

CHAPTER 219

TAXATION

HOUSE BILL 00-1274

BY REPRESENTATIVES Dean, Alexander, Allen, Hefley, Hoppe, Lee, Miller, Scott, Spence, and Tapia;
also SENATORS Owen and Chlouber.

AN ACT

CONCERNING THE EXCLUSION OF QUALIFIED STATE TUITION PROGRAM CONTRIBUTIONS FROM FEDERAL TAXABLE INCOME FOR COLORADO STATE INCOME TAX PURPOSES.

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

SECTION 1. 39-22-104 (4) (i), Colorado Revised Statutes, is amended to read:

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

(i) (I) For income tax years commencing on ~~and~~ OR after January 1, 1998, an amount equal to the portion attributable to interest and other income of a distribution under a qualified state tuition program that is distributed for the purpose of meeting qualified higher education expenses of a designated beneficiary, to the extent such amount is included in federal taxable income;

(II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2001, AN AMOUNT EQUAL TO ALL PAYMENTS OR CONTRIBUTIONS MADE DURING THE TAXABLE YEAR UNDER AN ADVANCE PAYMENT CONTRACT, TO A SAVINGS TRUST ACCOUNT, OR OTHERWISE IN CONNECTION WITH A QUALIFIED STATE TUITION PROGRAM ESTABLISHED BY THE COLORADO STUDENT OBLIGATION BOND AUTHORITY CREATED IN SECTION 23-3.1-203, C.R.S., OR TO A QUALIFIED STATE TUITION PROGRAM THAT IS AFFILIATED WITH AN EDUCATIONAL INSTITUTION IN THE STATE AND THAT IS ESTABLISHED AND MAINTAINED PURSUANT TO SECTION 529 OF THE INTERNAL REVENUE CODE OR ANY SUCCESSOR SECTION.

(III) NO EXCLUSION SHALL BE ALLOWED PURSUANT TO THIS PARAGRAPH (i) TO THE EXTENT THAT SUCH PAYMENTS OR CONTRIBUTIONS ARE EXCLUDED FROM THE TAXPAYER'S FEDERAL TAXABLE INCOME FOR THE TAXABLE YEAR. ANY EXCLUSION

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

TAKEN UNDER THIS PARAGRAPH (i) SHALL BE SUBJECT TO RECAPTURE IN THE TAXABLE YEAR OR YEARS IN WHICH ANY DISTRIBUTION, REFUND, OR ANY OTHER WITHDRAWAL IS MADE PURSUANT TO AN ADVANCE PAYMENT CONTRACT, FROM A SAVINGS TRUST ACCOUNT, OR OTHERWISE IN CONNECTION WITH A QUALIFIED STATE TUITION PROGRAM FOR ANY REASON OTHER THAN:

(A) TO PAY QUALIFIED HIGHER EDUCATION EXPENSES;

(B) AS A RESULT OF THE BENEFICIARY'S DEATH OR DISABILITY; OR

(C) AS A RESULT OF RECEIVING A SCHOLARSHIP AND AS LONG AS THE AGGREGATE AMOUNT OF DISTRIBUTIONS, REFUNDS, OR WITHDRAWALS MADE PURSUANT TO THIS SUB-SUBPARAGRAPH (C) DO NOT EXCEED THE AMOUNT OF THE SCHOLARSHIP PROVIDED DURING SUCH TAX YEAR.

(IV) As used in this paragraph (i), "designated beneficiary" means a designated beneficiary as defined in section 529 (e) (1) of the internal revenue code, "qualified state tuition program" means a qualified state tuition program as defined in section 529 (b) of the internal revenue code, and "qualified higher education expenses" means qualified higher education expenses as defined in section 529 (e) (3) of the internal revenue code.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 25, 2000