

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 11-0951.01 Ed DeCecco

HOUSE BILL 11-1299

HOUSE SPONSORSHIP

Barker, Gardner B., Brown, DelGrosso, Holbert, Joshi, Sonnenberg, Waller

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE COLORADO ESTATE TAX.**

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://www.leg.state.co.us/billsummaries>.)

Currently, the Colorado estate tax is equal to the amount of the federal credit that is imposed on the transfer of the gross estate of every domiciliary. For all decedents dying after December 31, 2004, there has been no allowable federal credit, and accordingly, there has been no Colorado estate tax.

Section 1 of the bill repeals the "Colorado Estate Tax Law" and the "Uniform Act on Interstate Compromise and Arbitration of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
May 5, 2011

Inheritance Taxes". The uniform act relates to the collection of estate taxes when the department of revenue claims that a decedent was domiciled in Colorado and another state claims that the decedent was domiciled in that state. **Sections 2 through 7** make conforming amendments related to the repeal of these laws.

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

2 **SECTION 1.** Article 23.5 of title 39, Colorado Revised Statutes,
3 is amended BY THE ADDITION OF A NEW SECTION to read:

4 **39-23.5-116.5. Estate tax prohibited.** AT NO TIME SHALL THE
5 STATE IMPOSE AN ESTATE TAX DIRECTLY ON AN ESTATE IN EXCESS OF ANY
6 FEDERAL TAX CREDIT, NOR SHALL THE STATE IMPOSE AN ESTATE TAX
7 DIRECTLY ON AN ESTATE IN LIEU OF ANY FEDERAL ESTATE TAX.

8 **SECTION 2.** 11-59.7-103 (14), Colorado Revised Statutes, is
9 amended to read:

10 **11-59.7-103. Definitions.** As used in this article, unless the
11 context otherwise requires:

12 (14) "Internal revenue code" ~~has the same meaning as set forth in~~
13 ~~section 39-23.5-102(9.5), C.R.S.~~ MEANS THE "INTERNAL REVENUE CODE
14 OF 1986", AS AMENDED, AND ANY REGULATIONS THEREUNDER.

15 **SECTION 3.** 15-12-916 (1) (f), Colorado Revised Statutes, is
16 amended to read:

17 **15-12-916. Apportionment of estate taxes.** (1) For purposes of
18 this section:

19 (f) "Tax" means the federal estate tax, the additional inheritance
20 tax imposed by section 26-2-113, C.R.S., ~~the Colorado estate tax imposed~~
21 ~~by article 23.5 of title 39, C.R.S.~~, and interest and penalties imposed in
22 addition to the tax.

23 **SECTION 4. Repeal.** 24-35-101 (1) (b), Colorado Revised

1 Statutes, is repealed as follows:

2 **24-35-101. Functions of department of revenue.** (1) There is
3 hereby created the department of revenue, the functions of which are the
4 collection of the following:

5 (b) ~~Taxes levied by the provisions of articles 23.5 and 25 of title~~
6 ~~39, C.R.S.;~~

7 **SECTION 5.** 39-21-107 (1), Colorado Revised Statutes, is
8 amended to read:

9 **39-21-107. Limitations.** (1) Except as provided in this section
10 and unless such time is extended by waiver, the amount of any tax or of
11 any charge on oil and gas production imposed pursuant to ~~articles 24~~
12 ~~ARTICLES 26 to 29 of this title or article 3 of title 42, C.R.S., and the~~
13 ~~penalty and interest applicable thereto, shall be assessed within three~~
14 ~~years after the return was filed, whether or not such return was filed on~~
15 ~~or after the date prescribed, and no assessment shall be made or credit~~
16 ~~taken and no notice of lien shall be filed, nor distraint warrant issued, nor~~
17 ~~suit for collection instituted, nor any other action to collect the same~~
18 ~~commenced after the expiration of such period; except that a written~~
19 ~~proposed adjustment of the tax liability by the department issued prior to~~
20 ~~the expiration of such period shall extend the limitation of this subsection~~
21 ~~(1) for one year after a final determination or assessment is made. No lien~~
22 ~~shall continue after the three-year period provided for in this subsection~~
23 ~~(1), except for taxes assessed before the expiration of such period, notice~~
24 ~~of lien with respect to which has been filed prior to the expiration of such~~
25 ~~period, and except for taxes on which written notice of any proposed~~
26 ~~adjustment of the tax liability has been sent to the taxpayer during such~~
27 ~~three-year period, in which case the lien shall continue for one year only~~

1 after the expiration of such period or after the issuance of a final
2 determination or assessment based on the proposed adjustment issued
3 prior to the expiration of the three-year period. This subsection (1)
4 shall not apply to income tax. ~~or to any tax imposed under article 23.5 of~~
5 ~~this title.~~

6 **SECTION 6.** 39-21-113 (1) (a), Colorado Revised Statutes, is
7 amended to read:

8 **39-21-113. Reports and returns - repeal.** (1) (a) It is the duty
9 of every person, firm, or corporation liable to the state of Colorado for
10 any tax or any charge on oil and gas production imposed pursuant to
11 ~~articles 23.5~~ ARTICLES 26 to 29 of this title or article 3 of title 42, C.R.S.,
12 to keep and preserve for a period of three years such books, accounts, and
13 records as may be necessary to determine the amount of liability.

14 **SECTION 7.** 39-21-201 (2), Colorado Revised Statutes, is
15 amended to read:

16 **39-21-201. Program established.** (2) A taxpayer eligible to
17 participate in the tax amnesty program shall include any taxpayer liable
18 for payment of income taxes imposed pursuant to article 22 of this title,
19 ~~estate taxes imposed pursuant to article 23.5 of this title, inheritance taxes~~
20 ~~imposed pursuant to article 24 of this title, gift taxes imposed pursuant to~~
21 ~~article 25 of this title,~~ sales and use taxes imposed pursuant to article 26
22 of this title, gasoline and special fuel taxes imposed pursuant to article 27
23 of this title, cigarette taxes imposed pursuant to article 28 of this title,
24 taxes on tobacco products imposed pursuant to article 28.5 of this title,
25 severance taxes imposed pursuant to article 29 of this title, waste tire fees
26 collected by the department pursuant to section 25-17-202, C.R.S., county
27 or municipal sales taxes collected by the executive director pursuant to

1 article 2 of title 29, C.R.S., local marketing and promotion taxes collected
2 by the department pursuant to section 29-25-112, C.R.S., county lodging
3 taxes collected by the department pursuant to section 30-11-107.5, C.R.S.,
4 county rental taxes collected by the department pursuant to section
5 30-11-107.7, C.R.S., local improvement district sales taxes collected by
6 the department pursuant to section 30-20-604.5, C.R.S., regional
7 transportation district sales and use taxes imposed pursuant to article 9 of
8 title 32, C.R.S., Denver metropolitan scientific and cultural facilities
9 district sales and use taxes imposed pursuant to article 13 of title 32,
10 C.R.S., Denver metropolitan major league baseball stadium district sales
11 and use taxes imposed pursuant to article 14 of title 32, C.R.S.,
12 metropolitan football stadium district sales and use taxes imposed
13 pursuant to article 15 of title 32, C.R.S., and regional transportation
14 authority sales and use taxes collected by the department pursuant to
15 section 43-4-605 (1) (j), C.R.S.

16 **SECTION 8. Act subject to petition - effective date.** This act
17 shall take effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the
21 state constitution against this act or an item, section, or part of this act
22 within such period, then the act, item, section, or part shall not take effect
23 unless approved by the people at the general election to be held in
24 November 2012 and shall take effect on the date of the official
25 declaration of the vote thereon by the governor.