

CHAPTER 445

TAXATION

HOUSE BILL 23-1112

BY REPRESENTATIVE(S) Bird and Young, Amabile, Bacon, Boesenecker, Brown, deGruy Kennedy, Dickson, Duran, English, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Herod, Jodeh, Joseph, Kipp, Lindsay, Lindstedt, Lukens, Martinez, McCormick, McLachlan, Michaelson Jenet, Ricks, Sirota, Snyder, Titone, Vigil, Weissman, Willford, Lieder, Sharbini, Story, Valdez, McCluskie;

also SENATOR(S) Hansen and Kolker, Bridges, Buckner, Cutter, Danielson, Exum, Ginal, Gonzales, Hinrichsen, Jaquez Lewis, Marchman, Moreno, Mullica, Priola, Roberts, Rodriguez, Sullivan, Winter F., Zenzinger, Fenberg.

AN ACT

CONCERNING THE ENLARGEMENT OF CERTAIN INCOME TAX CREDITS FOR LOW- AND MIDDLE-INCOME WORKING INDIVIDUALS OR FAMILIES, AND, IN CONNECTION THEREWITH, REDUCING STATE INCOME TAX REVENUE BY INCREASING THE EARNED INCOME TAX CREDIT AND RESTRUCTURING THE CHILD TAX CREDIT TO ALLOW ALL LOW-INCOME TAXPAYERS WITH INCOME BELOW CERTAIN THRESHOLDS TO CLAIM THE CREDIT.

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

SECTION 1. In Colorado Revised Statutes, 39-22-123.5, **amend** (2)(a), (2)(c)(I), (2.5)(a), (2.5)(d)(I), and (2.7)(b)(I); and **add** (2)(d), (2.5)(e), and (2.7)(c) as follows:

39-22-123.5. Earned income tax credit - not a refund of excess state revenues - trigger - legislative declaration - repeal. (2) (a) (I) For an income tax year commencing prior to January 1, 2022, a resident individual who claims an earned income tax credit on the individual's federal tax return is allowed an earned income tax credit against the taxes due under this article 22 that is equal to ten percent of the federal credit that the resident individual claimed on his or her federal tax return for the same tax year.

(II) THIS SUBSECTION (2)(a) IS REPEALED, EFFECTIVE DECEMBER 31, 2032.

(c) (I) For income tax years commencing on or after January 1, 2023, but before January 1, ~~2026~~ 2024, AND FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2025, a resident individual who claims an earned income tax credit on the individual's federal tax return is allowed an earned income tax credit against the

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taxes due under this article 22 that is equal to twenty-five percent of the federal credit that the resident individual claimed on his or her federal tax return for the same tax year.

(d) (I) FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2024, A RESIDENT INDIVIDUAL WHO CLAIMS AN EARNED INCOME TAX CREDIT ON THE INDIVIDUAL'S FEDERAL TAX RETURN IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE UNDER THIS ARTICLE 22 THAT IS EQUAL TO THIRTY-EIGHT PERCENT OF THE FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL CLAIMED ON HIS OR HER FEDERAL TAX RETURN FOR THE SAME TAX YEAR.

(II) THIS SUBSECTION (2)(d) IS REPEALED, EFFECTIVE DECEMBER 31, 2034.

(2.5) (a) (I) For income tax years commencing on or after January 1, 2020, but before January 1, 2022, a resident individual is allowed an earned income tax credit against the taxes due under this article 22 that is equal to ten percent of the federal credit that the resident individual would have been allowed, but for the fact that the resident individual, the resident individual's spouse, or one or more of the resident individual's dependents do not have a social security number that is valid for employment.

(II) THIS SUBSECTION (2.5)(a) IS REPEALED, EFFECTIVE DECEMBER 31, 2032.

(d) (I) For income tax years commencing on or after January 1, 2023, but before January 1, ~~2026~~ 2024, AND FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2025, a resident individual is allowed an earned income tax credit against the taxes due under this article 22 that is equal to twenty-five percent of the federal credit that the resident individual would have been allowed, but for the fact that the resident individual, the resident individual's spouse, or one or more of the resident individual's dependents do not have a social security number that is valid for employment.

(e) (I) FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2024, A RESIDENT INDIVIDUAL IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE UNDER THIS ARTICLE 22 THAT IS EQUAL TO THIRTY-EIGHT PERCENT OF THE FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL WOULD HAVE BEEN ALLOWED, BUT FOR THE FACT THAT THE RESIDENT INDIVIDUAL, THE RESIDENT INDIVIDUAL'S SPOUSE, OR ONE OR MORE OF THE RESIDENT INDIVIDUAL'S DEPENDENTS DO NOT HAVE A SOCIAL SECURITY NUMBER THAT IS VALID FOR EMPLOYMENT.

(II) THIS SUBSECTION (2.5)(e) IS REPEALED, EFFECTIVE DECEMBER 31, 2034.

(2.7) (b) (I) For income tax years commencing on or after January 1, 2023, but before January 1, ~~2026~~ 2024, AND FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2025, a resident individual is allowed an earned income tax credit against the taxes due under this article 22 that is equal to twenty-five percent of the federal credit that the resident individual would have been allowed under section 32 (n)(1) of the internal revenue code, notwithstanding the date limitation set forth in section 32 (n) of the internal revenue code as specified in section 9621 (a) of the "American Rescue Plan Act of 2021", Pub.L. 117-2.

(c) (I) FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2024, A RESIDENT INDIVIDUAL IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE UNDER THIS ARTICLE 22 THAT IS EQUAL TO THIRTY-EIGHT PERCENT OF THE FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL WOULD HAVE BEEN ALLOWED UNDER SECTION 32 (n)(1) OF THE INTERNAL REVENUE CODE, NOTWITHSTANDING THE DATE LIMITATION SET FORTH IN SECTION 32 (n) OF THE INTERNAL REVENUE CODE AS SPECIFIED IN SECTION 9621 (a) OF THE "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2.

(II) THIS SUBSECTION (2.7)(c) IS REPEALED, EFFECTIVE DECEMBER 31, 2034.

SECTION 2. In Colorado Revised Statutes, 39-22-129, **amend** (1)(b), (2)(a), (3)(a), (3.5)(a), and (4) introductory portion; and **add** (4.5), (8), and (9) as follows:

39-22-129. Child tax credit - legislative declaration - definitions - repeal.

(1) (b) Now, therefore, it is the intent of the general assembly to establish a permanent and refundable state child tax credit for eligible Colorado taxpayers; ~~which is equal to a percentage of the federal credit based on a family's adjusted gross income.~~ The intended purpose of this credit is to support Colorado working families with young children, reduce child poverty, and to help Colorado's economy.

(2) As used in this section:

(a) (I) "Eligible child" means FOR INCOME TAX YEARS COMMENCING BEFORE JANUARY 1, 2024, a qualifying child for purposes of the federal child tax credit who is under six years of age at the end of the taxable year for which the credit is claimed.

(II) "ELIGIBLE CHILD" MEANS FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2024, A QUALIFYING CHILD, AS DEFINED IN SECTION 152 (c) OF THE INTERNAL REVENUE CODE, WHO IS UNDER SIX YEARS OF AGE AT THE END OF THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.

(3) (a) Except as provided in subsection (4) of this section, for income tax years commencing on or after January 1, 2022, BUT BEFORE JANUARY 1, 2024, a resident individual who claims a federal child tax credit for an eligible child on the individual's federal tax return is allowed a child tax credit in the amount set forth in subsection (3)(b) or (3)(c) of this section against the income taxes due under this article 22 for the same tax year.

(3.5) (a) Except as provided in subsection (4) of this section, for income tax years commencing on or after January 1, 2022, BUT BEFORE JANUARY 1, 2024, a resident individual who could have claimed a federal child tax credit for an eligible child on the individual's federal tax return had section 24 (h)(7) of the internal revenue code not applied to the definition of qualifying child, is allowed a child tax credit in the amount set forth in subsection (3.5)(b) or (3.5)(c) of this section against the income taxes due under this article 22 for the same tax year.

(4) In any income tax year commencing on or after January 1, 2022, BUT BEFORE JANUARY 1, 2024, if the changes specified in section 9611 of the "American Rescue Plan Act of 2021", Pub.L. 117-2, are no longer applicable to the federal child tax

credit allowed in section 24 of the internal revenue code, then the amount of the child tax credit allowed in this section is as follows:

(4.5) (a) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2024, A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN IS ALLOWED A CHILD TAX CREDIT AGAINST THE INCOME TAXES DUE UNDER THIS ARTICLE 22 FOR EACH ELIGIBLE CHILD OF THE TAXPAYER IN THE FOLLOWING AMOUNTS:

(A) ONE THOUSAND TWO HUNDRED DOLLARS IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME IS TWENTY-FIVE THOUSAND DOLLARS OR LESS;

(B) SIX HUNDRED DOLLARS IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN TWENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO FIFTY THOUSAND DOLLARS; AND

(C) TWO HUNDRED DOLLARS IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO SEVENTY-FIVE THOUSAND DOLLARS.

(II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2024, TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN ARE ALLOWED A CHILD TAX CREDIT AGAINST THE INCOME TAXES DUE UNDER THIS ARTICLE 22 FOR EACH ELIGIBLE CHILD OF THE TAXPAYER IN THE FOLLOWING AMOUNTS:

(A) ONE THOUSAND TWO HUNDRED DOLLARS IF THE INDIVIDUALS' FEDERAL ADJUSTED GROSS INCOME IS THIRTY-FIVE THOUSAND DOLLARS OR LESS;

(B) SIX HUNDRED DOLLARS IF THE INDIVIDUALS' FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN THIRTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO SIXTY THOUSAND DOLLARS; AND

(C) TWO HUNDRED DOLLARS IF THE INDIVIDUALS' FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN SIXTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO EIGHTY-FIVE THOUSAND DOLLARS.

(b)(I) A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN AND WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN SEVENTY-FIVE THOUSAND DOLLARS IS NOT ALLOWED A CREDIT UNDER THIS SECTION.

(II) TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN AND WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN EIGHTY-FIVE THOUSAND DOLLARS ARE NOT ALLOWED A CREDIT UNDER THIS SECTION.

(8) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2025, THE DEPARTMENT OF REVENUE SHALL ADJUST THE FEDERAL ADJUSTED GROSS INCOME AMOUNTS SET FORTH IN THIS SECTION TO REFLECT INFLATION FOR EACH INCOME TAX YEAR IN WHICH THE CREDIT DESCRIBED IN THIS SECTION IS ALLOWED IF CUMULATIVE INFLATION SINCE THE LAST ADJUSTMENT, WHEN APPLIED TO THE CURRENT LIMITS, RESULTS IN AN INCREASE OF AT LEAST ONE THOUSAND DOLLARS WHEN THE ADJUSTED LIMITS ARE ROUNDED TO THE NEAREST ONE THOUSAND DOLLARS.

(b) AS USED IN THIS SUBSECTION (8), "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY ALL URBAN CONSUMERS, OR ITS APPLICABLE SUCCESSOR INDEX.

(9) SUBSECTIONS (3), (3.5), AND (4) OF THIS SECTION AND THIS SUBSECTION (9) ARE REPEALED, EFFECTIVE DECEMBER 31, 2026.

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; 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 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 7, 2023