

**NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**



HOUSE BILL 09-1366

BY REPRESENTATIVE(S) Pommer, Frangas, Green, Labuda, Merrifield, Benefield, Fischer, Hullinghorst, Schafer S.;  
also SENATOR(S) Romer, Bacon, Williams.

CONCERNING THE ELIMINATION OF THE STATE INCOME TAX MODIFICATION  
FOR QUALIFYING COLORADO CAPITAL GAINS.

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

**SECTION 1.** 39-22-518 (2) (b) (I) (A) and (2) (b) (I) (B), Colorado Revised Statutes, are amended, and the said 39-22-518 (2) (b) (I) is further amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH, to read:

**39-22-518. Tax modification for net capital gains - repeal.**

(2) For the purposes of this section:

(b) (I) "Qualifying gains receiving capital treatment" means the amount of net capital gains, as defined in section 1222 (11) of the internal revenue code, included in any qualified taxpayer's federal income tax return and:

(A) Earned by ~~such~~ THE qualified taxpayer on real or tangible

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

personal property located within Colorado that was acquired on or after May 9, 1994, and that has been owned by the qualified taxpayer for a holding period of at least five years prior to the date of the transaction from which ~~such~~ THE NET CAPITAL GAINS ARISE IF THE TRANSACTION FROM WHICH THE NET CAPITAL GAINS ARISE OCCURRED DURING AN INCOME TAX YEAR THAT COMMENCED BEFORE JANUARY 1, 2010; or

(B) Earned on the sale of stock or on the sale of an ownership interest in a Colorado company, limited liability company, or partnership where ~~such~~ THE STOCK OR OWNERSHIP INTEREST WAS ACQUIRED ON OR AFTER MAY 9, 1994, AND HAS BEEN OWNED BY THE QUALIFIED TAXPAYER FOR A HOLDING PERIOD OF AT LEAST FIVE YEARS PRIOR TO THE DATE OF THE TRANSACTION FROM WHICH THE NET CAPITAL GAINS ARISE IF THE TRANSACTION FROM WHICH THE NET CAPITAL GAINS ARISE OCCURRED DURING AN INCOME TAX YEAR THAT COMMENCED BEFORE JANUARY 1, 2010; or

(B.5) EARNED BY THE QUALIFIED TAXPAYER ON EITHER REAL OR TANGIBLE PERSONAL PROPERTY LOCATED WITHIN COLORADO THAT WAS ACQUIRED ON OR AFTER MAY 9, 1994, BUT BEFORE THE EFFECTIVE DATE OF THIS SUB-SUBPARAGRAPH (B.5), OR ON TANGIBLE PERSONAL PROPERTY ONLY LOCATED EITHER WITHIN OR OUTSIDE COLORADO THAT WAS ACQUIRED ON OR AFTER THE EFFECTIVE DATE OF THIS SUB-SUBPARAGRAPH (B.5), AND EITHER OF WHICH HAS BEEN OWNED BY THE QUALIFIED TAXPAYER FOR A HOLDING PERIOD OF AT LEAST FIVE YEARS PRIOR TO THE DATE OF THE TRANSACTION FROM WHICH THE NET CAPITAL GAINS ARISE IF THE TRANSACTION FROM WHICH THE NET CAPITAL GAINS ARISE OCCURRED DURING AN INCOME TAX YEAR THAT COMMENCED ON OR AFTER JANUARY 1, 2010; EXCEPT THAT NO MORE THAN ONE HUNDRED THOUSAND DOLLARS OF NET CAPITAL GAINS DESCRIBED IN THIS SUB-SUBPARAGRAPH (B.5) SHALL BE QUALIFYING GAINS RECEIVING CAPITAL TREATMENT FOR ANY SINGLE INCOME TAX YEAR.

**SECTION 2.** 39-22-518, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**39-22-518. Tax modification for net capital gains - repeal.**

(8) SUB-SUBPARAGRAPHS (A) AND (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION AND THIS SUBSECTION (8) ARE REPEALED, EFFECTIVE JANUARY 1, 2015.

**SECTION 3. Repeal.** 39-22-518 (2) (b) (I) (C), (2) (b) (I) (D), (2) (b) (I) (E), (2) (b) (I) (F), (5), (6), and (7), Colorado Revised Statutes, are repealed.

**SECTION 4. 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.

---

Terrance D. Carroll  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

---

Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

---

Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

---

Karen Goldman  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

---

Bill Ritter, Jr.  
GOVERNOR OF THE STATE OF COLORADO