

memo

## State Legislature

To: Ms. Natalie Castle, Director lcs.ga@coleg.gov  
From: Ms. Marla F Benavides, [REDACTED] Ms.  
Iesha Wood, [REDACTED]  
CC: **Julia Jackson | MPA** lcs.ga@coleg.gov, Cathy Eslinger,  
cathy.eslinger@coleg.gov  
Date: January 12, 2023  
Re: Concerning the general power of taxation

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## Purpose

### Citizens' initiative 23-21#5

Article V, section 1 (5) of the Colorado constitution and section 1-40-102 of the Colorado Revised Statutes require the proponents to submit for review and comment on the full text of the measure being proposed, which if passed becomes the actual language of the Constitution or statutes.

Under Article V, section 1 (2) of the Constitution proposed initiatives to amend either the Colorado Constitution or State law (i.e., the Colorado Revised Statutes). This a proposed initiative intended to amend the Colorado constitution.

The Colorado Article V, section 1 (8) of the Colorado Constitution requires that the following enacted clause be the style for all laws adopted by the initiative:

**Be it enacted by the People of the State of Colorado, amend Article X, Section 17 Income tax to invalidate Amendment 16 of the United States Constitution** as follows:

## **The Federal Income Tax Rate**

### **Concerning The General Power of Taxation**

**Citizens' initiative: 2023**

**SUBJECT: Revenue**

#### **SUMMARY**

Concerning the state's power of taxation in Article 1 and the Usurpation of the Amendment 16.

#### **Section 17. INCOME TAX**

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(1) **Findings.** This section takes effect December 31, 2023, or as stated. The People of this state find Amendment 16 as a usurpation of the State power to directly tax its citizens to support itself. The People further find that Article 1, Section 2, Clause 3 of the United States Constitution gives the state the authority to directly tax and does not give that authority to the General government. The People find that Colorado citizens do not have to pay the General government and are owed a refund. The People also find that Congress is ignoring Article 1 Section 8 Clause 4 **“to coin money**, regulate the value thereof, and fix a standard of weights and measures. The People find that this section does not authorize printing money.

(2) **Term definitions.** Within this section:

- (a) **“INTERNAL Taxation”** The Constitution reserved to the State government
- (b) **“Union”** means the United States.
- (c) **“EXTERNAL Taxation”** The Constitution reserved to the General government
- (d) **“3/5ths of all other persons”** means **the noncitizens or illegal citizens population would be counted for determining direct taxation and representation in the House of Representatives**
- (e) **“direct taxation”** means internal taxations
- (f) **“indirect taxation”** means external taxation.

**(3) ARTICLE 1, SECTION 2, CLAUSE 3 OF THE UNITED STATES CONSTITUTION AUTHORIZES THE STATES IN THE UNION TO DIRECTLY TAX ITS CITIZENS IN ORDER TO PAY THE UNION DUES.**

(a) Representatives and direct taxation shall be apportioned among the several States which may include within the Union, according to their respective members, which shall be determined by adding to the whole number of free persons, including those bound to service

for a term of years and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within every subsequent term of ten years.

**(4) Income tax. The General Assembly ought to command the means of supplying its own wants and may levy a flat income tax for the support of the state.**

**(a) The national government ought to command the same. But an infinite power of taxation might, and probably would in time, deprive the State of the means of providing its own necessities; and would subject them entirely to the mercy of the national legislature.**

**(b) As the Laws of the Union are to become the supreme law of the land, as it is to pass all laws that may become NECESSARY for carrying into execution the authorities with which it is proposed to vest it, the national government might at a time abolish the taxes imposed for State objects upon the pretense of interference with its own. It might do this to give efficiency to the national revenue, and all the resources of taxation might by degrees become subject to federal monopoly, to the entire exclusion and destruction of the State governments.**

**(c) The State government, by their original constitutions, are invested with complete sovereignty.**

**(d) As in republics strength is always on the side of the PEOPLE, and as there are weighty reasons to induce a belief that the State governments commonly possess most influence over them, and it is the PEOPLE, who with prudence and fairness, of this State that hold the scales in their hands to preserve the constitutional equilibrium between the general and the State governments.**

**(5) The State under the plan of the convention, retains the authority to tax its citizens directly with the most absolute and unqualified sense.**

**(a) Amendment 16 is an attempt on the part of the national government to abridge the States independent and uncontrollable authority to raise their own revenues for the supply of their own wants; with the sole exception of duties on imports and exports, this amendment is a violent assumption of power, unwarranted by any article or clause in its Constitution.**

**(b) Amendment 16 IS INVALID.**

**(c) Amendment 16 implies an entire consolidation of the States into one complete national sovereignty and an entire subordination of the parts; and whatever powers might remain in them, would be altogether dependent on the general will.**

**(d) Amendment 16 gives plain expression in the granting clause, that the power is EXCLUSIVE in the UNION. This deprives the State of Colorado from its natural sovereignty and independence in the Union.**

(e) Amendment XVII gives the general government exclusive power to lay and collect taxes on income. This is repugnant and contradictory to the intent of the framers.

(d) The U.S. Constitution establishes a strict division of legislative authority between the federal government and the states in certain matters.

(e) The last clause but one in the eighth section of the first article provides expressly that Congress shall exercise EXCLUSIVE LEGISLATION over the district to be appropriated as the seat of the government.

(f) The first clause of the same section empowers Congress “to lay and collect taxes, duties, impost, and excises; and the second clause of the tenth section of the same article declares that, NO STATE SHALL, without the consent of the Congress, lay any imposts or duties on imports or exports, except for the purpose of executing its inspection laws; EXCEPT that no tax or duty shall be laid on articles exported from any State; the national government may only tax DUTIES on IMPORTS into the United States.

(g) The last clause of the eighth section of the first article of the plan authorizes the national legislature to make all laws which shall be NECESSARY and PROPER for carrying into execution THE POWERS vested in the government of the United States, or in any department or officer thereof;

(h) The second clause of the sixth article declares That the Constitution of the laws of the United States made IN PURSUANCE THEREOF, and the treaties made by their authority shall be the SUPREME LAW of the land, anything in the constitution or laws of any State to the contrary notwithstanding.

(6) A LAW includes supremacy. It is a rule which those whom it is prescribed are bound to observe. It follows that if individuals enter into this state of society, the laws of this society must be supreme regulators of their conduct. Because this State entered into a larger political society called the United States, the laws which this State enacts are pursuant to the powers entrusted to it by its constitution, must necessarily be supreme over the societies, and individuals of whom they are composed. But it does not follow that the State constitution will become the law of the land.

(7) Though a LAW, therefore, laying a tax for the use of the United States would be supreme in its nature, and could not legally be opposed or controlled, yet a LAW for abrogating or preventing the collection of a tax laid by the authority of the State, (UNLESS upon imports and exports), would not be the supreme law of the land, but an usurpation of power not granted by the Constitution.

(8) The intent of the framers from the whole is, that the individual States would, under the proposed Constitution, retain an independent and uncontrollable authority to raise revenue to

any extent they may stand in need, by every kind of taxation, except duties on imports and exports. The State has COEQUAL authority with the Union in the article of revenue, except as to duties on imports.

(9) The People of Colorado find that Amendment 16 allows the Union to apply itself without the State being consulted. Interferes with Article 1 and clashes or is repugnant to the authority laid by the founding fathers.

**(6) The People of Colorado grant** The General Assembly, the authority to levy income taxes, not the federal government. Amendment 16 is invalid and does not have Supremacy over the State to directly tax the People of Colorado. Every effort should be made to reimburse the People of all monies due for all the years the National government directly taxed the People of this State.