



Attention Tax Council Members:

Please be advised that Colorado's House Finance Committee on Friday evening advanced two bills that would significantly change current state tax policies, [House Bill 1311](#) and [House Bill 1312](#). Together, the bills would remove or change certain tax credits and exemptions for businesses while also increasing the business personal property tax exemption for businesses. The intent of the bills according to the proponents and bill sponsors is to expand the Earned Income Tax Credit Program, the Child Care Tax Credit and expand the overall tax base.

The Colorado Chamber of Commerce and other business groups have expressed concerns over several provisions of the legislation to the bill sponsors. Several changes were made to the bills in committee -- most significantly, the preservation of Colorado's Three of Six Rule for tax reporting. Other minor changes were made to the bill as well.

Adopted amendments are outlined below:

[Amendment L.002: Maintaining Colorado's Three of Six Rule](#)

As introduced, HB 1311 replaced Colorado's Three of Six Rule with the Multistate Tax Compact (MTC) rules.

Colorado taxpayers have relied on the 3 of 6 Rule since it was adopted in 1985 for the specific purpose of creating clear, objective rules so taxpayers knew how to prepare their returns. The rule was also created to reduce litigation due to confusion over tax rules by taxpayers.

After HB 1311 was filed, the Colorado Chamber raised concerns with the bill sponsors that the MTC rules are ambiguous and will only cause confusion an increase compliance costs for taxpayers. Changing to MTC rules also could not generate more tax revenue to the state.

This amendment preserves Colorado's Three of Six Rule and was adopted by the House Finance Committee.

[Amendment L.007: Metrics on Employee-Owned Entity Tax Credit](#)

Hb 1311 creates a new tax credit for companies converting to an employee-ownership model. A bill passed last year (SB20-21) requires that any new tax expenditures have a clear, relevant, and ascertainable metrics. This amendment clarifies that the legislature must be presented with these metrics before the worker-owned entity tax credit goes into effect.

[Amendment L.005: Amends Definition of "Digital Goods" to Remove "Computer Files"](#)

As introduced, HB 1312 expands the sales and use tax to “digital goods,” which was defined to include any item of tangible personal property that is delivered or stored by digital means, “including but not limited to video, music, electronic books, or computer files.”

To narrow the definition, the Committee adopted this amendment to remove the phrase “computer files” from the definition of “digital goods.”

The amended bill, however, still expands taxation by including “digital goods” within the definition of tangible personal property (TPP) which would include streaming services. Current statute does not provide that those services can be taxed within the definition of TPP, however the Department of Revenue recently adopted a rule to include those services within the definition of TPP without statutory authority. A lawsuit has since been filed against DOR by a streaming service and the case is pending in court.

Amendment L.001: Clarification of Language on Tax Credits and Exemptions for Severance of Coal

This clean-up amendment was recommended by the legislative drafting office to clarify that the tax credits and exemptions on the coal industry going towards the Just Transition Cash Fund are a “discontinuation or reduction” rather than solely a discontinuation.

The Colorado Chamber has urged legislators to strike the elimination of tax credits on the coal industry entirely.

Amendment L.004: Clarification on Effective Dates

This amendment extends the effective date for implementation of the BP decision to January 1, 2022 rather than July 1, 2021.

Next Steps

While the bill sponsors have addressed some problematic sections of the bill, the Colorado Chamber remains concerned over several major issues, including:

- Changes to the Regional Home Office Tax Credit
- Taxation of digital goods as tangible personal property
- Elimination of tax Credits on the severance of coal
- Lack of adjustment for inflation on modifications to current deductions
- Lack of clarity in definitions of “mainframe computer access”; “photocopies” and “crating and packing” for the purposes of taxation of these items.

The bill sponsors have committed to working with the Colorado Chamber on additional amendments as the bill moves through the legislative process. The next committee stop is the House Appropriations Committee and then the bills will be debated on the House Floor.

[Click here to listen to the full House Finance hearing.](#)

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