



COLORADO FISCAL
POLICY INSTITUTE

Prepared Testimony in support of H.B. 1366 for Senate Finance Committee
May 1, 2009

Madame Chair, members of the Senate Finance Committee:

My name is Laura Oldright, and I am the Tax Policy Analyst at the Colorado Fiscal Policy Institute. The Fiscal Policy Institute is a nonprofit, nonpartisan project of the Colorado Center on Law and Policy. We promote justice and economic security for *all* Coloradans, and are leading an effort to help resolve some of Colorado's biggest fiscal challenges. As both a resource and catalyst, the Institute works for changes in public policy through timely, credible and accessible fiscal policy analysis, education, advocacy and coalition building.

I am here today to testify in support of House Bill 1366. HB 1366 would close an unfair tax loophole that disproportionately benefits the wealthiest families in Colorado, and in some cases, wealthy families who don't even live here.

The Colorado Fiscal Policy Institute strongly believes in equitable and responsible fiscal policies. In these difficult economic times, as the state faces mounting budget problems, we must do everything we can to preserve revenue and provide the maximum amount of flexibility for the state legislators to prioritize needs and allocate funds. We also must have a tax system that is both fair and sustainable.

Every year Colorado gives away capital gain revenue from property that was sold in Colorado to other states, and also gives a deduction for the taxes paid on that revenue. This deduction is a give-away to the wealthy taxpayers of Colorado as well as other states and should be eliminated completely.

Current Colorado law says that all income must be taxed at the same rate. However, according to a little known provision, Colorado taxpayers may subtract capital gains from Colorado sources from their taxable income. To be from a "Colorado source" the capital gain can be earned from the sale of either: 1) real or tangible personal property located in Colorado at the time of the sale or 2) stocks or ownership interest in a Colorado corporation, limited liability company, or partnership.

In 2005, when data was last available, this capital gains giveaway amounted to \$32 million for about 6,000 taxpayers.

However, think about who actually benefits from this tax break.

- For people making over \$250,000 (adjusted gross income), this is roughly a \$20,000 tax break.
- Almost 80 percent of the capital gains tax break benefited people with an adjusted gross income of \$250,000 or more.

- **Perhaps most startling, 50 percent of the tax cut went to 342 taxpayers with an adjusted gross income greater than \$1 million in 2005.** These taxpayers received \$16.8 million in tax breaks, with an average tax cut of \$49,211 per taxpayer. (Just for comparison sake, the median household income in that same year was \$51,518.)

Low- and middle-income Coloradans should be so lucky.

These capital gains tax giveaways predominantly go to people owning investment properties, vacation properties, or second homes. And because of the way the provision works, in some cases, these are tax giveaways to people who don't even live in Colorado.

If a wealthy CEO or celebrity owns a vacation home in the mountains and holds it for five years, they will not have to pay tax on the capital gain on the sale of the home.

Not only is this kind of policy patently unfair, it's also just bad fiscal policy—essentially rewarding out-of-state real estate owners and giving away tax revenue to other states.

This Legislature recently passed a state budget where hard choices were made. Health care services, higher education, and other vital job-creating and life-sustaining priorities took a hit. It's a budget that will inevitably require families to sacrifice and make some hard choices of their own.

So we ask this committee, at a time when low- and middle-income Coloradans are facing such dire economic circumstances and struggling to make ends meet, why are a few hundred millionaires getting a tax cut, when so many hundreds of thousands of Coloradans can't afford health care, food, transportation, or adequate housing?

Put simply, giving away tens of millions of dollars to a small but wealthy group seems like misguided policy. This bill is a step forward towards having a fair and equitable tax system. We urge you to support HB 1366.

Thank you Madame Chair.

CONTACT INFORMATION:

Laura Oldright
Tax Policy Analyst
Colorado Fiscal Policy Institute,
a project of the Colorado Center on Law and Policy
789 Sherman Street, #300, Denver, CO 80203
303-573-5669 ext. 304
loldright@cclponline.org
www.cclponline.org