

CHAPTER 309

TAXATION

SENATE BILL 98-158

BY SENATORS Phillips, Bishop, Matsunaka, Rupert, Linkhart, Martinez, Pascoe, Reeves, Rizzuto, Tanner, and Thiebaut; also REPRESENTATIVES Tool, Bacon, Chavez, Hagedorn, Mace, Nichol, Reeser, Romero, Saliman, Udall, Veiga, Williams, and Zimmerman.

AN ACT

CONCERNING A CHANGE IN STATE INCOME TAX POLICY PERTAINING TO EXPENSES RELATED TO CHILD CARE.

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

SECTION 1. 39-22-119 (2), (3), and (4), Colorado Revised Statutes, are amended, and the said 39-22-119 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

39-22-119. Expenses related to child care - credits against state tax. (1.5) (a) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, IF, FOR ANY INCOME TAX YEAR BEGINNING ON OR AFTER JANUARY 1, 1998, THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL YEAR ENDING IN THE IMMEDIATELY PRECEDING INCOME TAX YEAR EXCEEDED THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION AND THE VOTERS STATEWIDE DID NOT AUTHORIZE THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS STATE REVENUES FOR THAT STATE FISCAL YEAR, THEN A RESIDENT INDIVIDUAL SHALL NOT BE ALLOWED A CREDIT FOR CHILD CARE EXPENSES UNDER SUBSECTION (1) OF THIS SECTION BUT SHALL BE ALLOWED CREDITS FOR EXPENSES RELATED TO CHILD CARE AS FOLLOWS:

(I) A RESIDENT INDIVIDUAL WHO CLAIMS A CREDIT FOR CHILD CARE EXPENSES ON THE INDIVIDUAL'S FEDERAL TAX RETURN SHALL BE ALLOWED A CHILD CARE EXPENSES CREDIT AGAINST THE INCOME TAXES DUE ON THE INDIVIDUAL'S INCOME UNDER THIS ARTICLE IN AN AMOUNT EQUAL TO FIFTY PERCENT OF THE CREDIT FOR CHILD CARE EXPENSES CLAIMED ON THE INDIVIDUAL'S FEDERAL TAX RETURN; EXCEPT THAT SUCH CREDIT SHALL BE REDUCED BY THE AMOUNT OF ANY CREDIT CLAIMED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH (a).

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

(II) A RESIDENT INDIVIDUAL WHO CLAIMS A CHILD TAX CREDIT FOR ONE OR MORE QUALIFYING CHILDREN PURSUANT TO SECTION 24 OF THE INTERNAL REVENUE CODE ON THE INDIVIDUAL'S FEDERAL TAX RETURN SHALL BE ALLOWED A CHILD TAX CREDIT AGAINST THE INCOME TAXES DUE ON THE INDIVIDUAL'S INCOME UNDER THIS ARTICLE IN THE AMOUNT OF TWO HUNDRED DOLLARS FOR EACH QUALIFYING CHILD WHO IS FIVE YEARS OF AGE OR UNDER AT THE END OF THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.

(b) A RESIDENT INDIVIDUAL WHOSE FEDERAL ADJUSTED GROSS INCOME IS SIXTY THOUSAND ONE DOLLARS OR MORE SHALL NOT BE ALLOWED A CREDIT UNDER THIS SUBSECTION (1.5).

(c) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SUBSECTION (1.5), IF, FOR ANY INCOME TAX YEAR BEGINNING ON OR AFTER JANUARY 1, 1998, THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL YEAR ENDING IN THE IMMEDIATELY PRECEDING INCOME TAX YEAR EXCEEDED THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION AND THE VOTERS STATEWIDE DID NOT AUTHORIZE THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS STATE REVENUES FOR THAT STATE FISCAL YEAR BUT THE TOTAL AMOUNT REQUIRED TO BE REFUNDED PURSUANT TO SECTION 20 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION IS LESS THAN THE TOTAL AMOUNT OF THE CREDITS THAT WOULD BE ALLOWED UNDER THIS SUBSECTION (1.5), THEN A RESIDENT INDIVIDUAL SHALL NOT BE ALLOWED ANY CREDIT UNDER THIS SUBSECTION (1.5) BUT SHALL BE ALLOWED A CREDIT UNDER SUBSECTION (1) OF THIS SECTION.

(2) If the ~~credit~~ CREDITS allowed under ~~subsection~~ SUBSECTIONS (1) AND (1.5) of this section ~~exceeds~~ EXCEED the income taxes due on the resident individual's income, the amount of the ~~credit~~ CREDITS not used ~~as an~~ TO offset ~~against~~ income taxes ~~may~~ SHALL NOT be carried forward as a tax ~~credit~~ CREDITS against the resident individual's subsequent years' income tax liability ~~for a period not exceeding five years~~ and shall be ~~applied first to the earliest years possible~~ REFUNDED TO THE INDIVIDUAL.

(3) The child care expenses ~~credit~~ CREDITS allowed under ~~subsection~~ SUBSECTIONS (1) AND (1.5) of this section shall not be allowed to a resident individual who is receiving child care assistance from the state department of human services except to the extent of the taxpayer's unreimbursed out-of-pocket expenses that result in a federal credit for child care expense.

(4) In the case of a resident for part of a tax year, the ~~credit~~ CREDITS allowed by this section shall be apportioned in the ratio determined under section 39-22-110 (1).

SECTION 2. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 2, 1998