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S. WARD
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Colorado Secretary of State

INITIATIVE 2019-2020 #272: POLICY CHANGES PERTAINING TO STATE INCOME TAXES

Be it Enacted by the People of the State of Colorado:

SECTION 1. FAIR AND JUST TAX SYSTEM. TAXPAYERS ARE ENTITLED TO A FAIR AND JUST TAX SYSTEM. THE GOAL IS THAT, TO THE EXTENT PRACTICABLE, ALL TAXPAYERS SHOULD PAY SIMILAR PERCENTAGES OF THEIR INCOME IN TOTAL TAXES. SOME TAXES, SUCH AS SALES TAXES AND PROPERTY TAXES, HAVE A DISPROPORTIONAL IMPACT ON THOSE WITH LOWER INCOMES. A GRADUATED INDIVIDUAL INCOME TAX, WHICH TAXES THOSE WITH GREATER INCOMES AT HIGHER INCREMENTAL RATES, MAKES THE TAX SYSTEM MORE FAIR AND JUST. CORPORATIONS SHOULD ALSO PAY A FAIR SHARE OF THE TAX BURDEN, BUT MANY CORPORATIONS PAY NOTHING IN CORPORATE INCOME TAXES IN COLORADO. A MINIMUM CORPORATE INCOME TAX IS THEREFORE ALSO NECESSARY TO MAKE THE TAX SYSTEM MORE FAIR AND JUST.

SECTION 2. In the constitution of the state of Colorado, section 20 of article X, **amend (8)(a)** as follows:

(8)(a) Revenue Limits. New or increased transfer tax rates on real property are prohibited. No new state real property tax or local district income tax shall be imposed. Neither an income tax rate increase nor a new state definition of taxable income shall apply before the next tax year. ~~Any income tax law change after July 1, 1992 shall also require all taxable net income to be taxed at one rate, excluding refund tax credits or voter approved tax credits, with no added tax or surcharge.~~

SECTION 3. In Colorado Revised Statutes, 39-22-104, **amend (1.7) and (2); and add (1.8)** as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts – single rate – legislative declaration – definitions – repeal. (1.7) Except as otherwise provided in section 39-22-627, subject to subsection (2) of this section, with respect to taxable years commencing on or after January 1, 2000, BUT PRIOR TO JANUARY 1, 2021, a tax of four and sixty-three one hundredths percent is imposed on the federal taxable income, as determined pursuant to section 63 of the internal revenue code, of every individual, estate, and trust.

(1.8)(a) EXCEPT AS OTHERWISE PROVIDED IN SECTION 39-22-627, SUBJECT TO SUBSECTION (2) OF THIS SECTION, WITH RESPECT TO TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2021, A GRADUATED TAX IS IMPOSED ON FEDERAL TAXABLE INCOME, AS DETERMINED PURSUANT TO SECTION 63 OF THE INTERNAL REVENUE CODE, OF EVERY INDIVIDUAL, ESTATE, AND TRUST, WITH GREATER TAX RATES APPLYING TO HIGHER INCOME BRACKETS, AND EACH TAX RATE APPLYING ONLY TO THE INCOME BRACKET FOR THAT TAX RATE, AS FOLLOWS:

(I) FOR FEDERAL TAXABLE INCOME NOT OVER TWO HUNDRED FIFTY THOUSAND DOLLARS, THE TAX IS FOUR AND FIFTY-EIGHT ONE-HUNDREDTHS PERCENT;

(II) FOR FEDERAL TAXABLE INCOME OVER TWO HUNDRED FIFTY THOUSAND DOLLARS, BUT NOT OVER FIVE HUNDRED THOUSAND DOLLARS, THE TAX IS (A) ELEVEN THOUSAND FOUR HUNDRED

FIFTY DOLLARS PLUS (B) SEVEN PERCENT OF THE AMOUNT OVER TWO HUNDRED FIFTY THOUSAND DOLLARS;

(III) FOR FEDERAL TAXABLE INCOME OVER FIVE HUNDRED THOUSAND DOLLARS, BUT NOT OVER ONE MILLION DOLLARS, THE TAX IS (A) TWENTY-EIGHT THOUSAND NINE HUNDRED FIFTY DOLLARS PLUS (B) SEVEN AND THREE QUARTERS PERCENT OF THE AMOUNT OVER FIVE HUNDRED THOUSAND DOLLARS; AND

(IV) FOR FEDERAL TAXABLE INCOME OVER ONE MILLION DOLLARS, THE TAX IS (A) SIXTY-SEVEN THOUSAND SEVEN HUNDRED DOLLARS PLUS (B) EIGHT AND NINETY ONE-HUNDREDTHS PERCENT OF THE AMOUNT OVER ONE MILLION DOLLARS.

(1.8)(b) THE INCOME BRACKETS SET FORTH IN THE ABOVE SCHEDULE SHALL BE ADJUSTED EACH INCOME TAX YEAR BY THE PERCENTAGE CHANGE IN COLORADO PERSONAL INCOME. FOR PURPOSES OF THIS SUBSECTION, "COLORADO PERSONAL INCOME" MEANS THE TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE, OR ANY SUCCESSOR INDEX.

(1.9) Fair tax review commission – creation – membership – duties - repeal.

(a) ON OR BEFORE JULY 1, 2029, A FAIR TAX REVIEW COMMISSION (THE "COMMISSION") SHALL BE CREATED.

(b) THE COMMISSION SHALL CONSIST OF TWENTY-FIVE MEMBERS APPOINTED AS FOLLOWS:

(I) FOUR NONVOTING TASK FORCE MEMBERS, ONE APPOINTMENT FROM EACH OFFICE, WITH RELEVANT EXPERIENCE IN ECONOMICS, BUDGETING, OR TAX POLICY, SHALL BE APPOINTED BY:

- (A) THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL;
- (B) THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES;
- (C) THE STAFF DIRECTOR OF THE JOINT BUDGET COMMITTEE; AND
- (D) THE STATE AUDITOR.

(II) WITH INPUT FROM THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THE PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES AND THE MINORITY LEADER OF THE SENATE, THE GOVERNOR SHALL APPOINT TWENTY-ONE VOTING MEMBERS AS FOLLOWS:

- (A) A REPRESENTATIVE OF THE OFFICE OF STATE PLANNING AND BUDGETING;
- (B) A REPRESENTATIVE FROM THE TAXATION DIVISION IN THE DEPARTMENT OF REVENUE;
- (C) A REPRESENTATIVE OF THE OFFICE OF ECONOMIC DEVELOPMENT;
- (D) A REPRESENTATIVE OF THE OFFICE OF THE STATE TREASURER;
- (E) ONE MEMBER FROM A STATE PUBLIC OR PRIVATE INSTITUTION OF HIGHER EDUCATION WITH KNOWLEDGE OF TAX POLICY;
- (F) ONE MEMBER FROM A STATE PUBLIC OR PRIVATE INSTITUTION OF HIGHER EDUCATION WITH KNOWLEDGE OF ECONOMICS;
- (G) FOUR MEMBERS REPRESENTING LOCAL GOVERNMENT, ONE FROM A HOME RULE CITY OR CITY AND COUNTY, ONE FROM A STATUTORY CITY, ONE FROM A HOME RULE COUNTY, AND ONE FROM A STATUTORY COUNTY;
- (H) TWO TAX LAW PRACTITIONERS WHO ARE NOT EMPLOYED BY A HOME RULE OR STATUTORY CITY OR CITY AND COUNTY;

(I) TWO CERTIFIED PUBLIC ACCOUNTANTS WITH STATE AND LOCAL TAX EXPERIENCE WHO ARE NOT EMPLOYED BY A HOME RULE OR STATUTORY CITY OR CITY AND COUNTY;

(J) TWO SMALL BUSINESS OWNERS;

(K) TWO LARGE BUSINESS OWNERS;

(L) ONE MEMBER REPRESENTING A NONPROFIT ORGANIZATION WITH EXPERTISE IN TAX POLICY; AND

(M) TWO MEMBERS REPRESENTING THE PUBLIC AT LARGE.

(c) MEMBERS OF THE FAIR TAX REVIEW COMMISSION SHALL SERVE WITHOUT COMPENSATION.

(d) A VACANCY OCCURRING IN A POSITION SHALL BE FILLED AS SOON AS POSSIBLE BY THE GOVERNOR IN ACCORDANCE WITH THE LIMITATIONS SPECIFIED IN SUBPARAGRAPH II OF PARAGRAPH (b) OF THIS SUBSECTION.

(e) IN MAKING APPOINTMENTS OF VOTING MEMBERS TO THE COMMISSION, THE GOVERNOR SHALL ENSURE THAT THE MEMBERSHIP OF THE COMMISSION INCLUDES PERSONS WHO HAVE EXPERIENCE WITH OR INTEREST IN THE STUDY AREAS OF THE COMMISSION AS SET FORTH IN PARAGRAPH (h) OF THIS SUBSECTION; PERSONS WHO REFLECT THE ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE; REPRESENTATION OF ALL AREAS OF THE STATE; AND, TO THE EXTENT PRACTICABLE, PERSONS WITH DISABILITIES.

(f) COMMISSION MEMBERS SHALL SEEK INPUT FROM THE VARIOUS DEPARTMENTS, OFFICES, OR ORGANIZATIONS THEY REPRESENT OR THAT THEY ARE ASSOCIATED WITH, IF ANY.

(g) IN ORDER TO ADVANCE THE WORK OF THE COMMISSION, MEMBERS SHALL PARTICIPATE IN DECISION-MAKING, WITH THE UNDERSTANDING THAT INDIVIDUAL VOTES ON COMMISSION ISSUES ARE BASED ON SUBJECT MATTER EXPERTISE AND DO NOT COMMIT REPRESENTATIVE OR ASSOCIATED ENTITIES OR ORGANIZATIONS TO ANY POSITION OR ACTION. COMMISSION MEMBERS SHALL ADHERE TO ANY AGREED UPON PROCEDURAL RULES AND GUIDELINES.

(h) ON OR BEFORE JANUARY 1, 2031, THE COMMISSION SHALL REPORT TO THE GOVERNOR, THE GENERAL ASSEMBLY, AND THE PUBLIC ON THE EFFECTS OF THE RATE STRUCTURE OF THE STATE INCOME TAX SYSTEM, AND PARTICULARLY ON THE EFFECTS OF SUCH RATE STRUCTURE UPON:

(I) STATE REVENUE AND FUNDING FOR PUBLIC SERVICES PROVIDED BY THE STATE;

(II) THE DISTRIBUTION OF INCOME AMONG TAXPAYERS; AND

(III) THE BUSINESS CLIMATE, THE ABILITY OF THE STATE TO ATTRACT AND RETAIN BUSINESS.

THE COMMISSION'S REPORT SHALL INCLUDE RECOMMENDATIONS FOR MODIFICATIONS TO THE RATE STRUCTURE OF THE STATE INCOME TAX SYSTEM CONTAINED IN THIS SECTION.

(i) THIS SUBSECTION (1.9) IS REPEALED EFFECTIVE DECEMBER 31, 2031.

(2) Prior to the application of the rate of tax prescribed in subsection (1), (1.5), ~~or~~ (1.7), OR (1.8) of this section, the federal taxable income shall be modified as provided in subsections (3) and (4) of this section.

SECTION 4. In Colorado Revised Statutes, add 39-22-301.1, as follows:

39-22-301.1. Corporate Alternative Minimum Income Tax. NOTWITHSTANDING THE TAX IMPOSED PURSUANT TO 39-22-301, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, A MINIMUM INCOME TAX IS IMPOSED UPON EACH DOMESTIC C CORPORATION

AND FOREIGN C CORPORATION DOING BUSINESS IN COLORADO ANNUALLY IN THE AMOUNT OF TWO HUNDRED FIFTY DOLLARS.

SECTION 5. In Colorado Revised Statutes, add 24-77-103.3 follows:

24-77-103.3. Voter approved revenue change - use of revenue - accountability. (1) THE REVENUE RAISED BY THE TAXES IMPOSED PURSUANT TO SECTIONS 39-22-104(1.8), 39-22-104(1.9) AND 39-22-301.1 IN EXCESS OF THE REVENUE THAT WOULD BE GENERATED IN ANY CALENDAR YEAR BY APPLYING THE INCOME TAX RATE THAT EXISTED AS OF DECEMBER 31, 2019, SHALL CONSTITUTE A VOTER APPROVED REVENUE CHANGE AND MAY BE COLLECTED, KEPT AND SPENT NOTWITHSTANDING ANY OTHER LIMITS IN THE CONSTITUTION OR OTHER LAW. AT LEAST FIFTY PER CENT OF SUCH REVENUE SHALL BE APPROPRIATED AND EXPENDED FOR PRE-PRIMARY-12 EDUCATION TO RECRUIT, RETAIN, AND PAY TEACHERS AND STUDENT SERVICE PROVIDERS, PURSUANT TO THE PUBLIC SCHOOL FINANCE ACT OF 1994, ARTICLE 54 OF TITLE 22, COLORADO REVISED STATUTES, AND FOR CATEGORICAL PROGRAMS, AS DEFINED IN SECTION 17(2) OF ARTICLE 9 OF THE CONSTITUTION OF THE STATE OF COLORADO, OR THEIR SUCCESSOR PROVISIONS. THE FIFTY PERCENT SHALL BE USED TO SUPPLEMENT AND NOT SUPPLANT GENERAL FUND AND STATE EDUCATION FUND APPROPRIATIONS FOR TOTAL PROGRAM FUNDING AND CATEGORICAL PROGRAMS EXISTING ON THE EFFECTIVE DATE OF THIS SECTION. THE REMAINDER OF SUCH REVENUE SHALL BE APPROPRIATED AND EXPENDED TO ADDRESS THE IMPACTS OF A GROWING POPULATION AND A CHANGING ECONOMY. THE FUNDS SHALL BE APPROPRIATED AND EXPENDED THROUGH CURRENT FUNDING DISTRIBUTIONS. AT LEAST 90% OF SUCH REVENUE SHALL BE SPENT ON SERVICES FOR COLORADO RESIDENTS AND NOT ADMINISTRATIVE COSTS. THE GENERAL ASSEMBLY SHALL ESTABLISH A CITIZEN'S OVERSIGHT COMMITTEE TO ASSURE THAT THE FUNDS ARE SPENT IN ACCORDANCE WITH THIS SECTION. FOR EACH FISCAL YEAR THAT THE STATE RECEIVES SUCH REVENUE, THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL SHALL PREPARE A LEGISLATIVE REPORT THAT INCLUDES THE FOLLOWING INFORMATION:

(a) THE AMOUNT OF SUCH REVENUE THAT THE STATE RECEIVED; AND

(b) A DESCRIPTION OF HOW THE FUNDS WERE EXPENDED.

(2) THE REPORT REQUIRED BY THIS SECTION SHALL BE COMPLETED BY OCTOBER 15 FOLLOWING A FISCAL YEAR IN WHICH THE STATE RECEIVES SUCH REVENUE AND MAY BE AMENDED THEREAFTER AS NECESSARY. THE DIRECTOR OF RESEARCH SHALL PUBLISH AND LINK TO THE OFFICIAL WEB SITE OF THE GENERAL ASSEMBLY A COPY OF THE REPORT.