

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 20-0827.01 Esther van Mourik x4215

HOUSE BILL 20-1176

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House Committees

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A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE INCOME TAX STATUTES IN**
102 **ORDER TO ADDRESS CERTAIN DEFECTS AND ANACHRONISMS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Section 1 of the bill repeals an income tax deduction for money earned on Colorado investment deposits issued by a qualified financial institution. The repeal is justified because the definition of "Colorado investment deposits" relies on the "Colorado Investment Deposit Act", which was repealed in 2004, so it is unlikely that there have been any new certificates of deposit issued since 2004.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
2nd Reading Unamended
February 20, 2020

There are also no known eligible certificates of deposit that still exist and thus there would be no allowable amount of interest earnings to subtract.

Section 1 also repeals 2 income tax deductions meant to correct for the difference between the standard deduction amounts for federal income tax filings that used to be called the "marriage penalty" approximately 15 years ago. The "marriage penalty" was addressed by Congress in 2003, so the deductions are no longer necessary.

Section 2 repeals an income tax credit for estate taxes paid on the transfer of agricultural land. The Colorado estate tax is effectively zero because it is based on a federal credit in the provisions of the federal estate tax. The federal provision for the credit is not allowed for estates of decedents who passed away after December 31, 2004. Because the federal credit has not been extended, there is no state estate tax, and thus the income tax credit is not useable.

Section 3 addresses some circular cross references within the statutory section.

Section 4 corrects an issue in statute that erroneously requires nonresident beneficiaries to prepay income tax twice, once through estimated payments and again through tax withheld by the fiduciary.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-104, **repeal**
3 (4)(a.5), (4)(j), and (4)(k) as follows:

4 **39-22-104. Income tax imposed on individuals, estates, and**
5 **trusts - single rate - legislative declaration - definitions - repeal.**

6 (4) There shall be subtracted from federal taxable income:

7 (a.5) ~~For income tax years commencing on and after January 1,~~
8 ~~1990, an amount equal to any interest income earned on Colorado~~
9 ~~investment deposits issued by qualified financial institutions pursuant to~~
10 ~~article 37 of title 11, C.R.S., as that article existed prior to its repeal on~~
11 ~~July 1, 2004, to the extent included in federal taxable income, but not to~~
12 ~~exceed twenty thousand dollars in any taxable year;~~

13 (j) ~~For income tax years commencing on or after January 1, 2000,~~
14 ~~for two individuals whose federal taxable income is determined on a joint~~

1 ~~federal return and who claim the basic standard deduction allowable~~
2 ~~under section 63 (c)(2) of the internal revenue code, an amount equal to~~
3 ~~the difference between an amount equal to double the amount of the basic~~
4 ~~standard deduction allowable under section 63 (c)(2) of the internal~~
5 ~~revenue code in the case of an individual federal return for an individual~~
6 ~~who is not the head of a household and the amount of the basic standard~~
7 ~~deduction allowable under section 63 (c)(2) of the internal revenue code~~
8 ~~in the case of a joint federal return;~~

9 (k) For income tax years commencing on or after January 1, 2000,
10 for two individuals whose federal taxable income is determined on a joint
11 federal return and who claim itemized deductions in an amount that is
12 greater than the amount of the basic standard deduction allowable under
13 section 63 (c)(2) of the internal revenue code plus any additional standard
14 deduction allowable under section 63 (c)(3) of the internal revenue code,
15 if applicable, in the case of a joint federal return, but less than double the
16 amount of the basic standard deduction allowable under section 63 (c)(2)
17 of the internal revenue code plus any additional standard deduction
18 allowable under section 63 (c)(3) of the internal revenue code, if
19 applicable, in the case of an individual federal return for an individual
20 who is not the head of a household, an amount equal to the difference
21 between an amount equal to double the amount of such basic standard
22 deduction allowable in the case of an individual federal return for an
23 individual who is not the head of a household plus any additional standard
24 deduction allowable to either individual and the amount of the itemized
25 deductions claimed by the resident individuals;

26 **SECTION 2.** In Colorado Revised Statutes, **repeal** 39-22-534 as
27 follows:

1 **39-22-534. Credit for estate taxes paid - agricultural land -**
2 **recapture - definitions.** ~~(1) (a) Except as set forth in subsection (3) of~~
3 ~~this section, for income tax years specified in paragraph (b) of this~~
4 ~~subsection (1), a person who inherits agricultural land located within the~~
5 ~~state is allowed a credit in an amount equal to the amount of estate taxes~~
6 ~~paid pursuant to article 23.5 of this title that are attributable to the transfer~~
7 ~~of such agricultural land. A taxpayer must claim the credit for the income~~
8 ~~tax year in which the estate taxes are paid. For purposes of this section,~~
9 ~~the value of the agricultural land is the current assessed valuation. If more~~
10 ~~than one person inherits the agricultural land, the tax credit is apportioned~~
11 ~~among all beneficiaries.~~

12 ~~(b) The credit shall not apply until the first income tax year:~~

13 ~~(I) After congress enacts a law delaying to a date after December~~
14 ~~31, 2012, the sunset of the amendments to section 26 U.S.C. sec. 2011~~
15 ~~that were included in the "Economic Growth and Tax Relief~~
16 ~~Reconciliation Act of 2001", Public Law 107-16; and~~

17 ~~(II) That an estate tax is owed pursuant to article 23.5 of this title.~~

18 ~~(2) If the amount of the credit exceeds the income taxes owed by~~
19 ~~the taxpayer, the department of revenue shall refund the excess amount~~
20 ~~to the taxpayer.~~

21 ~~(3) (a) If, within ten years from the date the income tax credit~~
22 ~~created by this section is claimed, the property that was the basis of the~~
23 ~~credit is no longer classified as agricultural land for property tax~~
24 ~~purposes, the credit shall be disallowed and, within thirty days of the~~
25 ~~change in use, the taxpayer who received the tax credit shall file an~~
26 ~~amended Colorado income tax return for the tax year that the credit was~~
27 ~~claimed. Interest shall be due on the taxes owed from the due date of the~~

1 original return. Notwithstanding any provision of law to the contrary, the
2 annual rate of interest for an amount owed pursuant to this subsection (3)
3 for a given year shall be equal to the rate of inflation for the prior year.

4 (b) Notwithstanding the provisions of section 39-21-107 (2), the
5 assessment of the tax due as a result of any disallowance of the credit
6 allowed by this section, plus any penalty or interest, shall be made within
7 eleven years of the due date of the return claiming the credit. If the
8 taxpayer does not file the amended return within the prescribed thirty-day
9 period, then the statute of limitations shall be tolled from the end of such
10 thirty-day period until the date that such amended return is filed with the
11 executive director or until the executive director discovers such
12 determination or change, whichever occurs first.

13 (4) As used in this section:

14 (a) "Agricultural land" has the same meaning as set forth in
15 section 39-1-102.

16 (b) "Rate of inflation" means the annual percentage change in the
17 United States department of labor, bureau of labor statistics, consumer
18 price index for Denver-Aurora-Lakewood for all items and all urban
19 consumers, or its applicable predecessor or successor index.

20 **SECTION 3.** In Colorado Revised Statutes, 39-22-601, **amend**
21 (2.5)(f) introductory portion, (2.5)(f)(I), (5)(f) introductory portion, and
22 (5)(f)(I) as follows:

23 **39-22-601. Returns.** (2.5) (f) The agreement referred to in
24 paragraph (c) of this subsection (2.5) SUBSECTION (2.5)(e) OF THIS
25 SECTION is an agreement of a nonresident shareholder of the S
26 corporation:

27 (I) To file a return in accordance with the provisions of paragraph

1 ~~(a) of this subsection (2.5)~~ THIS SECTION and to make timely payment of
2 all taxes imposed on the shareholder by this state with respect to the
3 income of the S corporation; and

4 (5) (f) The agreement referred to in ~~paragraph (e) of this~~
5 ~~subsection (5)~~ SUBSECTION (5)(e) OF THIS SECTION is an agreement of a
6 nonresident partner of the partnership:

7 (I) To file a return in accordance with ~~the provisions of paragraph~~
8 ~~(a) of this subsection (5)~~ THIS SECTION and to make timely payment of all
9 taxes imposed on the member by this state with respect to the income of
10 the partnership; and

11 **SECTION 4.** In Colorado Revised Statutes, 39-22-605, **amend**
12 (2)(c), (7)(a), (8)(a), (8)(b) introductory portion, and (8)(b)(II) as follows:

13 **39-22-605. Failure by individual to pay estimated income tax.**

14 (2) As used in this section, unless the context otherwise requires:

15 (c) "Tax" or "tax liability" means the tax imposed under this
16 article minus the credits against tax provided by this article other than the
17 credits against tax for withholding pursuant to sections **39-22-601 (4)**,
18 39-22-604, and 39-22-604.5 and credits against tax for the sales tax
19 refund pursuant to section 39-22-2003.

20 (7) (a) No addition to tax shall be imposed under subsection (3)
21 of this section for any taxable year if the tax shown on the return for such
22 taxable year or, if no return is filed, the tax, reduced by the credits
23 allowable under sections **39-22-601 (4)**, 39-22-604, 39-22-604.5, and
24 39-22-2003, is less than one thousand dollars.

25 (8) (a) For purposes of applying this section, the amount of the
26 credits allowed under sections **39-22-601 (4)**, 39-22-604, 39-22-604.5,
27 and 39-22-2003 for the taxable year shall be deemed a payment of

1 estimated tax and an equal part of such amount shall be deemed paid on
2 each due date for such taxable year, unless the taxpayer establishes the
3 dates on which all amounts were actually withheld, in which case the
4 amounts so withheld shall be deemed payments of estimated tax on the
5 dates on which such amounts were actually withheld.

6 (b) The taxpayer may apply ~~paragraph (a) of this subsection (8)~~
7 SUBSECTION (8)(a) OF THIS SECTION separately with respect to the
8 following:

9 (II) All other amounts withheld for which credits are allowed
10 under sections ~~39-22-601 (4)~~, 39-22-604, 39-22-604.5, and 39-22-2003.

11 **SECTION 5. Act subject to petition - effective date -**
12 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
13 the expiration of the ninety-day period after final adjournment of the
14 general assembly (August 5, 2020, if adjournment sine die is on May 6,
15 2020); except that, if a referendum petition is filed pursuant to section 1
16 (3) of article V of the state constitution against this act or an item, section,
17 or part of this act within such period, then the act, item, section, or part
18 will not take effect unless approved by the people at the general election
19 to be held in November 2020 and, in such case, will take effect on the
20 date of the official declaration of the vote thereon by the governor.

21 (2) This act applies to income tax years on or after the applicable
22 effective date of this act.