

CHAPTER 83

TAXATION

HOUSE BILL 02-1059

BY REPRESENTATIVE(S) Marshall, Groff, Jahn, Plant, Scott, and Williams S. ;
also SENATOR(S) Teck.

AN ACT

CONCERNING MODIFICATIONS TO THE STATE INCOME TAX CREDIT AVAILABLE TO COLORADO TAXPAYERS WHO MAKE MONETARY CONTRIBUTIONS TO A SPECIFIED HIGHER EDUCATION INSTITUTE, AND, IN CONNECTION THEREWITH, CLARIFYING THE AMOUNT OF THE CREDIT THAT MAY BE CLAIMED, REQUIRING SUBMISSION OF CERTAIN DOCUMENTATION WHEN CLAIMING THE CREDIT, DELAYING THE APPLICABILITY OF THE CREDIT FOR ONE YEAR, AND CORRECTING THE NAME OF THE INSTITUTE TO WHICH CONTRIBUTIONS ARE TO BE MADE IN ORDER TO QUALIFY FOR THE CREDIT.

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

SECTION 1. 39-22-525 (1), (4) (a), and (4) (c) (I), Colorado Revised Statutes, are amended to read:

39-22-525. Contributions to Colorado institute of technology - credit against tax. (1) (a) Subject to the provisions of subsection (4) of this section, for any income tax year commencing on or after ~~January 1, 2001~~ JANUARY 1, 2002, 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 income tax 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, there shall be allowed to any taxpayer as a credit against the tax imposed by this article an amount equal to fifteen percent of the taxpayer's total monetary contributions made during the tax year to the Colorado institute ~~for telecommunication education~~ OF TECHNOLOGY created in ~~section 23-20.3-102~~ SECTION 23-73-102, C.R.S., for the purpose of funding grants or scholarships for students enrolled at the institute.

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

(b) ~~However~~ NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1), the amount of the credit ~~allowed~~ THAT MAY BE CLAIMED BY ANY TAXPAYER pursuant to this section for any income tax year shall not exceed ~~ten thousand dollars~~ THE FOLLOWING AMOUNTS:

(I) FOR TWO MARRIED INDIVIDUALS FILING SEPARATE FEDERAL INCOME TAX RETURNS, FIVE THOUSAND DOLLARS PER INDIVIDUAL PER INCOME TAX YEAR;

(II) FOR AN INDIVIDUAL FILING A SINGLE FEDERAL INCOME TAX RETURN, FOR TWO INDIVIDUALS FILING A JOINT FEDERAL INCOME TAX RETURN, AND FOR A SINGLE CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF THIS ARTICLE, TEN THOUSAND DOLLARS PER INCOME TAX YEAR;

(III) FOR A CONTROLLED GROUP OF CORPORATIONS, AS DEFINED IN 26 U.S.C. SEC. 1563 (a), TEN THOUSAND DOLLARS FOR THE ENTIRE AFFILIATED GROUP PER INCOME TAX YEAR;

(IV) FOR QUALIFIED SUBCHAPTER S CORPORATIONS AND SUBSIDIARIES OF SAID CORPORATIONS, AND FOR ALL LIMITED LIABILITY COMPANIES RELATED BY AT LEAST EIGHTY PERCENT OWNERSHIP, TEN THOUSAND DOLLARS FOR ALL SUCH RELATED CORPORATIONS OR COMPANIES PER INCOME TAX YEAR; AND

(V) FOR ALL ENTITIES ELECTING PASS-THROUGH ENTITY STATUS FOR FEDERAL INCOME TAX PURPOSES, TEN THOUSAND DOLLARS PER INCOME TAX YEAR FOR EACH ENTITY THAT PASSES THE CREDIT THROUGH TO A PARTNER OR SHAREHOLDER SUBJECT TO INCOME TAX, AND THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS SECTION SHALL BE ALLOCATED TO THE ENTITY'S PARTNERS OR SHAREHOLDERS IN PROPORTION TO THE PARTNERS' OR SHAREHOLDERS' DISTRIBUTIVE SHARES OF INCOME FROM SUCH ENTITY.

(c) THE COLORADO INSTITUTE OF TECHNOLOGY CREATED IN SECTION 23-73-102, C.R.S., SHALL ISSUE A CERTIFICATE TO ANY TAXPAYER WHO MAKES A CONTRIBUTION FOR THE INSTITUTE SHOWING THE AMOUNT OF THE CONTRIBUTION AND SHALL PROVIDE A LIST OF ALL CERTIFICATIONS ISSUED TO TAXPAYERS, INCLUDING THE AMOUNT OF THE CONTRIBUTION BY THE TAXPAYER, TO THE DEPARTMENT OF REVENUE MONTHLY ON THE FIRST DAY OF THE MONTH FOLLOWING THE ISSUANCE OF THE CERTIFICATION. ANY TAXPAYER CLAIMING THE CREDIT AUTHORIZED BY THIS SECTION SHALL SUBMIT THE CERTIFICATE ISSUED BY THE INSTITUTE TO THE DEPARTMENT WITH THE TAXPAYER'S INCOME TAX RETURN.

~~(4) (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 credit authorized by subsection (1) of this section shall not be allowed for the income tax year commencing on January 1, 2001.~~

(c) (I) No later than October 1 of any given calendar year commencing on or after ~~January 1, 2001~~ JANUARY 1, 2002, the executive director of the department of revenue shall annually adjust the dollar amount specified in paragraph (b) of this

subsection (4) 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 subparagraph (I), "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.

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: April 5, 2002