

## CHAPTER 129

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**TAXATION**


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**SENATE BILL 04-182**

BY SENATOR(S) Dyer, Arnold, Entz, Isgar, Teck, and Tupa;  
also REPRESENTATIVE(S) Stengel, Hoppe, Schultheis, and Vigil.

**AN ACT**

**CONCERNING THE RELEASE OF FUNDS PLACED INTO ESCROW BY A TOBACCO PRODUCT MANUFACTURER THAT IS NOT A PARTICIPATING MANUFACTURER UNDER THE TERMS OF THE TOBACCO LITIGATION MASTER SETTLEMENT AGREEMENT.**

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

**SECTION 1.** 39-28-203 (2) (b) (II), Colorado Revised Statutes, is amended to read:

**39-28-203. Requirements.** (2) (b) A tobacco product manufacturer that places funds into escrow pursuant to subsection (2) (a) of this section shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(II) (A) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow ON ACCOUNT OF UNITS SOLD IN THE STATE in a particular year was greater than the ~~state's allocable share of the total payments that such manufacturer would have been required to make in that year under the master settlement agreement had it been a participating manufacturer, as such payments are determined pursuant to section IX(i)(2) of the master settlement agreement and before any of the adjustments or offsets described in section IX(i)(3) of that agreement other than the inflation adjustment~~ MASTER SETTLEMENT AGREEMENT PAYMENTS, AS DETERMINED PURSUANT TO SECTION IX(i) OF THAT AGREEMENT INCLUDING AFTER FINAL DETERMINATION OF ALL ADJUSTMENTS, THAT SUCH MANUFACTURER WOULD HAVE BEEN REQUIRED TO MAKE ON ACCOUNT OF SUCH UNITS SOLD HAD IT BEEN A PARTICIPATING MANUFACTURER, the excess shall be released from escrow and revert back to such tobacco product manufacturer;

(B) IF SENATE BILL 04-182, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY, OR ANY PORTION OF THE AMENDMENT TO

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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.*

SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) MADE BY SENATE BILL 04-182 IS HELD BY A COURT OF COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL, THEN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) SHALL BE DEEMED TO BE REPEALED IN ITS ENTIRETY. IF THIS PARAGRAPH (b) SHALL THEREAFTER BE HELD BY A COURT OF COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL, THEN SENATE BILL 04-182 SHALL BE DEEMED REPEALED, AND SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) SHALL BE RESTORED AS IF NO SUCH AMENDMENTS HAD BEEN MADE. NEITHER ANY HOLDING OF UNCONSTITUTIONALITY NOR THE REPEAL OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) SHALL AFFECT, IMPAIR, OR INVALIDATE ANY OTHER PORTION OF THIS SECTION, AND SUCH REMAINING PORTIONS OF THIS SECTION SHALL AT ALL TIMES CONTINUE IN FULL FORCE AND EFFECT.

**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 8, 2004