

CHAPTER 35

TAXATION

HOUSE BILL 01-1001

BY REPRESENTATIVE(S) King, Cadman, Dean, Fairbank, Garcia, and Vigil;
also SENATOR(S) McElhany, Cairns, Dennis, Epps, Evans, Hernandez, Lamborn, Matsunaka, May, Perlmutter, and Taylor.

AN ACT

CONCERNING THE STATE SALES TAX REFUND PAYABLE TO QUALIFIED INDIVIDUALS WHEN STATE REVENUES ARE IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING.

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

SECTION 1. 39-22-2003 (3) (c), (3) (d), and (4) (a) (I), Colorado Revised Statutes, are amended, and the said 39-22-2003 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

39-22-2003. State sales tax refund - offset against state income tax - qualified individuals. (1.5) FOR PURPOSES OF THIS SECTION, "ADJUSTED GROSS INCOME" MEANS:

(a) FOR THE TAXABLE YEAR COMMENCING ON JANUARY 1, 1999, AND ENDING DECEMBER 31, 1999, AND FOR THE TAXABLE YEAR COMMENCING ON JANUARY 1, 2000, AND ENDING DECEMBER 31, 2000, THE COMBINED TOTAL OF:

(I) FEDERAL ADJUSTED GROSS INCOME; AND

(II) SOCIAL SECURITY BENEFITS EXCLUDED FROM FEDERAL ADJUSTED GROSS INCOME FOR THE TAX YEAR.

(b) FOR THE TAXABLE YEAR COMMENCING ON JANUARY 1, 2001, AND ENDING DECEMBER 31, 2001, AND FOR EACH SUBSEQUENT TAXABLE YEAR THEREAFTER, THE COMBINED TOTAL OF:

(I) FEDERAL ADJUSTED GROSS INCOME;

(II) SOCIAL SECURITY BENEFITS EXCLUDED FROM FEDERAL ADJUSTED GROSS

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

INCOME FOR THE TAX YEAR;

(III) LUMP-SUM DISTRIBUTIONS FROM PENSION AND PROFIT SHARING PLANS EXCLUDED FROM FEDERAL ADJUSTED GROSS INCOME THAT ARE ADDED TO FEDERAL TAXABLE INCOME PURSUANT TO SECTION 39-22-104 (3) (c); AND

(IV) THE AMOUNT OF INTEREST INCOME FROM STATE AND LOCAL BONDS ADDED TO FEDERAL TAXABLE INCOME PURSUANT TO SECTION 39-22-104 (3) (b).

(3) The amount of the refund allowed under this section shall be as follows:

(c) For a qualified individual filing a single return, if the amount of the identical individual sales tax refund calculated pursuant to section 39-22-2002 (2) or (5) (a) exceeds fifteen dollars:

(I) If the qualified individual's ~~combined total of federal adjusted gross income and social security benefits excluded from federal~~ adjusted gross income for the tax year is less than or equal to twenty-five thousand dollars, the refund shall be in an amount equal to the amount of excess state revenues required to be refunded pursuant to subsection (1) of this section, multiplied by twenty-five percent, divided by the estimated number of said qualified individuals expected to claim the credit for that taxable year;

(II) If the qualified individual's ~~combined total of federal adjusted gross income and social security benefits excluded from federal~~ adjusted gross income for the tax year is greater than twenty-five thousand dollars but not more than fifty thousand dollars, the refund shall be in an amount equal to the amount of excess state revenues required to be refunded pursuant to subsection (1) of this section, multiplied by twenty-three percent, divided by the estimated number of said qualified individuals expected to claim the credit for that taxable year;

(III) If the qualified individual's ~~combined total of federal adjusted gross income and social security benefits excluded from federal~~ adjusted gross income for the tax year is greater than fifty thousand dollars but not more than seventy-five thousand dollars, the refund shall be in an amount equal to the amount of excess state revenues required to be refunded pursuant to subsection (1) of this section, multiplied by nineteen percent, divided by the estimated number of said qualified individuals expected to claim the credit for that taxable year;

(IV) If the qualified individual's ~~combined total of federal adjusted gross income and social security benefits excluded from federal~~ adjusted gross income for the tax year is greater than seventy-five thousand dollars but not more than one hundred thousand dollars, the refund shall be in an amount equal to the amount of excess state revenues required to be refunded pursuant to subsection (1) of this section, multiplied by twelve percent, divided by the estimated number of said qualified individuals expected to claim the credit for that taxable year;

(V) If the qualified individual's ~~combined total of federal adjusted gross income and social security benefits excluded from federal~~ adjusted gross income for the tax year is greater than one hundred thousand dollars but not more than one hundred twenty-five thousand dollars, the refund shall be in an amount equal to the amount of

excess state revenues required to be refunded pursuant to subsection (1) of this section, multiplied by six percent, divided by the estimated number of said qualified individuals expected to claim the credit for that taxable year;

(VI) If the qualified individual's ~~combined total of federal adjusted gross income and social security benefits excluded from federal~~ adjusted gross income for the tax year is greater than one hundred twenty-five thousand dollars, the refund shall be in an amount equal to the amount of excess state revenues required to be refunded pursuant to subsection (1) of this section, multiplied by fifteen percent, divided by the estimated number of said qualified individuals expected to claim the credit for that taxable year;

(d) For two qualified individuals filing a joint return, if the amount of the identical individual sales tax refund calculated pursuant to section 39-22-2002 (2) or (5) (a) exceeds fifteen dollars, the amount of the refund shall be based upon the aggregate ~~federal adjusted gross income and social security benefits excluded from federal adjusted gross income~~ of the qualified individuals and shall be an amount equal to double the amount of the refund allowed under paragraph (c) of this subsection (3) for such aggregate income amount.

(4) (a) The amount of the refund allowed under subsection (2) of this section for the taxable year commencing January 1, 2000, and ending December 31, 2000, and for each subsequent taxable year, shall be the same as provided in subsection (3) of this section; except that, for each such taxable year, the executive director shall adjust:

(I) The ~~total~~ amount of adjusted gross income, ~~and social security benefits excluded from federal adjusted gross income~~, to the nearest thousand dollars, for each income classification such that the percentage of all qualified individuals who are expected to claim a refund under each income classification for such taxable year remains the same as the percentage of all qualified individuals who claimed a refund under such income classification for the 1999 tax year; and

SECTION 2. 39-22-2003 (1) (a) (I), (1) (a) (III), (5) (a) (II), and (5) (b), Colorado Revised Statutes, are amended to read:

39-22-2003. State sales tax refund - offset against state income tax - qualified individuals. (1) (a) For purposes of this section, "qualified individual" means:

(I) A natural person who is domiciled in this state for the entire taxable year commencing January 1 and ending December 31 of such taxable year and who ~~is required to file a Colorado individual income tax return for that tax year pursuant to section 39-22-601 (1) (a)~~ HAS STATE INCOME TAX LIABILITY UNDER SECTION 39-22-104 FOR THE TAXABLE YEAR or who files a Colorado individual income tax return to claim a refund of Colorado income tax withheld from wages for that tax year;

(III) A natural person who died during the taxable year commencing January 1 and ending December 31, who was domiciled in this state from January 1 of the taxable year until the date of death, and whose estate or spouse ~~is required to file a Colorado individual income tax return for that tax year pursuant to section 39-22-601 (1) (a)~~

HAS STATE INCOME TAX LIABILITY UNDER SECTION 39-22-104 FOR THE TAXABLE YEAR or whose estate or spouse files a Colorado income tax return to claim a refund of Colorado income tax withheld from wages for that tax year; or

(5) (a) (II) Any refund allowed pursuant to this section shall be claimed by a qualified individual as defined in subparagraph (I) or (III) of paragraph (a) of subsection (1) of this section OR BY A QUALIFIED INDIVIDUAL THAT IS REQUIRED TO FILE A COLORADO INDIVIDUAL INCOME TAX RETURN FOR THAT TAX YEAR PURSUANT TO SECTION 39-22-601 (1) (a) who is granted an extension of time to file an income tax return by filing an income tax return with the department of revenue no later than October 15 of the calendar year following the taxable year for which the refund is being claimed. Such qualified individual shall not be required to pay all or any portion of the qualified individual's net tax liability due prior to October 15 of said calendar year in order to be granted an extension of time to file said tax return; except that, pursuant to section 39-22-621, such qualified individual may be subject to a late payment penalty and interest on any net income tax liability not paid by April 15 of said calendar year.

(b) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (5), any refund allowed pursuant to this section shall be claimed by a qualified individual as defined in subparagraph (II) or (IV) of paragraph (a) of subsection (1) of this section by filing an income tax return for the taxable year for which the refund is allowed with the department of revenue no later than April 15 of the calendar year following the tax year for which the refund is being claimed. The department of revenue shall not allow said refund claimed by a qualified individual as defined in subparagraph (II) or (IV) of paragraph (a) of subsection (1) of this section on any income tax return filed with the department of revenue after April 15 of the calendar year following the tax year for which the refund is being claimed.

SECTION 3. 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: March 20, 2001