

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0711.01 Esther van Mourik x4215

HOUSE BILL 21-1002

HOUSE SPONSORSHIP

Weissman and Sirota,

SENATE SPONSORSHIP

Moreno and Hansen,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING REDUCTIONS TO CERTAIN TAXPAYERS' STATE INCOME
102 TAX LIABILITY RELATED TO STATE TAX LAW CHANGES MADE IN
103 2020.

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>.)

Sections 1 and 3 of the bill restore, over time, certain business deductions to federal taxable income that were disallowed in Colorado by operation of a department of revenue rule and by House Bill 20-1420. The specific deductions are related to net operating losses, the application of the federal excess business loss rules, interest expenses, and qualified

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.

improvement property.

The earned income tax credit is equal to a percentage of the federal earned income tax credit. **Section 2** allows taxpayers filing with an individual taxpayer identification number to claim the earned income tax credit for income tax years commencing on or after January 1, 2020.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-104, **add**
3 (4)(z) 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 (z) (I) EXCEPT AS PROVIDED IN SUBSECTION (4)(z)(II) OF THIS
8 SECTION, FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY 1,
9 2021, BUT BEFORE JANUARY 1, 2022, THE SUM OF THE AMOUNT BY WHICH
10 TAXABLE INCOME FOR THE SPECIFIED TAX YEARS EXCEEDS THE TAXABLE
11 INCOME FOR THE MODIFIED SPECIFIED TAX YEARS COMPUTED SEPARATELY
12 FOR EACH INCOME TAX YEAR, PLUS THE SUM OF ANY AMOUNTS ADDED
13 BACK BY THE TAXPAYER AS SPECIFIED IN SUBSECTIONS (3)(l), (3)(m), AND
14 (3)(n) OF THIS SECTION.

15 (II) (A) THE SUBTRACTION CALCULATED UNDER SUBSECTION
16 (4)(z)(I) OF THIS SECTION APPLIES AFTER THE APPLICATION OF THE OTHER
17 SUBTRACTIONS PROVIDED FOR IN THIS SUBSECTION (4) AND IS LIMITED TO
18 THE LESSER OF THE TAXPAYER'S COLORADO TAXABLE INCOME OR
19 _____ DOLLARS.

20 (B) ANY AMOUNT OF THE SUBTRACTION CALCULATED UNDER
21 SUBSECTION (4)(z)(I) OF THIS SECTION THAT A TAXPAYER MAY NOT CLAIM
22 BY OPERATION OF SUBSECTION (4)(z)(II)(A) OF THIS SECTION MAY BE
23 CARRIED FORWARD TO SUBSEQUENT TAX YEARS AS A SUBTRACTION FROM

1 THE TAXPAYER'S FEDERAL TAXABLE INCOME UNTIL EXHAUSTED; EXCEPT
2 THAT EACH TAX YEAR'S CARRY FORWARD MAY NOT EXCEED THE LESSER
3 OF THE TAXPAYER'S COLORADO TAXABLE INCOME OR _____
4 DOLLARS. ANY SUBTRACTION MUST BE APPLIED FIRST TO THE EARLIEST
5 INCOME TAX YEARS POSSIBLE.

6 (III) A TAXPAYER THAT APPLIES THE SUBTRACTION ALLOWED IN
7 THIS SUBSECTION (4)(z) WITH RESPECT TO QUALIFIED IMPROVEMENT
8 PROPERTY SHALL CALCULATE THE GAIN OR LOSS ON A SALE OF SUCH
9 QUALIFIED IMPROVEMENT PROPERTY FOR PURPOSES OF THE SUBTRACTION
10 IN SUBSECTION (4)(b) OF THIS SECTION USING THE BASIS REPORTED ON
11 THEIR FEDERAL INCOME TAX RETURN AT THE TIME OF THE SALE.

12 (IV) AS USED IN THIS SUBSECTION (4)(z), UNLESS THE CONTEXT
13 OTHERWISE REQUIRES:

14 (A) "CARES ACT" MEANS THE MARCH 2020 "CORONAVIRUS AID,
15 RELIEF, AND ECONOMIC SECURITY ACT", PUB.L. 116-136.

16 (B) "COLORADO TAXABLE INCOME" MEANS FEDERAL TAXABLE
17 INCOME AS MODIFIED BY THIS ARTICLE 22 WITHOUT REGARD TO THIS
18 SUBSECTION (4)(z).

19 (C) "RETROACTIVE PROVISIONS OF THE CARES ACT" MEANS THE
20 CHANGES MADE TO THE INTERNAL REVENUE CODE IN SECTIONS 2303,
21 2304, 2306, AND 2307 OF THE CARES ACT.

22 (D) "TAXABLE INCOME FOR THE MODIFIED SPECIFIED TAX YEARS"
23 MEANS THE TAXPAYER'S COLORADO TAXABLE INCOME FOR TAX YEARS
24 ENDING BEFORE MARCH 27, 2020, AS CALCULATED UNDER THE INTERNAL
25 REVENUE CODE AND COLORADO LAW APPLICABLE TO THE TAXPAYER'S
26 RETURN AS OF THE DATE THE RETURN WAS DUE, AS MODIFIED BY THE
27 APPLICATION OF THE RETROACTIVE PROVISIONS OF THE CARES ACT

1 APPLIED TO THE CALCULATION OF THE TAXPAYER'S FEDERAL TAXABLE
2 INCOME, BUT ONLY TO THE EXTENT THE TAXPAYER APPROPRIATELY
3 APPLIED THOSE PROVISIONS TO THE TAXPAYER'S FEDERAL INCOME TAX
4 RETURNS FOR EACH TAX YEAR.

5 (E) "TAXABLE INCOME FOR THE SPECIFIED TAX YEARS" MEANS THE
6 TAXPAYER'S COLORADO TAXABLE INCOME FOR TAX YEARS ENDING
7 BEFORE MARCH 27, 2020, AS CALCULATED UNDER COLORADO LAW
8 APPLICABLE TO THE TAXPAYER'S RETURN AS OF THE DATE THE RETURN
9 WAS DUE.

10 **SECTION 2.** In Colorado Revised Statutes, 39-22-123.5, **amend**
11 (2.5)(a); and **repeal** (2.5)(c) as follows:

12 **39-22-123.5. Earned income tax credit - not a refund of excess**
13 **state revenues - trigger - legislative declaration.** (2.5) (a) For income
14 tax years commencing on or after ~~January 1, 2021~~ JANUARY 1, 2020, but
15 before January 1, 2022, a resident individual is allowed an earned income
16 tax credit against the taxes due under this article 22 that is equal to ten
17 percent of the federal credit that the resident individual would have been
18 allowed, but for the fact that the resident individual, the resident
19 individual's spouse, or one or more of the resident individual's dependents
20 do not have a social security number that is valid for employment.

21 (c) ~~For purposes of this subsection (2.5), a "resident individual"~~
22 ~~includes a taxpayer filing with an individual taxpayer identification~~
23 ~~number.~~

24 **SECTION 3.** In Colorado Revised Statutes, 39-22-304, **add**
25 (3)(p) as follows:

26 **39-22-304. Net income of corporation - legislative declaration**
27 **- definitions - repeal.** (3) There shall be subtracted from federal taxable

1 income:

2 (p) (I) EXCEPT AS PROVIDED IN SUBSECTION (3)(p)(II) OF THIS
3 SECTION, FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY 1,
4 2021, BUT BEFORE JANUARY 1, 2022, THE SUM OF THE AMOUNT BY WHICH
5 TAXABLE INCOME FOR THE SPECIFIED TAX YEARS EXCEEDS THE TAXABLE
6 INCOME FOR THE MODIFIED SPECIFIED TAX YEARS COMPUTED SEPARATELY
7 FOR EACH INCOME TAX YEAR, PLUS THE AMOUNT ADDED BACK BY THE
8 TAXPAYER AS SPECIFIED IN SUBSECTION (2)(i) OF THIS SECTION.

9 (II) (A) THE SUBTRACTION CALCULATED UNDER SUBSECTION
10 (3)(p)(I) OF THIS SECTION APPLIES AFTER THE APPLICATION OF THE OTHER
11 SUBTRACTIONS PROVIDED FOR IN THIS SUBSECTION (3) AND IS LIMITED TO
12 THE LESSER OF THE TAXPAYER'S COLORADO TAXABLE INCOME OR
13 _____ DOLLARS.

14 (B) ANY AMOUNT OF THE SUBTRACTION CALCULATED UNDER
15 SUBSECTION (3)(p)(I) OF THIS SECTION THAT A TAXPAYER MAY NOT CLAIM
16 BY OPERATION OF SUBSECTION (3)(p)(II)(A) OF THIS SECTION MAY BE
17 CARRIED FORWARD TO SUBSEQUENT TAX YEARS AS A SUBTRACTION FROM
18 THE TAXPAYER'S FEDERAL TAXABLE INCOME UNTIL EXHAUSTED; EXCEPT
19 THAT EACH TAX YEAR'S CARRY FORWARD MAY NOT EXCEED THE LESSER
20 OF THE TAXPAYER'S COLORADO TAXABLE INCOME OR _____
21 DOLLARS. ANY SUBTRACTION MUST BE APPLIED FIRST TO THE EARLIEST
22 INCOME TAX YEARS POSSIBLE.

23 (III) A TAXPAYER THAT APPLIES THE SUBTRACTION ALLOWED IN
24 THIS SUBSECTION (3)(p) WITH RESPECT TO QUALIFIED IMPROVEMENT
25 PROPERTY SHALL CALCULATE THE GAIN OR LOSS ON A SALE OF SUCH
26 QUALIFIED IMPROVEMENT PROPERTY FOR PURPOSES OF THE SUBTRACTION
27 IN SUBSECTION (3)(c) OF THIS SECTION USING THE BASIS REPORTED ON

1 THEIR FEDERAL INCOME TAX RETURN AT THE TIME OF THE SALE.

2 (IV) AS USED IN THIS SUBSECTION (3)(p), UNLESS THE CONTEXT
3 OTHERWISE REQUIRES:

4 (A) "CARES ACT" MEANS THE MARCH 2020 "CORONAVIRUS AID,
5 RELIEF, AND ECONOMIC SECURITY ACT", PUB.L. 116-136.

6 (B) "COLORADO TAXABLE INCOME" MEANS FEDERAL TAXABLE
7 INCOME AS MODIFIED BY THIS ARTICLE 22 WITHOUT REGARD TO THIS
8 SUBSECTION (3)(p).

9 (C) "RETROACTIVE PROVISIONS OF THE CARES ACT" MEANS THE
10 CHANGES MADE TO THE INTERNAL REVENUE CODE IN SECTIONS 2306 AND
11 2307 OF THE CARES ACT.

12 (D) "TAXABLE INCOME FOR THE MODIFIED SPECIFIED TAX YEARS"
13 MEANS THE TAXPAYER'S COLORADO TAXABLE INCOME FOR TAX YEARS
14 ENDING BEFORE MARCH 27, 2020, AS CALCULATED UNDER THE INTERNAL
15 REVENUE CODE AND COLORADO LAW APPLICABLE TO THE TAXPAYER'S
16 RETURN AS OF THE DATE THE RETURN WAS DUE, AS MODIFIED BY THE
17 APPLICATION OF THE RETROACTIVE PROVISIONS OF THE CARES ACT
18 APPLIED TO THE CALCULATION OF THE TAXPAYER'S FEDERAL TAXABLE
19 INCOME, BUT ONLY TO THE EXTENT THE TAXPAYER APPROPRIATELY
20 APPLIED THOSE PROVISIONS TO THE TAXPAYER'S FEDERAL INCOME TAX
21 RETURNS FOR EACH TAX YEAR.

22 (E) "TAXABLE INCOME FOR THE SPECIFIED TAX YEARS" MEANS THE
23 TAXPAYER'S COLORADO TAXABLE INCOME FOR TAX YEARS ENDING
24 BEFORE MARCH 27, 2020, AS CALCULATED UNDER COLORADO LAW
25 APPLICABLE TO THE TAXPAYER'S RETURN AS OF THE DATE THE RETURN
26 WAS DUE.

27 **SECTION 4. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.