

CHAPTER 258

TAXATION

HOUSE BILL 14-1072

BY REPRESENTATIVE(S) Pettersen and Exum, Fields, Becker, Buckner, Court, Duran, Foote, Ginal, Hamner, Hullinghorst, Kagan, Kraft-Tharp, Labuda, Lebsack, Lee, May, McCann, McLachlan, Melton, Mitsch Bush, Moreno, Pabon, Peniston, Primavera, Rosenthal, Ryden, Salazar, Schafer, Singer, Tyler, Williams, Young, Ferrandino;
also SENATOR(S) Kefalas, Ulibarri, Aguilar, Guzman, Heath, Johnston, Jones, Kerr, Newell, Nicholson, Schwartz, Steadman, Tochtrop, Todd, Zenzinger, Carroll.

AN ACT

CONCERNING AN INCOME TAX CREDIT FOR CHILD CARE EXPENSES PAID BY A RESIDENT INDIVIDUAL WITH A FEDERAL ADJUSTED GROSS INCOME OF TWENTY-FIVE THOUSAND DOLLARS OR LESS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** 39-22-119.5 as follows:

39-22-119.5. Child care expenses tax credit - legislative declaration - definitions - repeal. (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(I) COLORADO FAMILIES AND THE STATE ECONOMY THRIVE WHEN PARENTS ARE ABLE TO WORK;

(II) WHILE RESEARCH SHOWS THAT HIGH-QUALITY CHILD CARE CONTRIBUTES TO ECONOMIC MOBILITY, CHILD CARE CAN BE COST PROHIBITIVE FOR LOW-INCOME WORKING PARENTS;

(III) THE GENERAL ASSEMBLY CREATED THE CHILD CARE EXPENSES TAX CREDIT IN SECTION 39-22-119 IN 1996 TO MAKE CHILD CARE MORE AFFORDABLE FOR WORKING FAMILIES;

(IV) THE CREDIT IN SECTION 39-22-119 IS CURRENTLY BASED ON THE AMOUNT CLAIMED FOR A SIMILAR FEDERAL CREDIT;

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

(V) AS A RESULT, SOME LOW-INCOME FAMILIES ARE NOT RECEIVING THE STATE CHILD CARE EXPENSES TAX CREDIT BECAUSE THEY FAIL TO FILE A FEDERAL RETURN OR, BASED ON THEIR INCOME TAXES OWED, ARE INELIGIBLE FOR A FEDERAL CREDIT; AND

(VI) AS A RESULT, THE STATE TAX CREDIT IS UNINTENTIONALLY UNFAIR AND REGRESSIVE.

(b) NOW, THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT THE INTENDED PURPOSE OF THE TAX EXPENDITURE IN THIS SECTION IS TO FIX THE COLORADO CHILD CARE EXPENSES INCOME TAX CREDIT SO THAT ALL LOW-INCOME WORKING FAMILIES ARE ABLE TO CLAIM THE CREDIT REGARDLESS OF THE AMOUNT OF THEIR FEDERAL CHILD CARE EXPENSES CREDIT.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CREDIT" MEANS THE CHILD CARE EXPENSES TAX CREDIT CREATED IN THIS SECTION.

(b) "DEPENDENT" HAS THE SAME MEANING AS IN SECTION 152 (a) (1) OF THE INTERNAL REVENUE CODE, OR ANY SUCCESSOR SECTION.

(3)(a) FOR INCOME TAX YEARS BEGINNING ON AND AFTER JANUARY 1, 2014, BUT PRIOR TO JANUARY 1, 2017, A RESIDENT INDIVIDUAL IS ALLOWED A CREDIT AGAINST THE TAXES DUE UNDER THIS ARTICLE FOR CHILD CARE EXPENSES THAT THE INDIVIDUAL INCURRED DURING THE TAXABLE YEAR IF:

(I) THE INDIVIDUAL HAS AN ADJUSTED GROSS INCOME OF TWENTY-FIVE THOUSAND DOLLARS OR LESS;

(II) THE INDIVIDUAL HAS INSUFFICIENT TAX LIABILITY TO CLAIM ANY CREDIT UNDER SECTION 39-22-119;

(III) THE EXPENSES ARE FOR THE CARE OF A DEPENDENT OF THE TAXPAYER WHO IS LESS THAN THIRTEEN YEARS OLD; AND

(IV) THE INDIVIDUAL WOULD BE ALLOWED A CREDIT FOR THE EXPENSES UNDER SECTION 21 OF THE INTERNAL REVENUE CODE, OR ANY SUCCESSOR SECTION, IF HE OR SHE HAD SUFFICIENT TAX LIABILITY TO CLAIM THE CREDIT.

(b) THE CREDIT IS EQUAL TO TWENTY-FIVE PERCENT OF THE RESIDENT INDIVIDUAL'S CHILD CARE EXPENSES; EXCEPT THAT THE MAXIMUM AMOUNT OF A CREDIT THAT A RESIDENT INDIVIDUAL IS ALLOWED UNDER THIS SECTION IS:

(I) FIVE HUNDRED DOLLARS FOR A SINGLE DEPENDENT; OR

(II) ONE THOUSAND DOLLARS FOR TWO OR MORE DEPENDENTS.

(c) THE AMOUNT OF THE CREDIT THAT EXCEEDS THE RESIDENT INDIVIDUAL'S INCOME TAXES DUE IS REFUNDED TO THE INDIVIDUAL.

(4) THE AMOUNT OF AN INDIVIDUAL'S CHILD CARE EXPENSES INCURRED DURING A TAXABLE YEAR THAT MAY BE THE BASIS OF THE CREDIT SHALL NOT EXCEED:

(a) IN THE CASE OF AN INDIVIDUAL WHO FILES A SINGLE RETURN, THE INDIVIDUAL'S EARNED INCOME FOR THE YEAR; OR

(b) IN THE CASE OF TWO INDIVIDUALS WHO FILE A JOINT RETURN, THE LESSER OF EITHER INDIVIDUAL'S EARNED INCOME FOR THE YEAR.

(5) (a) EXCEPT AS SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (5), A RESIDENT INDIVIDUAL IS NOT ALLOWED A CREDIT FOR ANY AMOUNT PAID TO ANY PERSON WHO PROVIDES CHILD CARE UNLESS:

(I) THE NAME, ADDRESS, AND TAXPAYER IDENTIFICATION NUMBER OF THE PERSON ARE INCLUDED ON THE RESIDENT INDIVIDUAL'S RETURN; OR

(II) IF THE PERSON IS AN ORGANIZATION DESCRIBED IN SECTION 501 (c) (3) OF THE INTERNAL REVENUE CODE, OR ANY SUCCESSOR SECTION, AND EXEMPT FROM TAX UNDER SECTION 501 (a) OF THE INTERNAL REVENUE CODE, OR ANY SUCCESSOR SECTION, THE NAME AND ADDRESS OF THE PERSON ARE INCLUDED ON THE RESIDENT INDIVIDUAL'S RETURN.

(b) IF THE RESIDENT INDIVIDUAL DOES NOT PROVIDE THE TAXPAYER IDENTIFICATION NUMBER BUT IS ABLE TO SHOW THAT HE OR SHE EXERCISED DUE DILIGENCE IN ATTEMPTING TO PROVIDE THE REQUIRED INFORMATION, THE INDIVIDUAL MAY CLAIM THE CREDIT.

(c) A RESIDENT INDIVIDUAL MAY NOT CLAIM A CREDIT WITH RESPECT TO A DEPENDENT UNLESS THE RESIDENT INDIVIDUAL INCLUDES THE DEPENDENT'S NAME AND TAXPAYER IDENTIFICATION NUMBER ON THE INDIVIDUAL'S RETURN.

(6) IN THE CASE OF A PART-YEAR RESIDENT, THE CREDIT IS APPORTIONED IN THE RATIO DETERMINED UNDER SECTION 39-22-110 (1).

(7) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2018.

SECTION 2. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund, not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2014, the sum of \$61,381 and 0.6 FTE, or so much thereof as may be necessary, to be allocated to the taxation business group for the implementation of this act as follows:

(a) \$26,661 and 0.6 FTE for personal services;

(b) \$10,000 for operating expenses; and

(c) \$24,720 for CITA annual maintenance and support.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final

adjournment of the general assembly (August 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 22, 2014