

CHAPTER 5

INSURANCE

HOUSE BILL 20B-1006

BY REPRESENTATIVE(S) Arndt, Benavidez, Bird, Buckner, Buentello, Champion, Coleman, Cutter, Duran, Esgar, Froelich, Garnett, Gonzales-Gutierrez, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Lontine, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Singer, Snyder, Sullivan, Tipper, Titone, Valdez A., Valdez D., Weissman, Woodrow, Becker;
also SENATOR(S) Zenzinger, Bridges, Danielson, Donovan, Fenberg, Fields, Ginal, Gonzales, Hansen, Lee, Pettersen, Priola, Rankin, Story, Tate, Todd, Williams A., Winter, Garcia.

AN ACT

CONCERNING MODIFICATIONS TO THE INSURANCE PREMIUM TAX, AND, IN CONNECTION THEREWITH, MODIFYING HOW CREDITS AGAINST PREMIUM TAX PAYMENTS MAY BE CLAIMED OR TRANSFERRED, ADJUSTING HOW ESTIMATED QUARTERLY TAXES ARE CALCULATED, AND ALLOWING A COMPANY TO CLAIM A REFUND FOR OVERPAYMENTS OF ESTIMATED PREMIUM TAX LIABILITY.

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

SECTION 1. In Colorado Revised Statutes, 10-3-209, **amend** (3)(b), (3)(c), and (3)(d) as follows:

10-3-209. Tax on premiums collected - exemptions - penalties. (3) (b) Such estimated taxes shall become due and payable on the last day of the month following the close of any calendar quarter of the year, except for the fourth quarter which shall be due March 1 and shall include adjustments for the preceding calendar year. Any company failing or refusing to pay such estimated taxes for more than thirty days after the time specified shall be liable to a penalty of up to one hundred dollars for each additional day of delinquency, to be assessed by the commissioner. Failure of a company to make quarterly payments, if required, each payment to be of at least one-fourth of either the total tax paid during the preceding calendar year or eighty percent of the actual quarterly tax for the current calendar year, whichever is ~~greater~~ LESSER, shall be considered and treated the same as a failure or refusal to pay the estimated taxes and shall subject the company to the penalties provided in this ~~paragraph~~ SUBSECTION (3)(b). The amount of estimated taxes and the penalties collected shall be paid to the division of insurance; and the commissioner may suspend the certificate of authority of such delinquent company until such estimated

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.

taxes and penalty, should any penalty be imposed, are fully paid.

(c) Estimated taxes paid pursuant to this subsection (3) shall be based on the estimated amount of taxable premiums during the preceding calendar quarter. ~~Except for the first calendar quarter of any year,~~ Calendar quarter estimates of taxes may include adjustments for any previous calendar quarter estimates of taxes and ALLOWABLE TAX CREDITS CLAIMED BY THE COMPANY IN ACCORDANCE WITH PART 1 OF ARTICLE 3.5 OF TITLE 10, PART 2 OF ARTICLE 36 OF TITLE 24, PART 2 OF ARTICLE 46 OF TITLE 24, PART 21 OF ARTICLE 22 OF TITLE 39, OR ANY OTHER LAW AUTHORIZING A CREDIT AGAINST PREMIUM TAX LIABILITY. Estimated taxes shall be paid on the basis of such adjusted estimates.

(d) (I) Adjustments in payments of estimated taxes for any calendar year shall be made at the time of the filing of the annual statement required under section 10-3-208 and the payment of taxes required by this section. IF, UPON THE FILING OF THE ANNUAL STATEMENT, A COMPANY HAS OVERPAID ITS TAXES FOR ANY CALENDAR YEAR, THE COMPANY MAY EITHER APPLY THE OVERPAYMENT TO ITS CALENDAR QUARTER ESTIMATES OF TAXES IN A SUBSEQUENT CALENDAR YEAR OR CLAIM A REFUND FOR THE AMOUNT OF THE OVERPAYMENT. If a company claims a refund, it shall file for such refund at the time of filing such annual statement, and, if the commissioner claims a deficiency, ~~he~~ THE COMMISSIONER shall notify the deficient company thereof.

(II) IN CALCULATING THE AMOUNT OF A REFUND CLAIMED PURSUANT TO SUBSECTION (3)(d)(I) OF THIS SECTION, THE VALUE OF A NONREFUNDABLE TAX CREDIT CLAIMED BY THE COMPANY MUST BE APPLIED FIRST TO THE COMPANY'S TOTAL TAX LIABILITY, PRIOR TO APPLYING ANY OTHER PAYMENT MADE BY THE COMPANY REGARDLESS OF THE ORDER IN WHICH SUCH PAYMENTS OR CREDITS WERE RECEIVED. THE REFUND MUST NOT EXCEED THE TOTAL AMOUNT OF ANY ADDITIONAL PAYMENTS MADE BY THE COMPANY.

SECTION 2. In Colorado Revised Statutes, 24-36-203, **amend** (10) as follows:

24-36-203. Definitions. As used in this part 2, unless the context otherwise requires:

(10) "Qualified taxpayer" means an insurance company authorized to do business in Colorado that has premium tax liability owing to the state and that purchases a tax credit under this part 2. "Qualified taxpayer" also includes an insurance company that receives or assumes a tax credit transferred in accordance with section 24-36-206 (7)(e) or 24-36-207 (6), OR THAT RECEIVES OR ASSUMES A TAX CREDIT AS AN AFFILIATE OF A QUALIFIED TAXPAYER OR TRANSFEREE. FOR PURPOSES OF THIS SUBSECTION (10), "AFFILIATE" HAS THE SAME MEANING AS SET FORTH IN SECTION 10-3-801 (1).

SECTION 3. In Colorado Revised Statutes, 24-36-206, **amend** (6)(e) as follows:

24-36-206. Small business recovery tax credits - authorization to issue - terms - report. (6) On receipt of payment of the sale proceeds, the department shall issue to each qualified taxpayer a tax credit certificate. The tax credit certificate must state all of the following:

(e) The procedures to be used for transferring or assuming the tax credits in accordance with subsection (7)(e) of this section or section 24-36-207 (6), OR BETWEEN AFFILIATES AS DEFINED IN SECTION 10-3-801 (1);

SECTION 4. In Colorado Revised Statutes, 24-36-207, **amend** (1) and (2) as follows:

24-36-207. Use of small business recovery tax credits - carry over. (1) For a tax credit certificate issued in fiscal year 2020-21:

(a) ~~In calendar year 2026~~; The qualified taxpayer may claim up to fifty percent of the credit against premium tax liability incurred for a taxable year that begins on or after January 1, 2025; EXCEPT THAT A TAXPAYER MAY NOT REDUCE ITS ESTIMATED TAX PAYMENTS IN PROPORTION TO SUCH CREDIT PRIOR TO JULY 1, 2025; and

(b) ~~Beginning in calendar year 2027~~; The qualified taxpayer may claim the remaining amount of the credit against premium tax liability incurred for a taxable year that begins on or after January 1, 2026; EXCEPT THAT A TAXPAYER MAY NOT REDUCE ITS ESTIMATED TAX PAYMENTS IN PROPORTION TO SUCH CREDIT PRIOR TO JULY 1, 2026.

(2) For a tax credit certificate issued in fiscal year 2021-22, ~~beginning in calendar year 2028~~, the qualified taxpayer may claim the credit against premium tax liability incurred for a taxable year that begins on or after January 1, 2027; EXCEPT THAT A TAXPAYER MAY NOT REDUCE ITS ESTIMATED TAX PAYMENTS IN PROPORTION TO SUCH CREDIT PRIOR TO JULY 1, 2027.

SECTION 5. In Colorado Revised Statutes, 39-22-2105, **amend** (1) as follows:

39-22-2105. Parallel credits - insurance premium taxes. (1) Any taxpayer who is subject to the tax on insurance premiums established by sections 10-3-209, 10-5-111, and 10-6-128 ~~C.R.S.~~; and who is therefore exempt from the payment of income tax and who is otherwise eligible to claim a credit pursuant to this part 21 may claim such credit and carry such credit forward against such insurance premium tax ON ITS CALENDAR QUARTER ESTIMATED TAX PAYMENTS MADE IN ACCORDANCE WITH SECTION 10-3-209 to the same extent as the taxpayer would have been able to claim or carry forward such credit or refund against income tax. All other provisions of this part 21 with respect to the credit, including the amount, allocation, and recapture of the credit and the years for which the credit may be claimed shall apply to a credit claimed pursuant to this section.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: December 7, 2020