

CHAPTER 268

TAXATION

HOUSE BILL 03-1210

BY REPRESENTATIVE(S) Madden, Borodkin, Boyd, Butcher, Coleman, Fairbank, Frangas, Garcia, Hodge, Jahn, Marshall, Merrifield, Miller, Mitchell, Paccione, Plant, Pommer, Ragsdale, Romanoff, Veiga, Vigil, Weddig, and Williams S.; also SENATOR(S) Hillman, Arnold, Chlouber, Entz, Groff, Hanna, Nichol, Taylor, and Tupa.

AN ACT

CONCERNING A LIST OF DELINQUENT STATE TAXPAYERS THAT IS MADE AVAILABLE ON THE INTERNET.

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

SECTION 1. Part 1 of article 35 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-35-117. Public list of delinquent state taxes. (1) NOTWITHSTANDING ANY PROVISION OF LAW, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL ANNUALLY DISCLOSE A LIST OF ALL TAXPAYERS, INCLUDING BUT NOT LIMITED TO INDIVIDUALS, TRUSTS, PARTNERSHIPS, CORPORATIONS, AND OTHER TAXABLE ENTITIES, THAT ARE DELINQUENT IN THE PAYMENT OF TAX LIABILITIES COLLECTED BY THE DEPARTMENT. THE LIST SHALL INCLUDE ONLY THOSE TAXPAYERS WITH TOTAL DELINQUENT FINAL LIABILITIES FOR ALL TAXES COLLECTED BY THE DEPARTMENT, INCLUDING PENALTIES AND INTEREST, IN AN AMOUNT GREATER THAN TWENTY THOUSAND DOLLARS FOR A PERIOD OF SIX MONTHS FROM THE TIME THAT A DISTRAINT WARRANT ISSUES OR MAY ISSUE. THE LIST SHALL CONTAIN THE NAME, ADDRESS, TYPES OF TAXES, MONTH AND YEAR IN WHICH EACH TAX LIABILITY WAS ASSERTED IN A DULY ISSUED DISTRAINT WARRANT, THE AMOUNT OF EACH TAX OUTSTANDING OF EACH DELINQUENT TAXPAYER, AND, IN THE CASE OF A CORPORATE TAXPAYER, THE NAME OF THE CURRENT PRESIDENT OF RECORD OF THE CORPORATION.

(2) AT LEAST NINETY DAYS BEFORE THE DISCLOSURE OF THE NAME OF A DELINQUENT TAXPAYER PRESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL MAIL A WRITTEN NOTICE TO THE DELINQUENT TAXPAYER AT HIS OR HER LAST KNOWN ADDRESS INFORMING THE TAXPAYER THAT THE FAILURE TO CURE THE TAX DELINQUENCY COULD RESULT IN THE TAXPAYER'S NAME BEING INCLUDED IN A LIST OF DELINQUENT

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

TAXPAYERS THAT IS PUBLISHED ON THE INTERNET ON THE WEBSITE MAINTAINED BY THE DEPARTMENT PURSUANT TO THIS SECTION. IF THE DELINQUENT TAX HAS NOT BEEN PAID SIXTY DAYS AFTER THE NOTICE WAS MAILED, AND THE TAXPAYER HAS NOT, SINCE THE MAILING OF THE NOTICE, EITHER ENTERED INTO A WRITTEN AGREEMENT WITH THE DEPARTMENT FOR PAYMENT OF THE DELINQUENCY OR CORRECTED A DEFAULT IN AN EXISTING AGREEMENT TO THE SATISFACTION OF THE EXECUTIVE DIRECTOR, THE EXECUTIVE DIRECTOR MAY DISCLOSE THE TAX IN THE LIST OF DELINQUENT TAXPAYERS.

(3) UNPAID TAXES SHALL NOT BE DEEMED TO BE DELINQUENT AND SUBJECT TO DISCLOSURE IF:

(a) A WRITTEN AGREEMENT FOR PAYMENT EXISTS WITHOUT DEFAULT BETWEEN THE TAXPAYER AND THE DEPARTMENT OF REVENUE; OR

(b) THE TAX LIABILITY IS THE SUBJECT OF AN ADMINISTRATIVE HEARING, ADMINISTRATIVE REVIEW, JUDICIAL REVIEW, OR AN APPEAL OF ANY SUCH PROCEEDINGS.

(4) THE LIST DESCRIBED IN SUBSECTION (1) OF THIS SECTION SHALL BE AVAILABLE FOR PUBLIC INSPECTION AT THE DEPARTMENT OF REVENUE AND SHALL BE PUBLISHED ON THE INTERNET ON THE WEBSITE MAINTAINED BY THE DEPARTMENT.

(5) THE NAME OF A TAXPAYER SHALL BE REMOVED WITHIN FIFTEEN DAYS AFTER THE PAYMENT OF THE DEBT.

(6) ANY DISCLOSURE MADE BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE IN A GOOD FAITH EFFORT TO COMPLY WITH THIS SECTION SHALL NOT BE CONSIDERED A VIOLATION OF ANY STATUTE PROHIBITING DISCLOSURE OF TAXPAYER INFORMATION.

SECTION 2. No appropriation. Except for moneys appropriated for the 2003-04 fiscal year in the general appropriation bill to the department of revenue, information technology division, systems support, programming costs for 2003 session legislation, the general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

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: May 19, 2003