

## CHAPTER 252

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**TAXATION**

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**HOUSE BILL 16-1194**

BY REPRESENTATIVE(S) Mitsch Bush and Becker J., Priola, Dore, Rankin, Arndt, Lebsock, Williams, Pabon, Brown, Danielson, Duran, Esgar, Ginal, Vigil, Fields, Lontine, Moreno, Pettersen, Rosenthal, Ryden, Salazar, Young, Hullinghorst; also SENATOR(S) Sonnenberg, Crowder.

**AN ACT**

**CONCERNING A TEMPORARY INCOME TAX DEDUCTION FOR A PORTION OF LEASE PAYMENTS RECEIVED BY A QUALIFIED TAXPAYER FOR LEASING THE TAXPAYER'S AGRICULTURAL ASSET TO AN ELIGIBLE BEGINNING FARMER OR RANCHER.**

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

**SECTION 1.** In Colorado Revised Statutes, 39-22-104, **add** (4) (v) as follows:

**39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - legislative declaration - definitions - repeal.** (4) There shall be subtracted from federal taxable income:

(v) (I) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(A) THE STATE IS SEEING A CONTINUED TREND OF AGING FARMERS AND RANCHERS;

(B) THE CURRENT AVERAGE AGE OF A FAMILY FARM OR RANCH OPERATOR IN COLORADO IS FIFTY-NINE;

(C) THERE IS A NATIONAL AND LOCAL FOCUS ON THE BENEFITS OF LOCAL FOODS, AND AT THE SAME TIME A NEW GENERATION OF FARMER IS EMERGING, BUT THE BEGINNING FARMERS OR RANCHERS ARE HAVING TROUBLE FINDING LAND TO LEASE; AND

(D) THE INCOME TAX DEDUCTION ALLOWED IN THIS PARAGRAPH (v) IS INTENDED TO BE AN INCENTIVE FOR AGING FARMERS OR RANCHERS TO LEASE THEIR AGRICULTURAL ASSETS TO BEGINNING FARMERS OR RANCHERS IN ORDER TO GIVE

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

THE BEGINNERS A CHANCE TO GET STARTED IN THE INDUSTRY.

(II) FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2017, BUT BEFORE JANUARY 1, 2020, IF A QUALIFIED TAXPAYER ENTERS INTO A QUALIFIED LEASE WITH AN ELIGIBLE BEGINNING FARMER OR RANCHER, AN AMOUNT SPECIFIED IN A DEDUCTION CERTIFICATE ISSUED BY THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY THAT IS EQUAL TO TWENTY PERCENT OF THE LEASE PAYMENTS RECEIVED FROM AN ELIGIBLE BEGINNING FARMER OR RANCHER AS SPECIFIED IN THE QUALIFIED LEASE, NOT TO EXCEED THE QUALIFIED TAXPAYER'S INCOME AND NOT TO EXCEED THE AMOUNT SPECIFIED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (v).

(III) THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY MAY ISSUE MORE THAN ONE DEDUCTION CERTIFICATE TO EACH QUALIFIED TAXPAYER IF SUCH QUALIFIED TAXPAYER ENTERS INTO MORE THAN ONE QUALIFIED LEASE WITH MORE THAN ONE ELIGIBLE BEGINNING FARMER OR RANCHER; EXCEPT THAT THE TOTAL AMOUNT SPECIFIED IN ALL DEDUCTION CERTIFICATES ISSUED TO A QUALIFIED TAXPAYER MAY NOT EXCEED TWENTY-FIVE THOUSAND DOLLARS PER INCOME TAX YEAR FOR A MAXIMUM OF THREE INCOME TAX YEARS, AND EXCEPT THAT THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY SHALL NOT ISSUE MORE THAN THE NUMBER OF DEDUCTION CERTIFICATES PER INCOME TAX YEAR SET FORTH IN SECTION 35-75-107 (1) (u), C.R.S.

(IV) FOR PURPOSES OF THIS PARAGRAPH (v):

(A) "AGRICULTURAL ASSET" MEANS LAND, CROPS, LIVESTOCK AND LIVESTOCK FACILITIES, FARM EQUIPMENT AND MACHINERY, GRAIN STORAGE, OR IRRIGATION EQUIPMENT.

(B) "COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY" MEANS THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY CREATED IN SECTION 35-75-104, C.R.S.

(C) "DEDUCTION CERTIFICATE" MEANS A CERTIFICATE ISSUED BY THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY CERTIFYING THAT A QUALIFIED TAXPAYER QUALIFIES FOR THE INCOME TAX DEDUCTION AUTHORIZED IN THIS SECTION AND SPECIFYING THE AMOUNT OF THE DEDUCTION ALLOWED.

(D) "ELIGIBLE BEGINNING FARMER OR RANCHER" MEANS A FARMER OR RANCHER RESIDING IN THE STATE WHO HAS A NET WORTH OF LESS THAN TWO MILLION DOLLARS, WILL PROVIDE THE MAJORITY OF THE DAILY PHYSICAL LABOR AND MANAGEMENT ON THE QUALIFIED TAXPAYER'S AGRICULTURAL ASSET OR WILL USE THE QUALIFIED TAXPAYER'S AGRICULTURAL ASSET THE MAJORITY OF THE TIME, HAS PLANS TO FARM OR RANCH FULL-TIME, HAS NOT BEEN ENGAGED IN FARMING OR RANCHING FOR MORE THAN TEN YEARS, HAS FARMING OR RANCHING EXPERIENCE OR EDUCATION, AND HAS PARTICIPATED IN A FINANCIAL MANAGEMENT EDUCATIONAL PROGRAM APPROVED BY THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY.

(E) "QUALIFIED LEASE" MEANS A LEASE ENTERED INTO BETWEEN A QUALIFIED TAXPAYER AND AN ELIGIBLE BEGINNING FARMER OR RANCHER FOR THE QUALIFIED

TAXPAYER'S AGRICULTURAL ASSET THAT IS APPROVED BY THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY AND HAS A DURATION OF AT LEAST THREE YEARS.

(F) "QUALIFIED TAXPAYER" MEANS A TAXPAYER, INCLUDING A PARTNERSHIP, S CORPORATION, OR OTHER SIMILAR PASS-THROUGH ENTITY, WHO OWNS AN AGRICULTURAL ASSET LOCATED IN THE STATE.

(V) TO CLAIM THE DEDUCTION ALLOWED IN THIS PARAGRAPH (v), THE QUALIFIED TAXPAYER SHALL ATTACH A COPY OF THE DEDUCTION CERTIFICATE ISSUED BY THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY TO THE TAXPAYER'S RETURN. NO TAX DEDUCTION IS ALLOWED UNDER THIS PARAGRAPH (v) UNLESS THE TAXPAYER PROVIDES THE COPY OF THE DEDUCTION CERTIFICATE.

(VI) THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY SHALL, IN A SUFFICIENTLY TIMELY MANNER TO ALLOW THE DEPARTMENT OF REVENUE TO PROCESS RETURNS CLAIMING THE DEDUCTION ALLOWED BY THIS SECTION, PROVIDE THE DEPARTMENT OF REVENUE WITH AN ELECTRONIC REPORT OF THE QUALIFIED TAXPAYERS RECEIVING A DEDUCTION CERTIFICATE AS ALLOWED IN THIS SECTION FOR THE PRECEDING CALENDAR YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

- (A) THE QUALIFIED TAXPAYER'S NAME;
- (B) THE QUALIFIED TAXPAYER'S SOCIAL SECURITY NUMBER; AND
- (C) THE AMOUNT OF THE DEDUCTION ALLOWED IN THIS SECTION.

(VII) THIS PARAGRAPH (v) IS REPEALED, EFFECTIVE DECEMBER 31, 2023.

**SECTION 2.** In Colorado Revised Statutes, 39-22-304, **add** (3) (o) as follows:

**39-22-304. Net income of corporation - legislative declaration - definitions - repeal.** (3) There shall be subtracted from federal taxable income:

(o) (I) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(A) THE STATE IS SEEING A CONTINUED TREND OF AGING FARMERS AND RANCHERS;

(B) THE CURRENT AVERAGE AGE OF A FAMILY FARM OR RANCH OPERATOR IN COLORADO IS FIFTY-NINE;

(C) THERE IS A NATIONAL AND LOCAL FOCUS ON THE BENEFITS OF LOCAL FOODS, AND AT THE SAME TIME A NEW GENERATION OF FARMER IS EMERGING, BUT THE BEGINNING FARMERS OR RANCHERS ARE HAVING TROUBLE FINDING LAND TO LEASE; AND

(D) THE INCOME TAX DEDUCTION ALLOWED IN THIS PARAGRAPH (o) IS INTENDED TO BE AN INCENTIVE FOR AGING FARMERS OR RANCHERS TO LEASE THEIR AGRICULTURAL ASSETS TO BEGINNING FARMERS OR RANCHERS IN ORDER TO GIVE THE BEGINNERS A CHANCE TO GET STARTED IN THE INDUSTRY.

(II) FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2017, BUT BEFORE JANUARY 1, 2020, IF A QUALIFIED TAXPAYER ENTERS INTO A QUALIFIED LEASE WITH AN ELIGIBLE BEGINNING FARMER OR RANCHER, AN AMOUNT SPECIFIED IN A DEDUCTION CERTIFICATE ISSUED BY THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY THAT IS EQUAL TO TWENTY PERCENT OF THE LEASE PAYMENTS RECEIVED FROM AN ELIGIBLE BEGINNING FARMER OR RANCHER AS SPECIFIED IN THE QUALIFIED LEASE, NOT TO EXCEED THE AMOUNT SPECIFIED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (o).

(III) THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY MAY ISSUE MORE THAN ONE DEDUCTION CERTIFICATE TO EACH QUALIFIED TAXPAYER IF SUCH QUALIFIED TAXPAYER ENTERS INTO MORE THAN ONE QUALIFIED LEASE WITH MORE THAN ONE ELIGIBLE BEGINNING FARMER OR RANCHER; EXCEPT THAT THE TOTAL AMOUNT SPECIFIED IN ALL DEDUCTION CERTIFICATES ISSUED TO A QUALIFIED TAXPAYER MAY NOT EXCEED TWENTY-FIVE THOUSAND DOLLARS PER INCOME TAX YEAR FOR A MAXIMUM OF THREE INCOME TAX YEARS, AND EXCEPT THAT THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY SHALL NOT ISSUE MORE THAN THE NUMBER OF DEDUCTION CERTIFICATES PER INCOME TAX YEAR SET FORTH IN SECTION 35-75-107 (1) (u), C.R.S.

(IV) FOR PURPOSES OF THIS PARAGRAPH (o):

(A) "AGRICULTURAL ASSET" MEANS LAND, CROPS, LIVESTOCK AND LIVESTOCK FACILITIES, FARM EQUIPMENT AND MACHINERY, GRAIN STORAGE, OR IRRIGATION EQUIPMENT.

(B) "COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY" MEANS THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY CREATED IN SECTION 35-75-104, C.R.S.

(C) "DEDUCTION CERTIFICATE" MEANS A CERTIFICATE ISSUED BY THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY CERTIFYING THAT A QUALIFIED TAXPAYER QUALIFIES FOR THE INCOME TAX DEDUCTION AUTHORIZED IN THIS SECTION AND SPECIFYING THE AMOUNT OF THE DEDUCTION ALLOWED.

(D) "ELIGIBLE BEGINNING FARMER OR RANCHER" MEANS A FARMER OR RANCHER RESIDING IN THE STATE WHO HAS A NET WORTH OF LESS THAN TWO MILLION DOLLARS, WILL PROVIDE THE MAJORITY OF THE DAILY PHYSICAL LABOR AND MANAGEMENT ON THE QUALIFIED TAXPAYER'S AGRICULTURAL ASSET OR WILL USE THE QUALIFIED TAXPAYER'S AGRICULTURAL ASSET THE MAJORITY OF THE TIME, HAS PLANS TO FARM OR RANCH FULL-TIME, HAS NOT BEEN ENGAGED IN FARMING OR RANCHING FOR MORE THAN TEN YEARS, HAS FARMING OR RANCHING EXPERIENCE OR EDUCATION, AND HAS PARTICIPATED IN A FINANCIAL MANAGEMENT EDUCATIONAL PROGRAM APPROVED BY THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY.

(E) "QUALIFIED LEASE" MEANS A LEASE ENTERED INTO BETWEEN A QUALIFIED TAXPAYER AND AN ELIGIBLE BEGINNING FARMER OR RANCHER FOR THE QUALIFIED TAXPAYER'S AGRICULTURAL ASSET THAT IS APPROVED BY THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY AND HAS A DURATION OF AT LEAST THREE YEARS.

(F) "QUALIFIED TAXPAYER" MEANS A TAXPAYER WHO OWNS AN AGRICULTURAL ASSET LOCATED IN THE STATE.

(V) TO CLAIM THE DEDUCTION ALLOWED IN THIS PARAGRAPH (o), THE QUALIFIED TAXPAYER SHALL ATTACH A COPY OF THE DEDUCTION CERTIFICATE ISSUED BY THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY TO THE TAXPAYER'S RETURN. NO TAX DEDUCTION IS ALLOWED UNDER THIS PARAGRAPH (o) UNLESS THE TAXPAYER PROVIDES THE COPY OF THE DEDUCTION CERTIFICATE.

(VI) THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY SHALL, IN A SUFFICIENTLY TIMELY MANNER TO ALLOW THE DEPARTMENT OF REVENUE TO PROCESS RETURNS CLAIMING THE DEDUCTION ALLOWED BY THIS SECTION, PROVIDE THE DEPARTMENT OF REVENUE WITH AN ELECTRONIC REPORT OF THE QUALIFIED TAXPAYERS RECEIVING A DEDUCTION CERTIFICATE AS ALLOWED IN THIS SECTION FOR THE PRECEDING CALENDAR YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

- (A) THE QUALIFIED TAXPAYER'S NAME;
- (B) THE QUALIFIED TAXPAYER'S COLORADO ACCOUNT NUMBER; AND
- (C) THE AMOUNT OF THE DEDUCTION ALLOWED IN THIS SECTION.

(VII) THIS PARAGRAPH (o) IS REPEALED, EFFECTIVE DECEMBER 31, 2023.

**SECTION 3.** In Colorado Revised Statutes, 35-75-107, **add** (1) (u) as follows:

**35-75-107. General powers and duties of authority.** (1) In addition to any other powers specifically granted to the authority in this article, the authority has the following powers:

(u) TO RECEIVE APPLICATIONS AND ISSUE DEDUCTION CERTIFICATES FOR THE INCOME TAX DEDUCTION FOR A PORTION OF LEASE PAYMENTS RECEIVED BY A QUALIFIED TAXPAYER FOR LEASING THE TAXPAYER'S AGRICULTURAL ASSET TO AN ELIGIBLE BEGINNING FARMER OR RANCHER AS ALLOWED IN SECTIONS 39-22-104 AND 39-22-304, C.R.S.; EXCEPT THAT THE AUTHORITY SHALL NOT ISSUE MORE THAN ONE HUNDRED DEDUCTION CERTIFICATES PER INCOME TAX YEAR. THE AUTHORITY SHALL REQUIRE THAT A COPY OF THE SCHEDULE F THAT THE ELIGIBLE BEGINNING FARMER OR RANCHER FILED WITH THE ELIGIBLE BEGINNING FARMER'S OR RANCHER'S FEDERAL INCOME TAX RETURN BE INCLUDED AS A PART OF THE APPLICATION FOR A DEDUCTION CERTIFICATE.

**SECTION 4. 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 10, 2016, if adjournment sine die is on May 11, 2016); 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: June 8, 2016