INDIRECT PARTNERS OF AN AUDITED PARTNERSHIP THAT ARE TIERED PARTNERS AND ALL OF THE PARTNERS OF THOSE TIERED PARTNERS THAT ARE SUBJECT TO TAX UNDER THIS ARTICLE 22 ARE SUBJECT TO THE REPORTING AND PAYMENT REQUIREMENTS OF SUBSECTION (3)(b) OF THIS SECTION, AND THE TIERED PARTNERS ARE ENTITLED TO MAKE THE ELECTIONS PROVIDED IN SUBSECTION (3)(d)

AND (3)(g) OF THIS SECTION. THE TIERED PARTNERS OR THEIR PARTNERS SHALL MAKE REQUIRED REPORTS AND PAYMENTS NO LATER THAN NINETY DAYS AFTER THE TIME FOR FILING AND FURNISHING STATEMENTS TO TIERED PARTNERS AND THEIR PARTNERS AS ESTABLISHED UNDER SECTION 6226 OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THEREUNDER. THE EXECUTIVE DIRECTOR MAY PROMULGATE RULES TO ESTABLISH PROCEDURES AND INTERIM TIME PERIODS FOR THE REPORTS AND PAYMENTS REQUIRED BY TIERED PARTNERS AND THEIR PARTNERS AND FOR MAKING THE ELECTIONS UNDER THIS SUBSECTION (3).

(g) UNDER PROCEDURES ADOPTED BY AND SUBJECT TO THE APPROVAL OF THE EXECUTIVE DIRECTOR, AN AUDITED PARTNERSHIP OR TIERED PARTNER MAY ENTER INTO AN AGREEMENT WITH THE EXECUTIVE DIRECTOR TO UTILIZE AN ALTERNATIVE REPORTING AND PAYMENT METHOD, INCLUDING APPLICABLE TIME REQUIREMENTS OR ANY OTHER PROVISION OF THIS SUBSECTION (3), IF THE AUDITED PARTNERSHIP OR TIERED PARTNER DEMONSTRATES THAT THE REQUESTED METHOD WILL REASONABLY PROVIDE FOR THE REPORTING AND PAYMENT OF TAXES, PENALTIES, AND INTEREST DUE UNDER THE PROVISIONS OF THIS SUBSECTION (3) OR IF THE AUDITED PARTNERSHIP OR TIERED PARTNER CAN SHOW THAT THEIR DIRECT PARTNERS HAVE AGREED TO ALLOW A REFUND OF THE STATE TAX TO THE ENTITY. APPLICATION FOR APPROVAL OF AN ALTERNATIVE REPORTING AND PAYMENT METHOD MUST BE MADE BY THE AUDITED PARTNERSHIP OR TIERED PARTNER WITHIN THE TIME FOR ELECTION AS PROVIDED IN SUBSECTION (3)(d) OR (3)(f) OF THIS SECTION, AS APPROPRIATE.

(h) (I) THE ELECTION MADE PURSUANT TO SUBSECTION (3)(d) OR (3)(g) OF THIS SECTION IS IRREVOCABLE, UNLESS THE EXECUTIVE DIRECTOR, IN THE EXECUTIVE DIRECTOR'S DISCRETION, DETERMINES OTHERWISE.

(II) IF PROPERLY REPORTED AND PAID BY THE AUDITED PARTNERSHIP OR TIERED PARTNER, THE AMOUNT DETERMINED IN SUBSECTION (3)(e) OF THIS SECTION, OR SIMILARLY UNDER AN OPTIONAL ELECTION UNDER SUBSECTION (3)(g) OF THIS SECTION, WILL BE TREATED AS PAID IN LIEU OF TAXES OWED BY ITS DIRECT AND INDIRECT PARTNERS, TO THE EXTENT APPLICABLE, ON THE SAME FINAL FEDERAL ADJUSTMENTS. THE DIRECT PARTNERS OR INDIRECT PARTNERS MAY NOT TAKE ANY DEDUCTION OR CREDIT FOR THIS AMOUNT OR CLAIM A REFUND OF THE AMOUNT IN THE STATE. NOTHING IN THIS SUBSECTION (3)(h)(II) PRECLUDES A RESIDENT PARTNER THAT IS A DIRECT PARTNER FROM CLAIMING A CREDIT AGAINST TAXES PAID TO THE STATE PURSUANT TO SECTION 39-22-108 FOR ANY AMOUNTS PAID BY THE AUDITED PARTNERSHIP OR TIERED PARTNER ON THE RESIDENT PARTNER'S BEHALF TO ANOTHER STATE OR LOCAL TAX JURISDICTION.

(i) NOTHING IN THIS SUBSECTION (3) PREVENTS THE EXECUTIVE DIRECTOR FROM ASSESSING DIRECT PARTNERS OR INDIRECT PARTNERS FOR TAXES THEY OWE, USING THE BEST INFORMATION AVAILABLE, IF A PARTNERSHIP OR TIERED PARTNER FAILS TO TIMELY MAKE ANY REPORT OR PAYMENT REQUIRED BY THIS SUBSECTION (3) FOR ANY REASON.

(4) THE EXECUTIVE DIRECTOR MAY PROMULGATE RULES TO ESTABLISH A DE MINIMIS AMOUNT UPON WHICH A TAXPAYER SHALL NOT BE REQUIRED TO COMPLY WITH SUBSECTIONS (2) AND (3) OF THIS SECTION.

(5) THE EXECUTIVE DIRECTOR SHALL ASSESS ADDITIONAL TAX, INTEREST, AND

PENALTIES ARISING FROM FINAL FEDERAL ADJUSTMENTS ARISING FROM AN AUDIT BY THE INTERNAL REVENUE SERVICE, INCLUDING A PARTNERSHIP LEVEL AUDIT, OR REPORTED BY THE TAXPAYER ON AN AMENDED FEDERAL INCOME TAX RETURN OR AS PART OF AN ADMINISTRATIVE ADJUSTMENT REQUEST ON OR BEFORE THE FOLLOWING DATES:

(a) IF A TAXPAYER FILES WITH THE EXECUTIVE DIRECTOR A FEDERAL ADJUSTMENTS REPORT OR AN AMENDED RETURN AS REQUIRED WITHIN THE PERIOD SPECIFIED IN SUBSECTION (2) OR (3) OF THIS SECTION, THE EXECUTIVE DIRECTOR MAY ASSESS ANY AMOUNTS, INCLUDING IN-LIEU-OF AMOUNTS, TAXES, INTEREST, AND PENALTIES ARISING FROM THOSE FEDERAL ADJUSTMENTS, IF THE EXECUTIVE DIRECTOR ISSUES A NOTICE OF DEFICIENCY TO THE TAXPAYER ON OR BEFORE THE LATER OF:

(I) THE EXPIRATION OF THE LIMITATIONS PERIOD SPECIFIED IN SECTION 39-21-107 (2); OR

(II) THE EXPIRATION OF THE ONE-YEAR PERIOD FOLLOWING THE DATE OF FILING WITH THE EXECUTIVE DIRECTOR OF THE FEDERAL ADJUSTMENTS REPORT.

(b) IF THE TAXPAYER FAILS TO FILE THE FEDERAL ADJUSTMENTS REPORT WITHIN THE PERIOD SPECIFIED IN SUBSECTION (2) OR (3) OF THIS SECTION, AS APPROPRIATE, OR THE FEDERAL ADJUSTMENTS REPORT FILED BY THE TAXPAYER OMITS FINAL FEDERAL ADJUSTMENTS OR UNDERSTATES THE CORRECT AMOUNT OF TAX OWED, THE EXECUTIVE DIRECTOR MAY ASSESS ANY TAXES, INTEREST, AND PENALTIES ARISING FROM THE FINAL FEDERAL ADJUSTMENTS IF THE EXECUTIVE DIRECTOR ISSUES A NOTICE OF DEFICIENCY TO THE TAXPAYER ON OR BEFORE THE LATER OF:

(I) THE EXPIRATION OF THE LIMITATIONS PERIOD SPECIFIED IN SECTION 39-21-107 (2);

(II) THE EXPIRATION OF THE ONE-YEAR PERIOD FOLLOWING THE DATE THE FEDERAL ADJUSTMENTS REPORT WAS FILED WITH THE EXECUTIVE DIRECTOR; OR

(III) IN THE ABSENCE OF FRAUD, THE EXPIRATION OF THE SIX-YEAR PERIOD FOLLOWING THE FINAL DETERMINATION DATE.

(6) A TAXPAYER MAY MAKE ESTIMATED PAYMENTS TO THE EXECUTIVE DIRECTOR, FOLLOWING THE PROCESS PRESCRIBED BY THE EXECUTIVE DIRECTOR, OF THE COLORADO TAX EXPECTED TO RESULT FROM A PENDING INTERNAL REVENUE SERVICE AUDIT PRIOR TO THE DUE DATE OF THE FEDERAL ADJUSTMENTS REPORT WITHOUT HAVING TO FILE THE REPORT WITH THE EXECUTIVE DIRECTOR. THE ESTIMATED TAX PAYMENTS SHALL BE CREDITED AGAINST ANY TAX LIABILITY ULTIMATELY FOUND TO BE DUE TO COLORADO AND WILL LIMIT THE ACCRUAL OF FURTHER STATUTORY INTEREST ON THAT AMOUNT. IF THE ESTIMATED TAX PAYMENTS EXCEED THE FINAL TAX LIABILITY AND STATUTORY INTEREST ULTIMATELY DETERMINED TO BE DUE, THE TAXPAYER IS ENTITLED TO A REFUND OR CREDIT FOR THE EXCESS IF THE TAXPAYER FILES A FEDERAL ADJUSTMENTS REPORT OR CLAIM FOR REFUND OR CREDIT OF TAX NO LATER THAN ONE YEAR FOLLOWING THE FINAL DETERMINATION DATE.

(7) (a) EXCEPT FOR FINAL FEDERAL ADJUSTMENTS REQUIRED TO BE REPORTED FOR

FEDERAL PURPOSES BY TAKING THOSE ADJUSTMENTS INTO ACCOUNT IN THE PARTNERSHIP RETURN FOR THE YEAR OF ADJUSTMENT, A TAXPAYER MAY FILE A CLAIM FOR REFUND OR CREDIT OF TAX ARISING FROM FEDERAL ADJUSTMENTS MADE BY THE INTERNAL REVENUE SERVICE ON OR BEFORE THE LATER OF:

(I) THE EXPIRATION OF THE LAST DAY FOR FILING A CLAIM FOR REFUND OR CREDIT OF TAX PURSUANT TO SECTION 39-21-108 (1), INCLUDING ANY EXTENSIONS; OR

(II) ONE YEAR FROM THE DATE A FEDERAL ADJUSTMENTS REPORT PRESCRIBED IN SUBSECTION (2) OR (3) OF THIS SECTION, AS APPLICABLE, WAS DUE TO THE EXECUTIVE DIRECTOR, INCLUDING ANY EXTENSIONS PURSUANT TO SUBSECTION (8) OF THIS SECTION.

(b) THE FEDERAL ADJUSTMENTS REPORT IS THE MEANS FOR THE TAXPAYER TO REPORT ADDITIONAL TAX DUE, REPORT A CLAIM FOR REFUND OR CREDIT OF TAX, AND MAKE OTHER ADJUSTMENTS INCLUDING TO ITS NET OPERATING LOSSES RESULTING FROM ADJUSTMENTS TO THE TAXPAYER'S FEDERAL TAXABLE INCOME. ANY REFUND GRANTED TO THE ENTITY UNDER SUBSECTION (3) OF THIS SECTION IS IN LIEU OF STATE TAX THAT MAY BE OWED TO THE PARTNERS.

(8) (a) UNLESS OTHERWISE AGREED TO IN WRITING BY THE TAXPAYER AND THE EXECUTIVE DIRECTOR, ANY ADJUSTMENTS BY THE EXECUTIVE DIRECTOR OR BY THE TAXPAYER MADE AFTER THE EXPIRATION OF THE PERIOD DESCRIBED IN SECTION 39-21-107 (2) OR 39-21-108 (1), AS APPLICABLE, IS LIMITED TO CHANGES TO THE TAXPAYER'S TAX LIABILITY ARISING FROM FEDERAL ADJUSTMENTS.

(b) THE PERIODS PROVIDED FOR IN THIS SECTION MAY BE EXTENDED:

(I) AUTOMATICALLY, UPON WRITTEN NOTICE TO THE EXECUTIVE DIRECTOR, BY SIXTY DAYS FOR AN AUDITED PARTNERSHIP OR TIERED PARTNER WHICH HAS TEN THOUSAND OR MORE DIRECT PARTNERS; OR

(II) BY WRITTEN AGREEMENT BETWEEN THE TAXPAYER AND THE EXECUTIVE DIRECTOR.

(c) ANY EXTENSION GRANTED UNDER THIS SUBSECTION (8) FOR FILING THE FEDERAL ADJUSTMENTS REPORT EXTENDS THE LAST DAY PRESCRIBED BY LAW FOR ASSESSING ANY ADDITIONAL TAX ARISING FROM THE ADJUSTMENTS TO FEDERAL TAXABLE INCOME AND THE PERIOD FOR FILING A CLAIM FOR REFUND OR CREDIT OF TAXES.

(9) THIS SECTION APPLIES TO ANY ADJUSTMENTS TO A TAXPAYER'S FEDERAL TAXABLE INCOME WITH A FINAL DETERMINATION DATE OCCURRING ON AND AFTER JANUARY 1, 2024.

SECTION 3. In Colorado Revised Statutes, 39-22-608, **amend** (2) as follows:

39-22-608. Form, place, and date of filing return - extension - electronic filing. (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (2)(b) OF THIS SECTION, all returns ~~shall~~ REQUIRED BY SECTION 39-22-601 MUST be filed in the office of the executive director on or before the fifteenth day of the fourth month following the

close of the taxable year. ~~The executive director may grant a reasonable extension of time for filing returns and for paying the tax under such rules and regulations as he shall prescribe.~~

(b) FOR TAXABLE YEARS BEGINNING ON AND AFTER JANUARY 1, 2024, EVERY C CORPORATION SUBJECT TO TAXATION UNDER THIS ARTICLE 22 SHALL FILE THE RETURN REQUIRED BY SECTION 39-22-601 (2) IN THE OFFICE OF THE EXECUTIVE DIRECTOR ON OR BEFORE THE FIFTEENTH DAY OF THE FIFTH MONTH FOLLOWING THE CLOSE OF THE TAXABLE YEAR.

(c) THE EXECUTIVE DIRECTOR MAY GRANT A REASONABLE EXTENSION OF TIME FOR FILING RETURNS AND FOR PAYING THE TAX PURSUANT TO RULES PRESCRIBED BY THE EXECUTIVE DIRECTOR.

SECTION 4. In Colorado Revised Statutes, 39-21-107, **amend** (2) as follows:

39-21-107. Limitations. (2) In the case of an income tax imposed by article 22 of this title 39, unless such time is extended by waiver and except as provided in subsection (2.5) of this section, ~~and~~ section 39-22-601 (6)(e), AND SECTION 39-22-601.5, the assessment of any tax, penalties, and interest shall be made within one year after the expiration of the time provided for assessing a deficiency in federal income tax or changing the reported federal taxable income of a partnership, limited liability company, or fiduciary; ~~including any extensions of such period by agreement between the taxpayer and the federal taxing authorities;~~ except that a written proposed adjustment of the tax liability by the department ~~shall~~ MUST extend the limitation of this subsection (2) for one year after a final determination or assessment is made. ~~and except that, if the taxpayer has been audited by the department for the year in question and the issues raised in the audit have been settled by agreement for payment or payment of deficiencies arising therefrom, then any additional assessment shall be limited to deficiencies arising as a result of adjustments made by the commissioner of internal revenue in the final determination of federal taxable income.~~ An assessment of income taxes having been made according to law ~~shall~~ MUST be good and valid and collection thereof may be enforced at any time within six years from the date of said assessment.

SECTION 5. In Colorado Revised Statutes, 39-21-108, **amend** (1)(a) as follows:

39-21-108. Refunds. (1) (a) In the case of income tax imposed by article 22 of this ~~title~~ TITLE 39, EXCEPT AS PROVIDED IN SECTION 39-22-601.5, 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 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~~ MAY 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~~ TITLE 39, 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~~ ARTICLE 21 MUST 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. This subsection (1) ~~shall~~ DOES not apply to sales and use taxes.

SECTION 6. In Colorado Revised Statutes, 39-21-119.5, **amend** (2)(a)(II) and (2)(a)(IV) as follows:

39-21-119.5. Mandatory electronic filing of returns - mandatory electronic payment - penalty - waiver - definitions. (2) Except as provided in subsection (6) of this section, the executive director may, as specified in subsection (3) of this section, require the electronic filing of returns and require the payment of any tax or fee due by electronic funds transfer for the following:

(a) Any income tax return required for:

(II) ~~A~~ AN S corporation pursuant to ~~section 39-22-601 (2.5)~~ SECTION 39-22-601 (2.7), INCLUDING THE INFORMATION REPORTS REQUIRED BY SECTION 39-22-601 (2.7)(b), COMPOSITE RETURNS FILED ON BEHALF OF NONRESIDENT SHAREHOLDERS, AND AGREEMENTS FILED UNDER SECTION 39-22-601 (2.7)(e);

(IV) A partnership pursuant to ~~section 39-22-601 (5)~~ SECTION 39-22-601 (5.5), including THE INFORMATION REPORTS REQUIRED BY SECTION 39-22-601 (5.5)(b), composite returns filed on behalf of nonresident partners, AND agreements filed under ~~section 39-22-601 (5)(e), and payments made under section 39-22-601 (5)(h)~~ SECTION 39-22-601 (5.5)(e);

SECTION 7. In Colorado Revised Statutes, **repeal** 39-22-328 as follows:

39-22-328. Returns. ~~An S corporation which engages in activity in this state shall be subject to the requirements of section 39-22-601 (2.5).~~

SECTION 8. In Colorado Revised Statutes, 39-22-344, **amend** (5) as follows:

39-22-344. Imposition of tax. (5) The provisions of ~~sections 39-22-601 (2.5)(d) through (2.5)(i) and (5)(d) through (5)(i)~~ SECTION 39-22-601 (2.7)(d) AND (5.5)(d) are not applicable to an electing pass-through entity.

SECTION 9. Act subject to petition - effective date. Sections 6, 7, and 8 of this act take effect January 1, 2024, and the remainder of this act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adornment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2024 and, in such case, on the date of the official declaration of the vote thereon by the governor.

Approved: June 1, 2023