

**STATE  
FISCAL IMPACT**

**Drafting Number:** LLS 10-0744  
**Prime Sponsor(s):** Rep. Ferrandino  
 Sen. Heath

**Date:** January 26, 2010  
**Bill Status:** House Appropriations  
**Fiscal Analyst:** Ron Kirk (303-866-4785)

**TITLE:** CONCERNING THE SUSPENSION OF THE CREDIT AGAINST THE STATE INCOME TAX OF A PORTION OF THE CREDIT ALLOWED UNDER THE FEDERAL INTERNAL REVENUE CODE FOR PAYMENT OF THE ALTERNATIVE MINIMUM TAX.

| <b>Fiscal Impact Summary</b>   | <b>FY 2010-2011</b> | <b>FY 2011-2012</b> |
|--|---------------------|---------------------|
| <b>State Revenue</b><br>General Fund   | Potential Decrease  | Potential Decrease  |
| <b>State Expenditures</b>  |                     |                     |
| <b>FTE Position Change</b>   |                     |                     |
| <b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature. |                     |                     |
| <b>Appropriation Summary for FY 2010-2011:</b> None required.                                      |                     |                     |
| <b>Local Government Impact:</b> None.  |                     |                     |

**Summary of Legislation**

Beginning tax year 2010, this bill suspends Colorado's alternative minimum tax (AMT) and the credit against the state income tax equal to 12 percent of the federal prior year minimum tax credit claimed on the federal income tax form.

**Background**

For more than 30 years, the federal individual income tax has consisted of two parallel tax systems: the standard income tax familiar to most taxpayers and an alternative minimum tax (AMT) that was initially intended to impose taxes on high-income individuals who have no tax liability under the regular system. The purpose of the AMT was to keep taxpayers with high incomes from paying little or no income tax by taking advantage of various preferences in the federal tax code. Prior to the federal income tax reform that began in 2000, the AMT affected less than 1 percent of all taxpayers in the nation.

Colorado imposes an AMT that piggybacks on the federal AMT and was put in place during the 1987 session by House Bill 1331 when the state reformed its individual income tax system to conform to the federal tax reform that took place during the mid-1980s. The Colorado AMT is only

applied to individual taxpayers, not corporations, and is equal to the amount by which 3.47 percent of the Colorado alternative minimum taxable income (AMTI) exceeds the standard, Colorado income tax. Colorado and 11 other states have an AMT for individual filers. These states include: California; Connecticut; Iowa; Maine; Maryland; Minnesota; Nebraska; New York; Rhode Island; West Virginia; and Wisconsin. Seven states other than Colorado have an AMT that affects corporations.

**Computation.** The starting point for determining when a state AMT is owed is federal AMTI. If a taxpayer owes a federal AMT, the filer may owe a Colorado AMT. Federal AMT income is first modified by certain Colorado additions and deductions to arrive at Colorado AMTI. For example, some modifications may include an addition for non-Colorado state and local bond interest not included in federal AMT income and deductions that may include the federal alternative minimum tax exemption. In FY 2008-09, \$5.5 million was paid by Colorado taxpayers who had state AMT liability. Table 1 provides a 10-year history of AMT taxes paid from FY 1999-00 through FY 2008-09.

**Table 1: Colorado Alternative Minimum Taxes Paid**  
 (in millions)

|            |       |            |       |
|------------|-------|------------|-------|
| FY 1999-00 | \$5.2 | FY 2004-05 | \$2.5 |
| FY 2000-01 | \$7.8 | FY 2005-06 | \$2.7 |
| FY 2001-02 | \$4.0 | FY 2006-07 | \$3.0 |
| FY 2002-03 | \$2.8 | FY 2007-08 | \$2.8 |
| FY 2003-04 | \$2.5 | FY 2008-09 | \$5.5 |

Source: Colorado Department of Revenue, *2009 Annual Report*, P. 30.

**Credit for the prior year AMT.** A taxpayer who has a federal AMT tax liability is eligible for AMT credits under the federal tax code. The federal AMT credit is refundable for tax years 2007 through 2012.<sup>1</sup> Colorado has a state income tax credit that is calculated using the federal AMT credits that accrue to the taxpayer. For example, taxpayers in Colorado may claim a state income tax credit of 12 percent of the federal tax credit claimed in the prior year. The state credit is limited to the tax due and is nonrefundable.

<sup>1</sup> The federal tax system allows for a refundable AMT credit. The AMT credit was enacted to give relief to individuals who exercised incentive stock options that later lost a significant portion of, or all of, their value in later years.

## **State Revenue**

Depending on changes enacted by Congress to minimize the number of taxpayers who may have to pay a federal AMT, the amount of Colorado AMT taxes paid may exceed the state AMT credits claimed and thus, result in a potential revenue decrease.

The state does not track the income tax credit tied to the AMT. An estimate by the Department of Revenue for 2006 based upon a sampling of federal tax returns indicated that credits claimed were between \$2 and \$3 million. Given that taxes paid for the 10 years of collections in Table 1 averaged 3.3 million and for the most recent year in FY 2008-09 were \$5.5 million, AMT taxes paid may potentially exceed the AMT credits claimed against the state income tax, thus resulting in a potential revenue decrease if this bill is enacted.

**Federal issues.** Because the AMT is not indexed for inflation, the Congressional Budget Office (CBO) expects it to affect about one-fifth of all taxpayers by 2010 unless significant changes are made. In 2009, the federal Congress enacted an AMT "patch" (through the American Recovery and Reinvestment Act (ARRA)) that increased the exemption amounts and certain credits that have the effect of a one-year fix in 2009. Thus, if a taxpayer did not owe an AMT in 2008, the person would not owe an AMT in 2009.

Since it is unknown whether Congress will enact a patch for 2010, more taxpayers may be subject to the federal AMT in FY 2011-12 and thus, may have a greater state AMT tax liability. In addition, should Colorado's economy expand and AMT liability grow as shown in Table 1 from FY 1999-00 to FY 2000-01, if this bill is enacted, there may be a greater potential for state revenue to decrease as more AMT taxes paid would exceed credits claimed.

## **State Expenditures**

The Department of Revenue indicated that the provisions of this bill can be implemented within existing resources.

## **Departments Contacted**

Revenue