

## CHAPTER 429

---

**TAXATION**

---

**HOUSE BILL 08-1127**

BY REPRESENTATIVE(S) Liston, Buescher, Butcher, Carroll M., Casso, Fischer, Frangas, Garza-Hicks, Green, Hodge, Kefalas, Kerr A., Kerr J., Labuda, Looper, Madden, Marshall, Massey, McFadyen, Merrifield, Middleton, Mitchell V., Peniston, Primavera, Rice, Romanoff, Rose, Scanlan, Solano, Soper, Stafford, Stephens, Summers, Todd, Witwer, Gardner B., and Roberts; also SENATOR(S) Gibbs, Bacon, Brophy, Groff, Isgar, Johnson, Keller, Kester, Mitchell S., Morse, Penry, Schwartz, Shaffer, Spence, Tupa, Ward, Williams, and Windels.

**AN ACT**

**CONCERNING THE INCOME TAX CREDIT FOR TAXPAYERS WHO HIRE EMPLOYEES WITH DEVELOPMENTAL DISABILITIES.**

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

**SECTION 1.** Part 5 of article 22 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**39-22-530. Credit for employers that hire persons with developmental disabilities - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "DESIGNATED COUNTY" MEANS THE COUNTIES OF ADAMS, ARAPAHOE, EL PASO, JEFFERSON, LOGAN, MONTROSE, AND MORGAN.

(b) "DEVELOPMENTAL DISABILITY" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 27-10.5-102 (11) (a), C.R.S., AND IN THE RULES ADOPTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO SECTION 27-10.5-103 (2), C.R.S.

(c) "PERSON WITH A DEVELOPMENTAL DISABILITY" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 27-10.5-102 (11) (b), C.R.S.

(d) "QUALIFIED EMPLOYEE" MEANS AN EMPLOYEE FIRST HIRED ON OR AFTER JANUARY 1, 2009, WHO IS:

---

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

- (I) A PERSON WITH A DEVELOPMENTAL DISABILITY;
- (II) EMPLOYED AT A WORKPLACE LOCATED IN A DESIGNATED COUNTY; AND
- (III) COMPENSATED IN ACCORDANCE WITH APPLICABLE MINIMUM WAGE LAWS.

(e) "TAXPAYER" MEANS AN EMPLOYER THAT DEDUCTS AND WITHHOLDS AMOUNTS FROM THE WAGES PAID TO A QUALIFIED EMPLOYEE PURSUANT TO SECTION 39-22-604 (3).

(2) (a) FOR THE INCOME TAX YEARS BEGINNING JANUARY 1, 2009, THROUGH JANUARY 1, 2011, A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE SHALL BE ALLOWED TO A TAXPAYER WHO HIRES A QUALIFIED EMPLOYEE DURING THAT PERIOD.

(b) THE AMOUNT OF THE CREDIT ALLOWED BY THIS SECTION IS FIFTY PERCENT OF THE AMOUNT OF GROSS WAGES PAID TO A QUALIFIED EMPLOYEE DURING THE EMPLOYEE'S FIRST THREE MONTHS OF CONTINUOUS EMPLOYMENT AND THIRTY PERCENT OF THE AMOUNT OF GROSS WAGES PAID TO A QUALIFIED EMPLOYEE DURING THE EMPLOYEE'S SUBSEQUENT NINE MONTHS OF CONTINUOUS EMPLOYMENT.

(3) A TAXPAYER MAY CLAIM THE CREDIT ALLOWED BY THIS SECTION FOR THE INCOME TAX YEAR IN WHICH THE WAGES ON WHICH THE CREDIT IS BASED ARE PAID TO A QUALIFIED EMPLOYEE. IF THE AMOUNT OF THE CREDIT EXCEEDS A TAXPAYER'S ACTUAL TAX LIABILITY FOR AN INCOME TAX YEAR, THE AMOUNT OF THE CREDIT NOT USED TO OFFSET INCOME TAX LIABILITY FOR THE INCOME TAX YEAR SHALL NOT BE ALLOWED AS A REFUND, BUT THE TAXPAYER MAY CLAIM THE EXCESS AMOUNT OF THE CREDIT IN A SUBSEQUENT INCOME TAX YEAR; EXCEPT THAT THE CREDIT ALLOWED BY THIS SECTION MAY NOT BE CLAIMED FOR ANY INCOME TAX YEAR BEGINNING AFTER JANUARY 1, 2011. ANY AMOUNT OF THE CREDIT THAT IS NOT USED SHALL NOT BE REFUNDED TO THE TAXPAYER. A TAXPAYER MAY NOT CLAIM THE CREDIT ALLOWED BY THIS SECTION MORE THAN ONCE FOR THE SAME QUALIFIED EMPLOYEE.

(4) A PARTNERSHIP, S CORPORATION, LIMITED LIABILITY COMPANY, OR OTHER ENTITY ELECTING NOT TO BE TAXED AS A CORPORATION MAY PASS THROUGH THE CREDIT ALLOWED BY THIS SECTION IN A TAX YEAR TO ITS PARTICIPATING PARTNERS, SHAREHOLDERS, OR MEMBERS, REFERRED TO IN THIS SUBSECTION (4) AS THE "INVESTORS", IN ANY PERCENTAGE THE ENTITY CHOOSES, UP TO THE AMOUNT OF THE CREDIT EARNED IN THE TAX YEAR. CREDITS EARNED BUT UNCLAIMED IN A TAX YEAR FOR WHICH THE ENTITY ELECTS TO BE TAXED AS A CORPORATION MAY NOT BE DISTRIBUTED TO INVESTORS IN A LATER TAX YEAR FOR WHICH THE ENTITY ELECTS NOT TO BE TAXED AS A CORPORATION. IN A TAX YEAR FOR WHICH THE ENTITY ELECTS NOT TO BE TAXED AS A CORPORATION, ALL CREDITS PASSED THROUGH TO INVESTORS MAY BE CARRIED FORWARD AT THE INVESTOR LEVEL FOR THE CARRYOVER PERIOD SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

(5) (a) IF THE REVENUE ESTIMATE PREPARED BY THE STAFF OF THE LEGISLATIVE COUNCIL IN DECEMBER 2008, DECEMBER 2009, OR DECEMBER 2010 INDICATES THAT THE AMOUNT OF TOTAL GENERAL FUND REVENUES FOR THE CURRENT FISCAL YEAR WILL NOT BE SUFFICIENT TO REACH THE LIMIT ON APPROPRIATIONS SPECIFIED IN SECTION 24-75-201.1 (1), C.R.S., THEN THE CREDIT AUTHORIZED BY THIS SECTION

SHALL NOT BE ALLOWED FOR THE INCOME TAX YEAR FOLLOWING THE YEAR IN WHICH THE ESTIMATE IS PREPARED; EXCEPT THAT A TAXPAYER WHO WOULD HAVE BEEN ELIGIBLE TO CLAIM A CREDIT PURSUANT TO THIS SECTION IN AN INCOME TAX YEAR IN WHICH THE CREDIT IS NOT ALLOWED MAY CLAIM THE CREDIT IN THE NEXT INCOME TAX YEAR IN WHICH THE REVENUE ESTIMATE INDICATES THAT THE AMOUNT OF TOTAL GENERAL FUND REVENUES WILL BE SUFFICIENT TO REACH THE LIMIT ON APPROPRIATIONS SPECIFIED IN SECTION 24-75-201.1 (1), C.R.S.

(b) ON OR BEFORE JANUARY 1, 2009, JANUARY 1, 2010, AND JANUARY 1, 2011, THE DEPARTMENT OF REVENUE SHALL PUBLISH A NOTICE ON ITS WEB SITE INDICATING WHETHER THE CREDIT AUTHORIZED BY THIS SECTION IS ALLOWED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5) FOR THE INCOME TAX YEAR BEGINNING ON THAT DAY.

**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: June 5, 2008