

CHAPTER 317

TAXATION, COURTS AND COURT PROCEDURES

SENATE BILL 02-168

BY SENATOR(S) Thiebaut and Nichol;
also REPRESENTATIVE(S) Smith and Stafford.

AN ACT

CONCERNING THE REVISION OF ANTIQUATED STATUTES CONCERNING THE DEATH OF A HUMAN BEING.

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

SECTION 1. 13-25-103, Colorado Revised Statutes, is amended to read:

13-25-103. Mortality table. The table referred to in section 13-25-102 is as follows:

Completed Age	Expectancy of Life, U.S. Life Table: 1988 1998	
0	74.9	76.7
1	74.7	76.3
2	73.8	75.3
3	72.8	74.3
4	71.8	73.4
5	70.8	72.4
6	69.9	71.4
7	68.9	70.4

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

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8	67.9	69.4
9	66.9	68.4
10	65.9	67.4
11	64.9	66.4
12	64.0	65.5
13	63.0	64.5
14	62.0	63.5
15	61.0	62.5
16	60.1	61.5
17	59.1	60.6
18	58.2	59.6
19	57.2	58.7
20	56.3	57.7
21	55.3	56.8
22	54.4	55.8
23	53.5	54.9
24	52.5	53.9
25	51.6	53.0
26	50.6	52.0
27	49.7	51.1
28	48.8	50.1
29	47.8	49.2
30	46.9	48.2
31	45.9	47.3
32	45.0	46.3
33	44.1	45.4

34	43.1	44.4
35	42.2	43.5
36	41.3	42.6
37	40.4	41.6
38	39.4	40.7
39	38.5	39.8
40	37.6	38.8
41	36.7	37.9
42	35.8	37.0
43	34.9	36.1
44	33.9	35.2
45	33.0	34.3
46	32.1	33.4
47	31.3	32.5
48	30.4	31.6
49	29.5	30.7
50	28.6	29.8
51	27.8	29.0
52	26.9	28.1
53	26.1	27.2
54	25.3	26.4
55	24.4	25.5
56	23.6	24.7
57	22.8	23.9
58	22.0	23.1
59	21.3	22.3

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60	20.5	21.5
61	19.8	20.7
62	19.0	20.0
63	18.3	19.2
64	17.6	18.5
65	16.9	17.8
66	16.2	17.1
67	15.6	16.4
68	14.9	15.7
69	14.2	15.0
70	13.6	14.3
71	13.0	13.7
72	12.4	13.1
73	11.8	12.5
74	11.2	11.9
75	10.7	11.3
76	10.1	10.7
77	9.6	10.2
78	9.0	9.6
79	8.5	9.1
80	8.1	8.6
81	7.6	8.1
82	7.1	7.6
83	6.7	7.1
84	6.3	6.7
85	6.0	6.3

86	5.61	6.0
87	5.29	5.6
88	4.99	5.3
89	4.70	5.0
90	4.43	4.7
91	4.17	4.4
92	3.93	4.1
93	3.71	3.9
94	3.51	3.7
95	3.34	3.5
96	3.19	3.3
97	3.05	3.1
98	2.93	2.9
99	2.82	2.7
100	2.73	2.6
101	2.64	
102	2.57	
103	2.50	
104	2.44	
105	2.38	
106	2.33	
107	2.29	
108	2.24	
109	2.20	
110		

SECTION 2. Repeal. Article 23 of title 39, Colorado Revised Statutes, is

repealed.

SECTION 3. 39-23.5-117, Colorado Revised Statutes, is amended to read:

39-23.5-117. Estate tax - effective date - applicability. This article shall take effect January 1, 1980, and shall apply to the estates of decedents dying on or after said date. ~~The provisions of article 23 of this title shall continue to apply to the estates of decedents dying prior to January 1, 1980.~~

SECTION 4. 11-6-105, Colorado Revised Statutes, is amended to read:

11-6-105. Joint deposits - right of survivor. Except as to accounts, which are defined in and which shall be paid as provided in article 15 of title 15, C.R.S., when a bank deposit in any bank transacting business in this state is made in the names of two or more persons payable to them or to any of them, such deposit, or any part thereof or interest thereon, may be paid to any one of said persons whether the others are living or not, and the receipt or acquittance of the person so paid shall be valid and sufficient discharge to the paying bank from all said persons and their heirs, executors, administrators, and assigns; such deposit shall be deemed, so far as the rights and liabilities of the bank are concerned, to be owned by said persons in joint tenancy with the right of survivorship, but the bank has the right of setoff against such deposit, to the extent thereof, to collect a debt owed to the bank by any joint depositor, which right shall not be affected by death. ~~Such deposit shall be subject to section 39-23-139, C.R.S.~~

SECTION 5. 11-9-105, Colorado Revised Statutes, is amended to read:

11-9-105. Death of lessee - procedure. The provisions of ~~sections~~ SECTION 15-10-111, ~~and 39-23-139,~~ C.R.S., shall apply on the death of a lessee of a safe deposit box as defined in section 11-9-101.

SECTION 6. 11-30-103 (4), Colorado Revised Statutes, is amended to read:

11-30-103. Membership. (4) Except as to accounts, which are defined in and which shall be paid as provided for in article 15 of title 15, C.R.S., nothing in this article shall be construed to prohibit credit unions organized under this article from carrying membership accounts in the names of two or more persons in joint tenancy; and, if any credit union transacting business in this state issues shares and deposits in the names of two or more persons payable to them or to any of them, such shares and deposits, or any part thereof or any interest or dividend thereon, may be paid to any one of said persons whether the others are living or not, and the receipt or acquittance of the person so paid shall be a valid and sufficient discharge to the credit union from all of said persons and their heirs, executors, administrators, and assigns, and such shares and deposits shall be deemed to be owned by said persons in joint tenancy with the right of survivorship. ~~In the event any credit union has actual knowledge that one or more owners of said shares and deposits is dead, nothing contained in this section shall be deemed to except such payment from the operation of section 39-23-132, C.R.S.~~

SECTION 7. 11-42-115 (3), Colorado Revised Statutes, is amended to read:

11-42-115. Power to issue shares to minors or in trust. (3) Every association has power to issue stock or shares to any person on a revocable trust for another person, who is either named in writing as beneficiary thereof or who is unnamed. At any time during the lifetime of the trustee, the stock or shares, together with dividends, if any, shall be withdrawn only by the trustee. On the death of the trustee, ~~subject to the provisions of section 39-23-139, C.R.S.,~~ the stock or shares, together with dividends, if any, shall be paid to the person for whom the stock or shares were issued as designated beneficiary, even though ~~he~~ THE BENEFICIARY is not of full legal capacity, and, if there is no designated beneficiary living at that time, then to the personal representative of the trustee.

SECTION 8. 11-46-104 (2), Colorado Revised Statutes, is amended to read:

11-46-104. Leases to joint tenants. (2) Upon the death of any joint tenant, the provisions of section 15-10-111, C.R.S., and of this section with regard to examination shall apply. ~~and for persons dying before January 1, 1980, the provisions of section 39-23-139, C.R.S., shall apply with regard to inheritance tax. For persons dying before July 1, 1980, upon the deposit with the lessor of an inheritance tax or estate tax release, releasing the contents of said safe deposit box, the surviving tenants shall have access to said box.~~

SECTION 9. Repeal. 15-2-209, Colorado Revised Statutes, is repealed as follows:

15-2-209. Inheritance tax law not affected. ~~The provisions of this part 2 shall not be construed to amend, repeal, or otherwise affect the provisions of article 23 of title 39, C.R.S.~~

SECTION 10. 15-12-916 (1) (f), Colorado Revised Statutes, is amended to read:

15-12-916. Apportionment of estate taxes. (1) For purposes of this section:

(f) "Tax" means the federal estate tax, the additional inheritance tax imposed by ~~sections SECTION 26-2-113, and 39-23-122, C.R.S.,~~ the Colorado estate tax imposed by article 23.5 of title 39, C.R.S., and interest and penalties imposed in addition to the tax.

SECTION 11. The introductory portion to 15-13-201 (1), Colorado Revised Statutes, is amended to read:

15-13-201. Payment of debt and delivery of property to domiciliary foreign personal representative without local administration. (1) At any time after the expiration of sixty days from the death of a nonresident decedent, any person indebted to the estate of the nonresident decedent or having possession or control of personal property, or of an instrument evidencing a debt, obligation, stock, or chose in action belonging to the estate of the nonresident decedent may pay the debt, deliver the personal property, or the instrument evidencing the debt, obligation, stock, or chose in action, to the domiciliary foreign personal representative of the nonresident decedent upon being presented with proof of ~~his~~ THE REPRESENTATIVE'S appointment, ~~a written consent of the attorney general if required under section 39-23-139, C.R.S.,~~ and an affidavit made by or on behalf of the representative stating:

SECTION 12. 24-35-101 (1) (b), Colorado Revised Statutes, is amended to read:

24-35-101. Functions of department of revenue. (1) There is hereby created the department of revenue, the functions of which are the collection of the following:

(b) Taxes levied by the provisions of articles ~~23~~, 23.5 and 25 of title 39, C.R.S.;

SECTION 13. 38-11-101 (2), Colorado Revised Statutes, is amended to read:

38-11-101. Personal property in joint tenancy - how created - vesting upon death. (2) Nothing in this section shall be deemed to exempt any transfer from the operation of ~~articles 23 and~~ ARTICLE 25 of title 39, C.R.S.

SECTION 14. 38-31-101, Colorado Revised Statutes, is amended to read:

38-31-101. Joint tenancy expressed in instrument - when. (1) No estate in joint tenancy in real property, except when conveyed or devised to executors, trustees, or fiduciaries, shall be created or established unless, in the instrument conveying the property or in the will devising the same, it is declared that the property is conveyed or devised in joint tenancy or as joint tenants. The abbreviation "JTWROS" and the phrase "as joint tenants with right of survivorship" or "in joint tenancy with right of survivorship" shall have the same meaning. Any grantor in any such instrument of conveyance may also be one of the grantees therein. Nothing in this section shall be deemed to exempt any transfer from the operation of ~~articles 23 and~~ ARTICLE 25 of title 39, C.R.S.

SECTION 15. Repeal. 39-2-125 (1) (g), Colorado Revised Statutes, is repealed as follows:

39-2-125. Duties of the board. (1) The board shall perform the following duties, such performance to be in accordance with the applicable provisions of article 4 of title 24, C.R.S.:

(g) ~~Hear appeals brought by the executive director of the department of revenue under section 39-23-142 (8);~~

SECTION 16. 39-21-107 (1), Colorado Revised Statutes, is amended to read:

39-21-107. Limitations. (1) Except as provided in this section and unless such time is extended by waiver, the amount of any tax or of any charge on oil and gas production imposed pursuant to articles ~~23 and~~ 24 to 29 of this title or article 3 of title 42, or part 4 of article 37.5 of title 11, C.R.S., and the penalty and interest applicable thereto shall be assessed within three years after the return was filed, whether or not such return was filed on or after the date prescribed, and no assessment shall be made or credit taken and no notice of lien shall be filed, nor distraint warrant issued, nor suit for collection instituted, nor any other action to collect the same commenced after the expiration of such period; except that a written proposed adjustment of the tax liability by the department issued prior to the expiration of such period shall extend the limitation of this subsection (1) for one year after a final determination or assessment is made. No lien shall continue after the three-year period provided for in this subsection (1), except for taxes assessed before the expiration of such period,

notice of lien with respect to which has been filed prior to the expiration of such period, and except for taxes on which written notice of any proposed adjustment of the tax liability has been sent to the taxpayer during such three-year period, in which case the lien shall continue for one year only after the expiration of such period or after the issuance of a final determination or assessment based on the proposed adjustment issued prior to the expiration of the three-year period. This subsection (1) shall not apply to income tax or to any tax imposed under article 23.5 of this title.

SECTION 17. 39-21-113 (1) (a), Colorado Revised Statutes, is amended to read:

39-21-113. Reports and returns. (1) (a) It is the duty of every person, firm, or corporation liable to the state of Colorado for any tax or any charge on oil and gas production imposed pursuant to articles ~~23 to 29~~ 23.5 TO 29 of this title or article 3 of title 42 or part 4 of article 37.5 of title 11, C.R.S., to keep and preserve for a period of three years such books, accounts, and records as may be necessary to determine the amount of liability.

SECTION 18. 39-21-114 (1) (c) and (1) (d), Colorado Revised Statutes, are amended to read:

39-21-114. Methods of enforcing collection. (1) The executive director of the department of revenue may issue a warrant executed either with his manual signature or with his facsimile signature in accordance with the "Uniform Facsimile Signature of Public Officials Act", article 55 of title 11, C.R.S., directed to any employee, agent, or representative of the department, sometimes in this section referred to collectively as "agent", commanding him to distrain, seize, and sell the personal property of the taxpayer, except such personal property as is exempted from execution and sale by any statute of this state, for the payment of the tax due, together with any penalties and interest accrued thereon and the cost of execution:

(c) Immediately upon making of a jeopardy assessment or of the issuance of a demand for payment, as provided in section 39-21-111. ~~or~~

(d) ~~In accordance with the provisions of section 39-23-142.~~

SECTION 19. Repeal. 39-22-623 (1) (f), Colorado Revised Statutes, is repealed as follows:

39-22-623. Disposition of collections. (1) The proceeds of all moneys collected under this article, less the reserve retained for refunds, shall be credited as follows:

(f) ~~Commencing January 1, 1978, in order to replace any loss of revenue to the old age pension fund, the department of revenue shall certify to the state treasurer an amount equal to the sum accurately estimated for revenue loss to the old age pension fund from amendments made to section 39-23-113 (2) (a), and such amount shall be credited to the old age pension fund.~~

SECTION 20. 39-23.5-108 (5) (f), Colorado Revised Statutes, is amended to read:

39-23.5-108. Payment date - extension - installment. (5) (f) (I) In the event of

any default in the payment of the tax due under this article or any other act or failure to act permitting the acceleration of the payment of installments, ~~the lien may be enforced under the same procedures as the lien for inheritance tax under section 39-23-133~~ THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, THROUGH THE ATTORNEY GENERAL, MAY BRING AND PROSECUTE AN ACTION IN THE NAME OF THE STATE AS PLAINTIFF FOR THE PURPOSE OF ENFORCING SUCH LIEN AGAINST ALL OR ANY OF THE PROPERTY SUBJECT THERETO IN ALL CASES WHERE ANY TAX HAS BECOME A LIEN UPON ANY PROPERTY UNDER THE PROVISIONS OF THIS ARTICLE. IN ANY SUCH ACTION THE OWNER OF ANY PROPERTY, OR OF ANY INTEREST IN THE PROPERTY, AGAINST WHICH THE LIEN OF ANY SUCH TAX IS SOUGHT TO BE ENFORCED, AND ANY PREDECESSOR IN INTEREST OF ANY SUCH OWNER WHOSE TITLE OR INTEREST WAS DERAIGNED THROUGH ANY SUCH DECEDENT BY WILL OR SUCCESSION OR BY DECREE OF DISTRIBUTION OF THE ESTATE OF SUCH DECEDENT OR ANY LIEN OR ENCUMBRANCE SUBSEQUENT TO THE LIEN OF SUCH TAX MAY BE MADE A PARTY DEFENDANT.

(II) Actions may be brought against the state ~~for the same purposes and under the same procedures as apply in the case of the inheritance tax under section 39-23-144~~ BY ANY INTERESTED PERSON FOR THE PURPOSE OF QUIETING THE TITLE TO ANY PROPERTY AGAINST THE LIEN OR CLAIM OF LIEN OF ANY TAXES UNDER THIS ARTICLE OR FOR THE PURPOSE OF HAVING IT DETERMINED THAT ANY PROPERTY IS NOT SUBJECT TO ANY LIEN FOR TAXES, NOR CHARGEABLE WITH ANY TAX UNDER THIS ARTICLE. AN ACTION SHALL NOT BE MAINTAINED WHERE ANY PROCEEDINGS ARE PENDING IN ANY COURT OF THIS STATE WHEREIN THE TAXABILITY OF SUCH TRANSFER AND THE LIABILITY THEREFOR, AND THE AMOUNT THEREOF, MAY BE DETERMINED. ALL PARTIES INTERESTED IN SAID TRANSFER AND IN THE TAXABILITY THEREOF SHALL BE MADE PARTIES THERETO, AND ANY INTERESTED PERSON WHO REFUSES TO JOIN AS PLAINTIFF THEREIN MAY BE A DEFENDANT. SUMMONS FOR THE STATE IN SUCH ACTION SHALL BE SERVED UPON THE ATTORNEY GENERAL. SHOULD THE COURT DETERMINE THAT THE PROPERTY DESCRIBED IN THE COMPLAINT IS SUBJECT TO THE LIEN OF SAID TAX AND THAT SUCH PROPERTY HAS BEEN TRANSFERRED WITHIN THE MEANING OF THIS ARTICLE, THE COURT SHALL AWARD AFFIRMATIVE RELIEF TO THE STATE, AND JUDGMENT SHALL BE RENDERED THEREIN IN FAVOR OF THE STATE ASCERTAINING AND DETERMINING THE AMOUNT OF SUCH TAX, THE PERSON LIABLE, AND THE PROPERTY CHARGEABLE OR SUBJECT TO THE LIEN.

SECTION 21. 39-26-126, Colorado Revised Statutes, is amended to read:

39-26-126. Legislative finding as to revenues for old age pension fund. The general assembly finds that sections ~~39-23-107 (1)~~, 39-26-105 (1), 39-26-106 (2) (a), 39-26-109, 39-26-112, and 39-26-114 (1) (a) (V) and (7) repeal no law ~~which~~ THAT provides revenue for the old age pension fund and amend no law so as to reduce the revenue provided for the old age pension fund, except as is allowed by article XXIV of the state constitution.

SECTION 22. Effective date - applicability. This act shall take effect July 1, 2002, and shall apply to decisions entered by a court of competent jurisdiction on or after said date.

SECTION 23. 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 7, 2002