

CHAPTER 89

TAXATION

HOUSE BILL 20-1176

BY REPRESENTATIVE(S) Valdez D., Arndt, McKean, Van Winkle, Snyder;
also SENATOR(S) Tate, Moreno, Woodward, Zenzinger.

AN ACT**CONCERNING MODIFICATIONS TO THE INCOME TAX STATUTES IN ORDER TO ADDRESS CERTAIN
DEFECTS AND ANACHRONISMS.**

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

SECTION 1. In Colorado Revised Statutes, 39-22-104, **repeal** (4)(a.5), (4)(j), and (4)(k) as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - legislative declaration - definitions - repeal. (4) There shall be subtracted from federal taxable income:

~~(a.5) For income tax years commencing on and after January 1, 1990, an amount equal to any interest income earned on Colorado investment deposits issued by qualified financial institutions pursuant to article 37 of title 11, C.R.S., as that article existed prior to its repeal on July 1, 2004, to the extent included in federal taxable income, but not to exceed twenty thousand dollars in any taxable year;~~

~~(j) For income tax years commencing on or after January 1, 2000, for two individuals whose federal taxable income is determined on a joint federal return and who claim the basic standard deduction allowable under section 63 (c)(2) of the internal revenue code, an amount equal to the difference between an amount equal to double the amount of the basic standard deduction allowable under section 63 (c)(2) of the internal revenue code in the case of an individual federal return for an individual who is not the head of a household and the amount of the basic standard deduction allowable under section 63 (c)(2) of the internal revenue code in the case of a joint federal return;~~

~~(k) For income tax years commencing on or after January 1, 2000, for two~~

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.

individuals whose federal taxable income is determined on a joint federal return and who claim itemized deductions in an amount that is greater than the amount of the basic standard deduction allowable under section 63 (c)(2) of the internal revenue code plus any additional standard deduction allowable under section 63 (c)(3) of the internal revenue code, if applicable, in the case of a joint federal return, but less than double the amount of the basic standard deduction allowable under section 63 (c)(2) of the internal revenue code plus any additional standard deduction allowable under section 63 (c)(3) of the internal revenue code, if applicable, in the case of an individual federal return for an individual who is not the head of a household, an amount equal to the difference between an amount equal to double the amount of such basic standard deduction allowable in the case of an individual federal return for an individual who is not the head of a household plus any additional standard deduction allowable to either individual and the amount of the itemized deductions claimed by the resident individuals;

SECTION 2. In Colorado Revised Statutes, **repeal** 39-22-534 as follows:

39-22-534. Credit for estate taxes paid - agricultural land - recapture - definitions. ~~(1)(a) Except as set forth in subsection (3) of this section, for income tax years specified in paragraph (b) of this subsection (1), a person who inherits agricultural land located within the state is allowed a credit in an amount equal to the amount of estate taxes paid pursuant to article 23.5 of this title that are attributable to the transfer of such agricultural land. A taxpayer must claim the credit for the income tax year in which the estate taxes are paid. For purposes of this section, the value of the agricultural land is the current assessed valuation. If more than one person inherits the agricultural land, the tax credit is apportioned among all beneficiaries.~~

~~(b) The credit shall not apply until the first income tax year:~~

~~(I) After congress enacts a law delaying to a date after December 31, 2012, the sunset of the amendments to section 26 U.S.C. sec. 2011 that were included in the "Economic Growth and Tax Relief Reconciliation Act of 2001", Public Law 107-16; and~~

~~(II) That an estate tax is owed pursuant to article 23.5 of this title.~~

~~(2) If the amount of the credit exceeds the income taxes owed by the taxpayer, the department of revenue shall refund the excess amount to the taxpayer.~~

~~(3) (a) If, within ten years from the date the income tax credit created by this section is claimed, the property that was the basis of the credit is no longer classified as agricultural land for property tax purposes, the credit shall be disallowed and, within thirty days of the change in use, the taxpayer who received the tax credit shall file an amended Colorado income tax return for the tax year that the credit was claimed. Interest shall be due on the taxes owed from the due date of the original return. Notwithstanding any provision of law to the contrary, the annual rate of interest for an amount owed pursuant to this subsection (3) for a given year shall be equal to the rate of inflation for the prior year.~~

~~(b) Notwithstanding the provisions of section 39-21-107 (2), the assessment of~~

~~the tax due as a result of any disallowance of the credit allowed by this section, plus any penalty or interest, shall be made within eleven years of the due date of the return claiming the credit. If the taxpayer does not file the amended return within the prescribed thirty-day period, then the statute of limitations shall be tolled from the end of such thirty-day period until the date that such amended return is filed with the executive director or until the executive director discovers such determination or change, whichever occurs first.~~

~~(4) As used in this section:~~

~~(a) "Agricultural land" has the same meaning as set forth in section 39-1-102.~~

~~(b) "Rate of inflation" means the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its applicable predecessor or successor index.~~

SECTION 3. In Colorado Revised Statutes, 39-22-601, **amend** (2.5)(f) introductory portion, (2.5)(f)(I), (5)(f) introductory portion, and (5)(f)(I) as follows:

39-22-601. Returns. (2.5) (f) The agreement referred to in ~~paragraph (e) of this subsection (2.5)~~ SUBSECTION (2.5)(e) OF THIS SECTION is an agreement of a nonresident shareholder of the S corporation:

~~(I) To file a return in accordance with the provisions of paragraph (a) of this subsection (2.5)~~ THIS SECTION and to make timely payment of all taxes imposed on the shareholder by this state with respect to the income of the S corporation; and

~~(5) (f) The agreement referred to in paragraph (e) of this subsection (5)~~ SUBSECTION (5)(e) OF THIS SECTION is an agreement of a nonresident partner of the partnership:

~~(I) To file a return in accordance with the provisions of paragraph (a) of this subsection (5)~~ THIS SECTION and to make timely payment of all taxes imposed on the member by this state with respect to the income of the partnership; and

SECTION 4. In Colorado Revised Statutes, 39-22-605, **amend** (2)(c), (7)(a), (8)(a), (8)(b) introductory portion, and (8)(b)(II) as follows:

39-22-605. Failure by individual to pay estimated income tax. (2) As used in this section, unless the context otherwise requires:

(c) "Tax" or "tax liability" means the tax imposed under this article minus the credits against tax provided by this article other than the credits against tax for withholding pursuant to sections **39-22-601 (4)**, 39-22-604, and 39-22-604.5 and credits against tax for the sales tax refund pursuant to section 39-22-2003.

(7)(a) No addition to tax shall be imposed under subsection (3) of this section for any taxable year if the tax shown on the return for such taxable year or, if no return is filed, the tax, reduced by the credits allowable under sections **39-22-601 (4)**, 39-22-604, 39-22-604.5, and 39-22-2003, is less than one thousand dollars.

(8) (a) For purposes of applying this section, the amount of the credits allowed under sections ~~39-22-601 (4)~~, 39-22-604, 39-22-604.5, and 39-22-2003 for the taxable year shall be deemed a payment of estimated tax and an equal part of such amount shall be deemed paid on each due date for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

(b) The taxpayer may apply ~~paragraph (a) of this subsection (8)~~ SUBSECTION (8)(a) OF THIS SECTION separately with respect to the following:

(II) All other amounts withheld for which credits are allowed under sections ~~39-22-601 (4)~~, 39-22-604, 39-22-604.5, and 39-22-2003.

SECTION 5. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); 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 such period, 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 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to income tax years on or after the applicable effective date of this act.

Approved: March 27, 2020