

CHAPTER 227

TAXATION

HOUSE BILL 15-1180

BY REPRESENTATIVE(S) Kraft-Sharp and Wilson, Duran, Garnett, Lontine, Pabon, Rosenthal, Roupe, Ryden, Williams, Winter, Young;
also SENATOR(S) Heath and Holbert, Crowder, Kerr, Merrifield, Todd.

AN ACT

CONCERNING THE CREATION OF A STATE SALES AND USE TAX REFUND FOR TANGIBLE PERSONAL PROPERTY THAT IS USED IN COLORADO FOR RESEARCH AND DEVELOPMENT BY A QUALIFIED MEDICAL TECHNOLOGY OR CLEAN TECHNOLOGY TAXPAYER.

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

SECTION 1. In Colorado Revised Statutes, 39-26-401, **amend** (2) (b), (2) (c), (3), and (5); and **repeal** (2) (d) as follows:

39-26-401. Definitions. As used in this part 4, unless the context otherwise requires:

(2) "Clean technology" means:

(b) Products and technologies used in renewable energy development and generation on a commercial scale; OR

(c) Products and technologies that enhance the efficient EXTRACTION, COLLECTION, storage, distribution, ~~and~~ PRODUCTION, OR consumption of energy ~~and~~ FROM ANY TYPE OF SOURCE.

~~(d) Products and technologies that mitigate human impact on the environment, including but not limited to products and technologies that facilitate the management of greenhouse gases, water, and waste.~~

(3) "Medical ~~device~~ TECHNOLOGY" means a therapeutic or diagnostic machine or tool used to improve human or animal health.

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

(5) "Qualified MEDICAL TECHNOLOGY OR clean technology ~~or medical device taxpayer~~" means A TAXPAYER THAT:

(a) Is a C corporation, as defined in section 39-22-103 (2.5); a partnership, as defined in section 39-22-103 (5.6); a limited liability company that is not a C corporation; an S corporation, as defined in section 39-22-103 (10.5); or a sole proprietorship;

(b) ~~That~~ Employs ~~fifty~~ THIRTY-FIVE or fewer full-time employees in Colorado;

(c) IS HEADQUARTERED IN COLORADO OR HAS MORE THAN FIFTY PERCENT OF ITS EMPLOYEES IN COLORADO; AND

(d) ~~which taxpayer purchases, stores, uses, or consumes tangible personal property to be used in Colorado directly and predominately in~~ CONDUCTS research and development of MEDICAL TECHNOLOGY OR clean technology. ~~or medical devices.~~

SECTION 2. In Colorado Revised Statutes, **recreate and reenact, with amendments**, 39-26-403 as follows:

39-26-403. Refund of state sales and use tax for medical technology and clean technology - application requirements and procedures - legislative declaration - repeal. (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(I) COLORADO'S MEDICAL TECHNOLOGY AND CLEAN TECHNOLOGY INDUSTRIES DIRECTLY EMPLOY OVER THIRTY-THREE THOUSAND HIGHLY SKILLED WORKERS AND CONTRIBUTE BILLIONS OF DOLLARS TO THE STATE'S ECONOMY;

(II) THESE INDUSTRIES ARE CAPITAL INTENSIVE WITH THE NEED FOR STEADY INVESTMENTS IN RESEARCH AND DEVELOPMENT IN ORDER TO PRODUCE THE PRODUCTS THAT COMPETE IN A GLOBAL ECONOMY;

(III) WHILE THE MEDICAL TECHNOLOGY AND CLEAN TECHNOLOGY INDUSTRIES ARE CURRENTLY THRIVING HERE, THERE IS STRONG COMPETITION FROM OTHER STATES, WHICH ARE CREATING TAX BREAKS TO ATTRACT AND GROW THESE INNOVATIVE COMPANIES; AND

(IV) A SALES AND USE TAX REFUND FOR ITEMS USED IN RESEARCH AND DEVELOPMENT FOR MEDICAL TECHNOLOGY AND CLEAN TECHNOLOGY WOULD HELP THE STATE RETAIN, GROW, AND ATTRACT COMPANIES TO COLORADO AND POTENTIALLY ALLOW THESE COMPANIES TO REINVEST THESE FUNDS TO PURCHASE ADDITIONAL NEEDED EQUIPMENT AND HIRE MORE EMPLOYEES.

(b) NOW, THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT THE INTENDED PURPOSE OF THE TAX REFUND CREATED IN THIS SECTION IS TO CREATE AN INCENTIVE TO RETAIN, GROW, AND ATTRACT BUSINESSES IN THE MEDICAL TECHNOLOGY AND CLEAN TECHNOLOGY INDUSTRIES.

(2) (a) FOR THE 2015 CALENDAR YEAR AND EACH CALENDAR YEAR THEREAFTER PRIOR TO JANUARY 1, 2018, A QUALIFIED MEDICAL TECHNOLOGY OR CLEAN

TECHNOLOGY TAXPAYER IS ALLOWED TO CLAIM A REFUND IN AN AMOUNT UP TO THE LIMIT ESTABLISHED IN PARAGRAPH (b) OF THIS SUBSECTION (2) FOR STATE SALES AND USE TAX PAID BY THE TAXPAYER UNDER PARTS 1 AND 2 OF THIS ARTICLE FOR TANGIBLE PERSONAL PROPERTY USED IN COLORADO DIRECTLY AND PREDOMINATELY IN RESEARCH AND DEVELOPMENT OF MEDICAL TECHNOLOGY OR CLEAN TECHNOLOGY.

(b) THE MAXIMUM SALES AND USE TAX REFUND THAT A QUALIFIED MEDICAL TECHNOLOGY OR CLEAN TECHNOLOGY TAXPAYER IS ELIGIBLE TO RECEIVE IN A CALENDAR YEAR UNDER THIS SECTION IS FIFTY THOUSAND DOLLARS.

(3) TO CLAIM THE REFUND ALLOWED BY SUBSECTION (2) OF THIS SECTION, A QUALIFIED MEDICAL TECHNOLOGY OR CLEAN TECHNOLOGY TAXPAYER MUST SUBMIT A REFUND APPLICATION TO THE DEPARTMENT OF REVENUE ON A FORM PROVIDED BY THE DEPARTMENT NO EARLIER THAN JANUARY 1 AND NO LATER THAN APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE TAX IS PAID. ALONG WITH THE APPLICATION, THE TAXPAYER MUST PROVIDE PROOF OF THE STATE SALES AND USE TAXES THE TAXPAYER PAID IN THE IMMEDIATELY PRECEDING CALENDAR YEAR. A TAXPAYER MUST ALSO PROVIDE ANY ADDITIONAL INFORMATION WITH THE APPLICATION THAT THE DEPARTMENT OF REVENUE REQUIRES BY RULE, WHICH MAY INCLUDE, WITHOUT LIMITATION, A DETAILED LIST OF ALL EXPENDITURES THAT SUPPORT A CLAIM FOR A REFUND, THE NAME AND ADDRESSES OF AN INDIVIDUAL WHO MAINTAINS RECORDS OF THE EXPENDITURES, A STATEMENT THAT THE TAXPAYER AGREES TO FURNISH RECORDS OF ALL THE EXPENDITURES TO THE DEPARTMENT OF REVENUE UPON REQUEST, AND THE NUMBER OF PERSONS WHO ARE EMPLOYED ON A FULL-TIME BASIS BY THE TAXPAYER. THE DEPARTMENT SHALL NOT REFUND ANY MONEYS TO A TAXPAYER UNLESS THE TAXPAYER HAS COMPLIED WITH THIS SUBSECTION (3).

(4) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2019.

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 5, 2015, if adjournment sine die is on May 6, 2015); 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 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 26, 2015