

## CHAPTER 295

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**TAXATION**

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**HOUSE BILL 00-1053**

BY REPRESENTATIVES Mitchell, Allen, Bacon, Clapp, Clarke, Coleman, Decker, Fairbank, Hefley, Hoppe, Keller, Kester, King, Lee, McElhany, McKay, Paschall, Piffner, Plant, Saliman, Scott, Smith, Spence, Taylor, Tupa, Vigil, Webster, Windels, and Witwer;  
also SENATORS Blickensderfer, Anderson, Arnold, Evans, Hernandez, Linkhart, Reeves, Rupert, and Tebedo.

**AN ACT**

CONCERNING THE EXCLUSION FROM COLORADO TAXABLE INCOME OF CHARITABLE CONTRIBUTIONS  
MADE BY A NON-ITEMIZING TAXPAYER.

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

**SECTION 1.** 39-22-104 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

(m) (I) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (m), FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL YEAR ENDING IN THAT CALENDAR YEAR EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION AND THE VOTERS STATEWIDE EITHER HAVE NOT AUTHORIZED THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS STATE REVENUES OR HAVE AUTHORIZED THE STATE TO RETAIN AND SPEND ONLY A PORTION OF THE EXCESS STATE REVENUES FOR THAT FISCAL YEAR, FOR ANY INDIVIDUAL WHO CLAIMS THE BASIC STANDARD DEDUCTION ALLOWED UNDER SECTION 63 (c) (2) OF THE INTERNAL REVENUE CODE ON THE INDIVIDUAL'S FEDERAL RETURN AND, THEREFORE, CANNOT CLAIM AN ITEMIZED DEDUCTION FOR CHARITABLE CONTRIBUTIONS PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE, AN AMOUNT EQUAL TO THE AMOUNT OF ANY DEDUCTION BASED UPON THE AGGREGATE AMOUNT OF CHARITABLE CONTRIBUTIONS IN EXCESS OF FIVE HUNDRED DOLLARS THAT

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

THE INDIVIDUAL COULD HAVE CLAIMED PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE IF THE INDIVIDUAL HAD NOT CLAIMED THE BASIC STANDARD DEDUCTION.

(II) ANY STATE INCOME TAX MODIFICATION ALLOWED PURSUANT TO THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (m) SHALL BE PUBLISHED IN RULES PROMULGATED BY THE EXECUTIVE DIRECTOR IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND SHALL BE INCLUDED IN INCOME TAX FORMS FOR THAT TAXABLE YEAR.

(III) (A) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1, 2000, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT FISCAL YEAR BY LESS THAN THREE HUNDRED FIFTY MILLION DOLLARS, THEN THE STATE INCOME TAX MODIFICATION AUTHORIZED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (m) SHALL NOT BE ALLOWED FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2001.

(B) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2001, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT FISCAL YEAR BY LESS THAN THREE HUNDRED FIFTY MILLION DOLLARS, AS ADJUSTED PURSUANT TO SUB-SUBPARAGRAPHS (C), (D), (E), (F), AND (G) OF THIS SUBPARAGRAPH (III), THEN THE STATE INCOME TAX MODIFICATION AUTHORIZED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (m) SHALL NOT BE ALLOWED FOR THE INCOME TAX YEAR IN WHICH SAID STATE FISCAL YEAR ENDED.

(C) NO LATER THAN OCTOBER 1 OF ANY GIVEN CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL ANNUALLY ADJUST THE DOLLAR AMOUNT SPECIFIED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (III) TO REFLECT THE RATE OF GROWTH OF COLORADO PERSONAL INCOME FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH SUCH ADJUSTMENT IS MADE. FOR PURPOSES OF THIS SUB-SUBPARAGRAPH (C), "THE RATE OF GROWTH OF COLORADO PERSONAL INCOME" MEANS THE PERCENTAGE CHANGE BETWEEN THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE AND THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR PRIOR TO THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE.

(D) UPON CALCULATING THE ADJUSTMENT OF SAID DOLLAR AMOUNT IN ACCORDANCE WITH SUB-SUBPARAGRAPH (C) OF THIS SUBPARAGRAPH (III), THE

EXECUTIVE DIRECTOR SHALL NOTIFY IN WRITING THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL CREATED PURSUANT TO SECTION 2-3-301 (1), C.R.S., OF THE ADJUSTED DOLLAR AMOUNT AND THE BASIS FOR THE ADJUSTMENT. SUCH WRITTEN NOTIFICATION SHALL BE GIVEN WITHIN FIVE WORKING DAYS AFTER SUCH CALCULATION IS COMPLETED, BUT SUCH WRITTEN NOTIFICATION SHALL BE GIVEN NO LATER THAN OCTOBER 1 OF THE CALENDAR YEAR.

(E) IT IS THE FUNCTION OF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL TO REVIEW AND APPROVE OR DISAPPROVE THE ADJUSTMENT OF THE DOLLAR AMOUNT REQUIRED BY SUB-SUBPARAGRAPH (D) OF THIS SUBPARAGRAPH (III) WITHIN TWENTY DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR. ANY ADJUSTMENT THAT IS NOT APPROVED OR DISAPPROVED BY THE EXECUTIVE COMMITTEE WITHIN SAID TWENTY DAYS SHALL BE AUTOMATICALLY APPROVED; EXCEPT THAT, IF WITHIN SAID TWENTY DAYS THE EXECUTIVE COMMITTEE SCHEDULES A HEARING ON SUCH ADJUSTMENT, SUCH AUTOMATIC APPROVAL SHALL NOT OCCUR UNLESS THE EXECUTIVE COMMITTEE DOES NOT APPROVE OR DISAPPROVE SUCH ADJUSTMENT AFTER THE CONCLUSION OF SUCH HEARING. ANY HEARING CONDUCTED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS SUB-SUBPARAGRAPH (E) SHALL BE CONCLUDED NO LATER THAN TWENTY-FIVE DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR.

(F) IF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL DISAPPROVES ANY ADJUSTMENT OF SAID DOLLAR AMOUNT CALCULATED BY THE EXECUTIVE DIRECTOR PURSUANT TO SUB-SUBPARAGRAPHS (C) AND (D) OF THIS SUBPARAGRAPH (III), THE EXECUTIVE COMMITTEE SHALL SPECIFY SUCH ADJUSTED DOLLAR AMOUNT TO BE UTILIZED BY THE EXECUTIVE DIRECTOR. ANY ADJUSTED DOLLAR AMOUNT SPECIFIED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS SUB-SUBPARAGRAPH (F) SHALL BE CALCULATED IN ACCORDANCE WITH THE PROVISIONS OF SUB-SUBPARAGRAPHS (C), (D), AND (E) OF THIS SUBPARAGRAPH (III).

(G) FOR THE PURPOSE OF DETERMINING WHETHER THE INCOME TAX MODIFICATION AUTHORIZED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (m) IS TO BE ALLOWED FOR ANY GIVEN INCOME TAX YEAR, THE EXECUTIVE DIRECTOR SHALL NOT UTILIZE ANY ADJUSTED DOLLAR AMOUNT THAT HAS NOT BEEN APPROVED PURSUANT TO SUB-SUBPARAGRAPH (E) OF THIS SUBPARAGRAPH (III) OR OTHERWISE SPECIFIED PURSUANT TO SUB-SUBPARAGRAPH (F) OF THIS SUBPARAGRAPH (III).

(IV) IF ONE OR MORE BALLOT QUESTIONS THAT SEEK AUTHORIZATION FOR THE STATE TO RETAIN AND SPEND ALL EXCESS STATE REVENUES FOR THE IMMEDIATELY PRECEDING FISCAL YEAR ARE SUBMITTED TO THE VOTERS AT A STATEWIDE ELECTION TO BE HELD IN NOVEMBER OF ANY CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, THE EXECUTIVE DIRECTOR SHALL NOT DETERMINE WHETHER THE STATE INCOME TAX MODIFICATION AUTHORIZED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (m) SHALL BE ALLOWED AND SHALL NOT PROMULGATE RULES CONTAINING SAID STATE INCOME TAX MODIFICATION UNTIL THE IMPACT OF THE RESULTS OF SAID ELECTION ON THE EXCESS STATE REVENUES TO BE REFUNDED IS ASCERTAINED.

(V) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE STATE INCOME TAX MODIFICATION AUTHORIZED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (m) IS A REASONABLE METHOD OF REFUNDING A PORTION OF THE EXCESS STATE

REVENUES REQUIRED TO BE REFUNDED IN ACCORDANCE WITH SECTION 20 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION.

**SECTION 2. 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: May 31, 2000