

## CHAPTER 334

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**TAXATION**

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**HOUSE BILL 08-1110**

BY REPRESENTATIVE(S) Witwer, Curry, Lambert, Lundberg, Massey, McNulty, Mitchell V., Roberts, White, Buescher, Frangas, Gardner B., Kerr A., Kerr J., Levy, Liston, Loper, Madden, McFadyen, Merrifield, Rice, Rose, Scanlan, Soper, Stafford, Stephens, Summers, Todd, Gardner C., King, and Middleton;  
also SENATOR(S) Kopp, Gibbs, Harvey, Mitchell S., Renfro, Brophy, Groff, Isgar, Johnson, Kester, Morse, Penry, Schultheis, Schwartz, Shaffer, Taylor, Tochtrop, Tupa, Ward, Wiens, and Williams.

**AN ACT**

**CONCERNING AN INCOME TAX DEDUCTION FOR A LANDOWNER'S DIRECT COSTS INCURRED IN PERFORMING WILDFIRE MITIGATION MEASURES.**

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

**SECTION 1.** 39-22-104 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - definitions.** (4) There shall be subtracted from federal taxable income:

(n) (I) (A) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2009, BUT PRIOR TO JANUARY 1, 2014, AN AMOUNT EQUAL TO FIFTY PERCENT OF A LANDOWNER'S COSTS INCURRED IN PERFORMING WILDFIRE MITIGATION MEASURES IN THAT INCOME TAX YEAR ON HIS OR HER PROPERTY LOCATED WITHIN THE STATE; EXCEPT THAT THE AMOUNT OF THE DEDUCTION CLAIMED IN AN INCOME TAX YEAR SHALL NOT EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS OR THE TOTAL AMOUNT OF THE LANDOWNER'S FEDERAL TAXABLE INCOME FOR THE INCOME TAX YEAR FOR WHICH THE DEDUCTION IS CLAIMED, WHICHEVER IS LESS.

(B) IN THE CASE OF TWO INDIVIDUALS FILING A JOINT RETURN, THE AMOUNT SUBTRACTED FROM FEDERAL TAXABLE INCOME SHALL NOT EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS IN ANY TAXABLE YEAR. IN THE CASE OF A MARRIED INDIVIDUAL WHO FILES A SEPARATE RETURN, ONLY ONE INDIVIDUAL IN THE MARRIAGE MAY CLAIM THE DEDUCTION SPECIFIED IN THIS PARAGRAPH (n).

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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.*

(C) IN THE CASE OF REAL PROPERTY OWNED AS TENANTS IN COMMON, THE DEDUCTION ALLOWED PURSUANT TO THIS PARAGRAPH (n) SHALL ONLY BE ALLOWED TO ONE OF THE INDIVIDUALS OF THE OWNERSHIP GROUP.

(II) A LANDOWNER WHO PERFORMS WILDFIRE MITIGATION MEASURES ON HIS OR HER REAL PROPERTY LOCATED WITHIN THE STATE MAY CLAIM THE DEDUCTION AUTHORIZED BY THIS PARAGRAPH (n) IF THE WILDFIRE MITIGATION MEASURES ARE PERFORMED IN A WILD LAND-URBAN INTERFACE AREA AND ARE AUTHORIZED BY A COMMUNITY WILDFIRE PROTECTION PLAN ADOPTED BY A LOCAL GOVERNMENT WITHIN THE INTERFACE AREA.

(III) FOR PURPOSES OF THIS PARAGRAPH (n), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(A) "COLORADO STATE FOREST SERVICE" MEANS THE COLORADO STATE FOREST SERVICE IDENTIFIED IN SECTION 23-31-310 (2) (c), C.R.S.

(B) "COMMUNITY WILDFIRE PROTECTION PLAN" MEANS A PLAN APPROVED BY ANY LOCAL GOVERNMENT ENTITIES, LOCAL FIRE DEPARTMENTS, AND THE COLORADO STATE FOREST SERVICE THAT MEETS THE DEFINITION OF A COMMUNITY WILDFIRE PROTECTION PLAN IN THE FEDERAL "HEALTHY FORESTS RESTORATION ACT OF 2003", PUB.L. NO. 108-148 AND MEETS THE MINIMUM REQUIREMENTS OF COLLABORATION BY LOCAL AND STATE GOVERNMENT REPRESENTATIVES WITH CONSULTATION BY FEDERAL AGENCIES AND OTHER INTERESTED PARTIES, PRIORITIZED FUEL REDUCTION AREAS WITH IDENTIFIED TYPES OF TREATMENTS, AND TREATMENT OF STRUCTURAL IGNITABILITY WITH RECOMMENDATIONS TO REDUCE IGNITABILITY.

(C) "COSTS" MEANS ANY ACTUAL OUT-OF-POCKET EXPENSE INCURRED AND PAID BY THE LANDOWNER, DOCUMENTED BY RECEIPT, FOR PERFORMING WILDFIRE MITIGATION MEASURES. COSTS DO NOT INCLUDE ANY INSPECTION OR CERTIFICATION FEES, IN-KIND CONTRIBUTIONS, DONATIONS, INCENTIVES, OR COST SHARING ASSOCIATED WITH PERFORMING WILDFIRE MITIGATION MEASURES. COSTS DO NOT INCLUDE EXPENSES PAID BY THE LANDOWNER FROM ANY GRANTS AWARDED TO THE LANDOWNER FOR PERFORMING WILDFIRE MITIGATION MEASURES.

(D) "LANDOWNER" MEANS ANY OWNER OF RECORD OF PRIVATE LAND LOCATED WITHIN THE STATE, INCLUDING ANY EASEMENT, RIGHT-OF-WAY, OR ESTATE IN THE LAND, AND INCLUDES THE HEIRS, SUCCESSORS, AND ASSIGNS OF SUCH LAND, AND SHALL NOT INCLUDE ANY PARTNERSHIP, S CORPORATION, OR OTHER SIMILAR ENTITY THAT OWNS PRIVATE LAND AS AN ENTITY.

(E) "WILDFIRE MITIGATION MEASURES" MEANS THE CREATION OF A DEFENSIBLE SPACE AROUND STRUCTURES; THE ESTABLISHMENT OF FUEL BREAKS; THE THINNING OF WOODY VEGETATION FOR THE PRIMARY PURPOSE OF REDUCING RISK TO STRUCTURES FROM WILDLAND FIRE; OR THE SECONDARY TREATMENT OF WOODY FUELS BY LOPPING AND SCATTERING, PILING, CHIPPING, REMOVING FROM THE SITE, OR PRESCRIBED BURNING; SO LONG AS SUCH ACTIVITIES MEET OR EXCEED ANY COLORADO STATE FOREST SERVICE STANDARDS OR ANY OTHER APPLICABLE STATE RULES.

(IV) THIS PARAGRAPH (n) IS REPEALED, EFFECTIVE JANUARY 1, 2015.

**SECTION 2. 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, (August 6, 2008, if adjournment sine die is on May 7, 2008); 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 28, 2008