

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
1.7.20

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LLS NO. 20-0565.01 Pierce Lively x2059

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Previous Taxed Income Gain Deduction C Corporation"

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE INCOME TAX DEDUCTION FOR**
102 **PREVIOUSLY TAXED INCOME OR GAIN FOR C CORPORATIONS.**

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://leg.colorado.gov/>.)

Statutory Revision Committee. Under current law, the income tax deduction for previously taxed income or gain for C corporations allows C corporations, when calculating their Colorado taxable income, to deduct from their federal taxable income any income or gain that was taxed by Colorado prior to 1965, to the extent that such income or gain is included in their current federal taxable income. The bill repeals this

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

income tax deduction.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) The income tax deduction for previously taxed income or gain
5 for C corporations allows C corporations, when calculating their
6 Colorado taxable income, to deduct from their federal taxable income any
7 income or gain that was taxed by Colorado prior to 1965, to the extent
8 that such income or gain is included in their current federal taxable
9 income.

10 (b) The general assembly enacted this deduction the same year
11 that it established federal taxable income as the basis for Colorado taxable
12 income. Thus, it is likely that this deduction was a structural provision
13 necessary to prevent double taxation of transactions that were previously
14 taxed differently by Colorado and the federal government.

15 (c) To utilize this deduction, a C corporation must include the
16 income or gain it intends to deduct in its current federal taxable income,
17 and it must have been taxed by Colorado on the same income or gain
18 prior to 1965.

19 (2) Therefore, it is the intent of the general assembly to simplify
20 the administration of taxes for the state of Colorado by repealing tax
21 expenditures that are obsolete and can no longer be claimed.

22 **SECTION 2.** In Colorado Revised Statutes, 39-22-304, **repeal**
23 (3)(e) as follows:

24 **39-22-304. Net income of corporation - legislative declaration**
25 **- definitions - repeal.** (3) There shall be subtracted from federal taxable

1 income:

2 (e) ~~The amount necessary to prevent the taxation under this article~~
3 ~~of any annuity or other amount of income or gain which was properly~~
4 ~~included in income or gain and was taxed under the laws of this state, for~~
5 ~~a taxable year prior to January 1, 1965, to the taxpayer, or to a decedent~~
6 ~~by reason of whose death the taxpayer acquired the right to receive the~~
7 ~~income or gain, or to a trust or estate from which the taxpayer received~~
8 ~~the income or gain;~~

9 **SECTION 3. Act subject to petition - effective date.** This act
10 takes effect January 1, 2021; except that, if a referendum petition is filed
11 pursuant to section 1 (3) of article V of the state constitution against this
12 act or an item, section, or part of this act within the ninety-day period
13 after final adjournment of the general assembly, then the act, item,
14 section, or part will not take effect unless approved by the people at the
15 general election to be held in November 2020 and, in such case, will take
16 effect January 1, 2021, or on the date of the official declaration of the
17 vote thereon by the governor, whichever is later.