

CHAPTER 33

TAXATION

HOUSE BILL 10-1055

BY REPRESENTATIVE(S) Kefalas, Labuda, Summers, Tyler;
also SENATOR(S) Steadman.

AN ACT

CONCERNING THE REQUIREMENT THAT FEES FOR SERVICES RENDERED BY A THIRD PARTY FOR COLLECTION OF DELINQUENT TAXES BE ADDED TO THE TOTAL AMOUNT COLLECTED BY THE THIRD PARTY.

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

SECTION 1. 39-21-114 (8) (c) and (8) (d), Colorado Revised Statutes, are amended to read:

39-21-114. Methods of enforcing collection. (8) (c) (I) Each contract entered into with a debt collection agency or an attorney shall specify that fees for services rendered shall be based on the total amount of delinquent taxes, including accrued penalties and interest, ~~which~~ THAT is actually collected; HOWEVER, UNDER NO CIRCUMSTANCE SHALL THE FEES FOR SERVICES RENDERED EXCEED TWENTY PERCENT OF THE TOTAL AMOUNT OF DELINQUENT TAXES, INCLUDING ACCRUED PENALTIES AND INTEREST, THAT IS ACTUALLY COLLECTED. ANY FEES FOR SERVICES RENDERED SHALL BE COLLECTED BY THE AGENCY OR ATTORNEY IN ADDITION TO THE TOTAL AMOUNT OF DELINQUENT TAXES, INCLUDING ACCRUED PENALTIES AND INTEREST, ACTUALLY COLLECTED. SUCH FEES FOR SERVICES RENDERED SHALL BE SHOWN TO THE TAXPAYER AS A SEPARATE AND DISTINCT ITEM, AND, WHEN ADDED, SUCH FEES FOR SERVICES RENDERED SHALL BE A DEBT FROM THE TAXPAYER TO THE AGENT OR ATTORNEY UNTIL PAID AND SHALL BE RECOVERABLE AT LAW IN THE SAME MANNER AS OTHER DEBTS.

(II) IF THE DEPARTMENT ENTERS INTO A CONTRACT WITH A DEBT COLLECTION AGENCY OR AN ATTORNEY TO COLLECT DELINQUENT TAXES, INCLUDING ACCRUED PENALTIES AND INTEREST, AND ANY FEES FOR SERVICES RENDERED AS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) AND THE CONTRACT SPECIFIES THAT THE DEPARTMENT IS REQUIRED TO COLLECT THE FEES FOR SERVICES RENDERED IF THE

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

TAXPAYER CHOOSES TO PAY THE TOTAL AMOUNT OWED DIRECTLY TO THE DEPARTMENT, THE DEPARTMENT SHALL BECOME THE AGENT FOR THE AGENCY OR ATTORNEY AND COLLECT THE AGENCY'S OR ATTORNEY'S FEES FOR SERVICES RENDERED ON BEHALF OF THE AGENCY OR ATTORNEY.

(III) IF A TAXPAYER MAKES A PAYMENT TOWARD THE TOTAL AMOUNT A DEBT COLLECTION AGENCY OR ATTORNEY IS ATTEMPTING TO COLLECT, INCLUDING DELINQUENT TAXES, ACCRUED PENALTIES AND INTEREST, AND ANY FEES FOR SERVICES RENDERED AS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), SUCH PAYMENT SHALL BE ALLOCATED AMONG DELINQUENT TAXES, ACCRUED PENALTIES AND INTEREST, AND FEES FOR SERVICES RENDERED ACCORDING TO THE RULES OR PROCEDURES OF THE DEPARTMENT AND THE CONTRACT BETWEEN THE DEPARTMENT AND THE AGENCY OR ATTORNEY. THE TAXPAYER MAY NOT DESIGNATE THE ALLOCATION OF THE PAYMENT.

(IV) No costs except court costs shall be reimbursed unless authorized in such contract. If a debt collection agency or an attorney files a civil suit to collect ~~such~~ DELINQUENT taxes, INCLUDING ACCRUED PENALTIES AND INTEREST, suit shall be brought in the name of the executive director of the department of revenue of the state of Colorado. When suit is brought by an agency or attorney, court costs are reimbursable by the department TO THE AGENCY OR ATTORNEY, but fees for services of legal representation incurred BY SUCH AGENCY OR ATTORNEY ON BEHALF OF THE DEPARTMENT for the purpose of such suit shall not be reimbursable.

(d) A debt collection agency or an attorney shall, pursuant to contract, remit the total amount ~~actually~~ OF DELINQUENT TAXES, INCLUDING ACCRUED PENALTIES AND INTEREST, collected, less ~~fees for services rendered and~~ allowable REIMBURSABLE costs, to the executive director within thirty days from the date the moneys are collected from the taxpayer.

SECTION 2. Applicability. This act shall apply to contracts between the department of revenue and a debt collection agency or an attorney entered into on or after the effective date of this act.

SECTION 3. 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: March 22, 2010