

CHAPTER 54

TAXATION

HOUSE BILL 22-1039

BY REPRESENTATIVE(S) Kipp and Van Winkle, Baisley, Bird, Bockenfeld, Boesenecker, Duran, Geitner, Gray, Hooton, Lynch, McCluskie, McCormick, McKean, McLachlan, Michaelson Jenet, Mullica, Pico, Ricks, Sandridge, Sirota, Snyder, Weissman, Will, Williams, Woodrow;
also SENATOR(S) Bridges and Woodward, Buckner, Cooke, Gardner, Hinrichsen, Hisey, Holbert, Kirkmeyer, Kolker, Lee, Liston, Lundeen, Priola, Rankin, Scott, Simpson, Smallwood, Sonnenberg, Fenberg.

AN ACT**CONCERNING SIMPLIFICATION OF THE MEANS BY WHICH PROOF OF ELIGIBILITY FOR SALES AND USE TAX EXEMPTIONS IS ESTABLISHED.**

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

SECTION 1. In Colorado Revised Statutes, **add** 39-26-730 as follows:

39-26-730. Sales and use tax exemption forms - simplification. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) IN MANY CASES, A PERSON WHO WISHES TO ESTABLISH THE RIGHT TO OBTAIN AN EXEMPTION ALLOWED BY THIS PART 7 IS REQUIRED TO COMPLETE A FORM CREATED BY THE DEPARTMENT OF REVENUE WHICH, DEPENDING ON WHICH EXEMPTION IS SOUGHT, MAY BE DESCRIBED AS AN AFFIDAVIT, APPLICATION, CERTIFICATE, CERTIFICATION, DECLARATION, OR STATEMENT; AND

(b) THE BURDENS OF ESTABLISHING THE RIGHT TO AN EXEMPTION ALLOWED BY THIS PART 7 THAT ARE IMPOSED ON PERSONS MAKING TAX-EXEMPT PURCHASES SHOULD BE MINIMIZED TO THE EXTENT FEASIBLE WITHOUT IMPAIRING THE PROPER ADMINISTRATION OF THE EXEMPTIONS.

(2) THE DEPARTMENT OF REVENUE SHALL EXAMINE ITS SALES AND USE TAX EXEMPTION FORMS AND ITS REQUIREMENTS RELATING TO THEIR USE AND, TO THE EXTENT FEASIBLE WITHOUT IMPAIRING THE PROPER ADMINISTRATION OF THE EXEMPTIONS, SIMPLIFY THE FORMS, WHICH SIMPLIFICATION MAY INCLUDE ELIMINATION OF CERTAIN FORMS OR CONSOLIDATION OF FORMS, AND FORM-RELATED

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

REQUIREMENTS FOR PERSONS MAKING TAX-EXEMPT PURCHASES AS ALLOWED BY THIS ARTICLE 26. THE DEPARTMENT SHALL COMPLETE THE INITIAL SIMPLIFICATION ON OR BEFORE JULY 1, 2023, AND SHALL CONTINUE TO PURSUE SIMPLIFICATION THEREAFTER AS THE PROVISIONS OF THIS PART 7 OR OTHER RELEVANT CIRCUMSTANCES CHANGE.

SECTION 2. In Colorado Revised Statutes, 39-26-708, **amend** (3) as follows:

39-26-708. Construction and building materials. (3) On application by a purchaser or seller, the department of revenue shall issue to a contractor or subcontractor a certificate of exemption indicating that the contractor's or subcontractor's purchase of construction or building materials is for a purpose stated in subsection (1) of this section and is, therefore, free from sales tax. UNLESS THE DEPARTMENT DETERMINES PURSUANT TO SECTION 39-26-730 (2) THAT FORMS CAN BE CONSOLIDATED OR ELIMINATED, the department shall provide forms for the application and certificate and shall have the authority to verify that the contractor or subcontractor is, in fact, entitled to the issuance of the certificate prior to such issuance.

SECTION 3. In Colorado Revised Statutes, 39-26-709, **amend** (1)(g) as follows:

39-26-709. Machinery and machine tools - definitions. (1) (g) UNLESS THE DEPARTMENT OF REVENUE DETERMINES PURSUANT TO SECTION 39-26-730 (2) THAT THE DECLARATION CAN BE CONSOLIDATED WITH ANOTHER FORM OR ELIMINATED, to receive an exemption under this subsection (1), a declaration of entitlement shall be filed by the purchaser with the vendor of the machinery or machine tools, or parts thereof, and with the executive director of the department. ~~of revenue.~~

SECTION 4. In Colorado Revised Statutes, 39-26-711.5, **amend** (2) as follows:

39-26-711.5. Aircraft - use outside state. (2) A purchaser of an aircraft who claims the exemption allowed by this section shall, at the time of purchase AND UNLESS THE DEPARTMENT OF REVENUE DETERMINES PURSUANT TO SECTION 39-26-730 (2) THAT THE AFFIDAVIT CAN BE CONSOLIDATED WITH ANOTHER FORM OR ELIMINATED, provide to the seller an affidavit that the purchaser is not a resident of the state and that the purchaser agrees to pay the tax imposed by part 1 of this ~~article~~ ARTICLE 26 if the purchaser fails to comply with the requirements of ~~paragraphs (b) and (c) of subsection (1)~~ SUBSECTION (1)(b) OR (1)(c) of this section.

SECTION 5. In Colorado Revised Statutes, 39-26-711.8, **amend** (2) as follows:

39-26-711.8. Aircraft - use outside state - on-demand air carriers. (2) A purchaser of an aircraft who claims the exemption allowed by this section shall, at the time of purchase AND UNLESS THE DEPARTMENT OF REVENUE DETERMINES PURSUANT TO SECTION 39-26-730 (2) THAT THE AFFIDAVIT CAN BE CONSOLIDATED WITH ANOTHER FORM OR ELIMINATED, provide to the seller an affidavit that the aircraft will be used by an on-demand air carrier and that the purchaser agrees to pay the tax imposed by part 1 or part 2 of this ~~article~~ ARTICLE 26, as applicable, if the purchaser fails to comply with the requirements of ~~paragraphs (b), (c) and (d) of subsection (1)~~ SUBSECTIONS (1)(b), (1)(c), AND (1)(d) of this section.

SECTION 6. In Colorado Revised Statutes, 39-26-712, **amend** (1), (2) introductory portion, (2)(a), and (2)(b) as follows:

39-26-712. Trailers and trucks. (1) The following ~~shall be~~ ARE exempt from taxation under the provisions of part 1 of this ~~article~~ ARTICLE 26:

(a) The sale of a new or used trailer, semitrailer, truck, truck tractor, or truck body manufactured within this state if such vehicle is purchased from the manufacturer for use exclusively outside this state or in interstate commerce and is delivered by the manufacturer to the purchaser within this state, if the purchaser drives or moves such vehicle to any point outside this state within thirty days after the date of delivery, and if the purchaser furnishes an affidavit to the manufacturer that such vehicle will be permanently licensed and registered outside this state and will be removed from this state within thirty days after the date of delivery, UNLESS THE DEPARTMENT OF REVENUE DETERMINES PURSUANT TO SECTION 39-26-730 (2) THAT THE AFFIDAVIT CAN BE CONSOLIDATED WITH ANOTHER FORM OR ELIMINATED; and

(b) The sale of a new or used trailer, semitrailer, truck, truck tractor, or truck body if such vehicle is purchased for use exclusively outside this state or in interstate commerce and is delivered by the manufacturer or licensed Colorado dealer to the purchaser within this state, if the purchaser drives or moves such vehicle to any point outside this state within thirty days after the date of delivery, and if the purchaser furnishes an affidavit to the seller that such vehicle will be permanently licensed and registered outside this state and will be removed from this state within thirty days after the date of delivery, UNLESS THE DEPARTMENT OF REVENUE DETERMINES PURSUANT TO SECTION 39-26-730 (2) THAT THE AFFIDAVIT CAN BE CONSOLIDATED WITH ANOTHER FORM OR ELIMINATED.

(2) The following ~~shall be~~ ARE exempt from taxation under the provisions of part 2 of this ~~article~~ ARTICLE 26:

(a) The storage or use of a new or used trailer, semitrailer, truck, truck tractor, or truck body manufactured within this state if such vehicle is purchased from the manufacturer for use exclusively outside this state or in interstate commerce and is delivered by the manufacturer to the purchaser within this state, if the purchaser drives or moves such vehicle to any point outside this state within thirty days after the date of delivery, and if the purchaser furnishes an affidavit to the manufacturer that such vehicle will be permanently licensed and registered outside this state and will be removed from this state within thirty days after the date of delivery, UNLESS THE DEPARTMENT OF REVENUE DETERMINES PURSUANT TO SECTION 39-26-730 (2) THAT THE AFFIDAVIT CAN BE CONSOLIDATED WITH ANOTHER FORM OR ELIMINATED;

(b) The storage or use of a new or used trailer, semitrailer, truck, truck tractor, or truck body if such vehicle is purchased for use exclusively outside this state or in interstate commerce and is delivered by the manufacturer or licensed Colorado dealer to the purchaser within this state, if the purchaser drives or moves such vehicle to any point outside this state within thirty days after the date of delivery, and if the purchaser furnishes an affidavit to the seller that such vehicle will be permanently licensed and registered outside this state and will be removed from this state within thirty days after the date of delivery, UNLESS THE DEPARTMENT OF

REVENUE DETERMINES PURSUANT TO SECTION 39-26-730 (2) THAT THE AFFIDAVIT CAN BE CONSOLIDATED WITH ANOTHER FORM OR ELIMINATED; and

SECTION 7. In Colorado Revised Statutes, 39-26-716, **amend** (4)(f)(II) as follows:

39-26-716. Agriculture and livestock - special fuels - definitions. (4) The following are exempt from taxation under the provisions of parts 1 and 2 of this article 26:

(f) (II) UNLESS THE DEPARTMENT OF REVENUE DETERMINES PURSUANT TO SECTION 39-26-730 (2) THAT THE AFFIDAVIT CAN BE CONSOLIDATED WITH ANOTHER FORM OR ELIMINATED, the lessor or seller of such farm equipment shall obtain a signed affidavit from the lessee, renter, or purchaser affirming that the farm equipment will be used primarily and directly in a farm operation.

SECTION 8. In Colorado Revised Statutes, 39-26-723, **amend** (2) as follows:

39-26-723. Colorado wood products - repeal. (2) For purposes of the exemption specified in subsection (1) of this section, UNLESS THE DEPARTMENT OF REVENUE DETERMINES PURSUANT TO SECTION 39-26-730 (2) THAT THE FORM CAN BE CONSOLIDATED WITH ANOTHER FORM OR ELIMINATED, a wholesaler shall certify on a form prescribed by the department of revenue that a product is from salvaged trees killed or infested in Colorado by mountain pine beetles or spruce beetles.

SECTION 9. 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; 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 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 30, 2022