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Adding a New Section to Article 1 of Chapter 138, Colorado Revised Statutes 1963 (1965 Supp.), Concerning the Income Tax, and Carryback Adjustments for Net Operating Losses

Colorado General Assembly

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CHAPTER 392

TAXATION II—SPECIFIC TAXES

INCOME TAX

(House Bill No. 1498. By Representatives Norgren, Coffey, Braden, Johnson, Koster, and Shore; also Senator Locke.)

A N A C T

ADDING A NEW SECTION TO ARTICLE 1 OF CHAPTER 138, COLORADO REVISED STATUTES 1963 (1965 SUPP.), CONCERNING THE INCOME TAX, AND CARRYBACK ADJUSTMENTS FOR NET OPERATING LOSSES.

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

Section 1. Article 1 of chapter 138, Colorado Revised Statutes 1963 (1965 Supp.), is amended BY THE ADDITION OF A NEW SECTION 138-1-61 to read:

138-1-61. Tentative carryback adjustment—application—allowance.—
(1) (a) A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year or years affected by a net operating loss carryback, as determined under section 138-1-59, from any taxable year. The application shall be verified in the manner prescribed by section 138-1-65 in the case of a return of such taxpayer, and shall be filed on or after the date of filing of the return for the taxable year of the net operating loss from which the carryback results and within a period of twelve months from the end of such taxable year, in the manner and form required by regulations prescribed by the director. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require:

(b) The amount of the net operating loss;

(c) The amount of the tax previously determined for the prior taxable year affected by such carryback;

(d) The amount of decrease in such tax, attributable to such carryback, such decrease being determined by applying the carryback in the manner provided by law to the items on the basis of which such tax was determined;

(e) The unpaid amount of such tax; and

(f) Such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

(2) An application under subsection (1) of this section shall not constitute a claim for credit or refund.

(3) Within a period of ninety days from the date on which an application for a tentative carryback adjustment is filed under subsection (1) of this section, or from the last day of the month in which falls the last date prescribed by law, including any extension of time granted the taxpayer, for filing the return for the taxable year of the net operating loss from which such carryback results, whichever is the later, the director shall make, to the extent he deems practicable in such period, a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the director may disallow, without further action, any application which he finds contains errors of computation, which he deems cannot be corrected by him within such ninety-day period, or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased and any remainder shall, within such ninety-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

Section 2. Application of act—effective date.—This act shall apply to taxable years beginning after December 31, 1967, and shall take effect on January 1, 1968.

Section 3. Safety clause.—The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 12, 1967