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Legislative Council Staff
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State Legislature

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Date: February 3, 2023

Re: **Proposed initiative measure concerning the Federal Income Tax**

Purpose

Citizens' initiative 23-21#5

Article V, section 1 (5) of the Colorado constitution and section 1-40-102 of the Colorado Revised Statutes require the proponents to submit for review and comment on the full text of the measure being proposed, which if passed becomes the actual language of the Constitution or statutes.

Under Article V, section 1 (2) of the Constitution proposed initiatives to amend either the Colorado Constitution or State law (i.e., the Colorado Revised Statutes). This a proposed initiative intended to amend the Colorado constitution.

The Colorado Article V, section 1 (8) of the Colorado Constitution requires that the following enacted clause be the style for all laws adopted by the initiative:

The State Right to Taxation

Concerning The General Power of Taxation

Citizens' initiative: 2023

SUBJECT: Revenue

SUMMARY

For income tax years commencing on and after January 1, 2024, as per Article 1, Section 2, Clause 3, the amendment eliminates both the individual and the corporate federal income tax rates for Coloradans. The amendment also exempts Coloradans from the existing federal statutory requirements. Representatives and direct taxes must be apportioned with the State of Colorado according to the representative numbers, which must be determined by adding to the whole number of free persons, including those illegally residing within the State of Colorado and bound to service for a term of years or they are speedily returned to wherever they came, and excluding Native American Indians living on reservations not taxed, three-fifths of all other persons within the state as provided in Article I, Section 2, Clause 3 of the U.S. Constitution. The actual enumeration must be made within three years after the second meeting of the 118th Congress of the United State, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives must not exceed one for every 30,000, but such enumeration shall be made, the State of Colorado shall be entitled to choose eight.

For income tax years commencing on and after January 1, 2024, the amendment stays both the individual and the corporate state income tax rates in place. The State of Colorado continues to collect taxes on income and use these taxes to supply its own wants without interference from the Federal government. The Federal Government is spending itself into oblivion and the state must reel back the size of the National government. The State of Colorado has COEQUAL Powers of taxation. The amendment also exempts the rate reductions from the existing statutory requirements that tax expenditure legislation include a tax preference performance statement in a statutory legislative declaration and a special reform of the state tax immediately following 2024 legislative session to avoid burdening the state, this amendment will not cause disruption to the Taxpayer Bill of Rights. The People still have to no taxation without representation.

Section 17. INCOME TAX

Be it enacted by the People of the State of Colorado to amends Article X, Amends Section 17 Income tax, invalidates **Amendment XVI** of the United States Constitution, and reform the State Revenue in 2024 as follows:

- 1) **SECTION 17. Income tax.** The General Assembly commands the means of supplying its own wants and may levy a flat income tax to supply those wants for a period, and not exceeding TEN PERCENT. For the purpose of this section, the Laws of Congress, and Amendments to the Constitution shall become Supreme Law only WHEN PURSUANT TO THE CONSTITUTION:
 - a) Amendment XVI is invalid, and the People of Colorado find that the United States government may rebuttal this Amendment in the Supreme Court.
 - b) The State, by its original constitution, is invested with complete sovereignty, and is COEQUAL IN THE POWER OF TAXATION.
 - i) The State under the plan of the United States Article V Convention prior to 1913, the State retains the authority to tax its citizens directly on income, and Congress does not possess the power to lay and collect taxes on income, from whatever source derived, nor can it apportion without the State approval, and the United States must regard the census and enumeration.
 - c) Amendment XVI is an attempt on the part of the United States to abridge State Sovereignty and gives the United States an uncontrollable authority to raise their own revenues without apportionment of any State and without regard to the census or enumeration.
 - d) Amendment XVI is a perverse consolidation of power into one complete national sovereignty, subordinating the States.
 - e) Amendment XVI gives plain expression in the granting clause, that the power is EXCLUSIVE to the United States and deprives the State of Colorado from its natural sovereignty and independence in the Union.
 - f) Amendment XVI is repugnant and contradictory to the intent of the framers.
 - g) Amendment XVI contradicts Article 1 and therefore has no supremacy as law of the land.
 - h) The People of Colorado find that Amendment XVI allows the Union to apply itself without the State being consulted. Interferes with Article 1 and clashes or is repugnant to the authority laid by the founding fathers.
- 2) **Amendment to the Colorado Constitution, SECTION 22.** Add language from the Colo. Revised Statutes, 39-21-304, amend 3 (1)(a) and (4) as follows: 4 39-21-304. Tax

expenditure - tax preference performance 5 statement - tax expenditure repeal requirement.

(1) (a) On and after 6 January 1, 2024, AND EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 7 39-22-104 (1.9)(b) AND 39-22-301 (1)(d)(I)(K), any bill that creates a new tax expenditure or extends an expiring tax expenditure must include a tax preference performance statement as part of a statutory legislative declaration.

- a) On and after January 1, 2024, AND EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 39-22-104 (1.9)(b) AND 39-22-301 (1)(d)(I)(K), any bill that creates a new tax expenditure must include a repeal of the expenditure after a specified period of tax years and any bill that extends an expiring tax expenditure must extend the expenditure for a specified 16 period of tax years. A bill that creates a new tax expenditure or extends an expiring tax expenditure may not establish the tax expenditure for an indefinite period of time.

- 3) **Amendment to the Colorado Constitution, SECTION 23.** The general assembly shall provide by law, no tax can be laid on land which will not affect the proprietor of millions of acres. Every landholder will therefore have a common interest to keep the taxes on land as low as possible. Income tax imposed on individuals, estates, and trusts - single rate - report - legislative declaration - definitions - repeal.

- a) Except as otherwise provided in section 39-22-627, with respect to taxable years commencing on or after January 1, 2024, BUT BEFORE JANUARY 1, 2023, a tax of four and fifty-five one-hundredths percent is imposed on the state taxable income, as determined pursuant to State internal revenue code, of every individual, estate, and trust.
- b) SUBJECT TO SUBSECTION (2) OF THIS SECTION, WITH RESPECT TO TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 4 2024, A TAX OF FOUR AND FOUR-TENTHS PERCENT IS IMPOSED ON THE STATE TAXABLE INCOME, AS DETERMINED PURSUANT TO SECTION 63 OF THE STATE INTERNAL REVENUE CODE, OF EVERY INDIVIDUAL, ESTATE, AND 7 TRUST. (b) THE RATE REDUCTION SET FORTH IN SUBSECTION (1.9)(a) OF THIS SECTION IS NOT SUBJECT TO THE REQUIREMENTS SET FORTH IN 10 SECTION 39-21-304.
- c) Prior to the application of the rate of tax prescribed in subsection (1), (1.5), or (1.7), OR (1.9) of this section, the federal taxable income shall be modified as provided in subsections (3) and (4) of this section.

- 4) **Amendment to the Colorado Constitution, SECTION 24.** In Colorado Revised Statutes, 39-22-301, amend 16 (1)(d)(I)(J); and add (1)(d)(I)(K) as follows: 17 39-22-301. Corporate tax imposed. (1) (d) (I) A tax is imposed upon each domestic C corporation and foreign C corporation doing business in Colorado annually in an amount of the net income of such C

corporation during the year derived from sources within Colorado as set forth in the following schedule of rates: (J) Except as otherwise provided in section 39-22-627, for income tax years commencing on or after January 1, 2023, BUT BEFORE JANUARY 24 1, 2024, four and fifty-five one-hundredths percent of the Colorado net income. (K) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 27 1, 2024, FOUR AND FOUR-TENTHS PERCENT OF THE COLORADO NET INCOME. THE RATE REDUCTION SET FORTH IN THIS SUBSECTION (1)(d)(I)(K) IS NOT SUBJECT TO THE REQUIREMENTS SET FORTH IN SECTION 39-21-304. 4

- 5) **Amendment to the Colorado Constitution, SECTION 25.** Amendment subject to petition - effective date. This Amendment takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.
- 6) **Amendment to the Colorado Constitution, SECTION 26. Findings.** This section takes effect December 31, 2023, or as stated. The People of this State repudiate Amendment XVI of the U.S. Constitution as a usurpation of this State's power set forth in The U.S. Constitution ARTICLE 1, SECTION 2, CLAUSE 3. The People further HOLD THE National government in contempt. The People find that AMENDMENT XIV SECTION 4 SAYS Colorado citizens do not have to pay the United States debt or obligation incurred in aid of insurrection or rebellion against any foreign entity, or any claim for the loss or emancipation of any country; but all such debts, obligations, and claims must be held illegal and void. The People also find ARTICLE I SECTION 8 THAT CONGRESS HAS THE power to lay and collect taxes, duties, impost, and excises, to pay the debts and provide for the common defense and general welfare of the United States:
 - (a) To borrow money on the credit of the United States.
 - (b) To regulate commerce with foreign nations, and among the several States, and with the Indian Tribes.
 - (c) To establish a uniform rule of naturalization, and uniform rules about bankruptcies throughout the United States.
 - (d) To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weight and measure.

- (e) To provide for punishment of counterfeiting the securities and current coin of the United States;
- (f) To establish post-offices and post-roads.
- (g) To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;
- (h) To constitute tribunals inferior to the supreme courts.
- (i) To declare war, grant letters of marque and reprisals; and make rules concerning the captures on land and water.
- (j) To raise and support armies but no appropriation of money to that use can be for a longer term than two years.
- (k) To provide and maintain a navy.
- (l) To make rules for the government and regulation of the land and naval forces.
- (m) To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions;
- (n) To provide for organizing, armies and disciplining the militia, and for governing such part of them as may be employed in the services of the United State respectively, the appointment of the officers and the authority of training the militia according to the discipline proscribed by Congress

7) Amendment to the Colorado Constitution, SECTION 27. According to ARTICLE I

SECTION 9, THE PEOPLE FIND that:

- (a) No capitation, or other direct, tax may be laid unless in proportion to the census or enumeration herein before directed to be taken;
- (b) No tax or duty may be laid on articles exported from any State;
- (c) No preference may be given to any regulation of commerce or revenue to the ports of one State over those of another; nor can any vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.
- (d) No money may be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money must be published from time to time.

8) Amendment to the Colorado Constitution, SECTION 28. The State of Colorado cannot coin money, emit bills of credit, make anything of gold and silver coin a tender in payment of debts as per ARTICLE 10 of the U.S. Constitution. It can reintroduce coin gold and silver money

into the Colorado economy in case of a market crash and buy back all the gold and silver coin in the collector's market; and issue federal notes to ease the burden of its citizens.

- 9) **Amendment to the Colorado Constitution, SECTION 29.** The People of Colorado render Amendment XVI NULL and VOID and challenge the United States to try and collect income taxes directly without apportionment, and without regard to the census or enumeration. The Congress does not have the power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the fifty States, and without regard to the United States census or enumeration.

- 10) These Amendments subject to petition - effective date - takes effect at 12:01 a.m. on the day following the November 2023 election of the thirty-day period after the Secretary of State has Certified the Election; except that, if a referendum petition is filed pursuant to the state constitution against this amendment or an item, section, or part of this amendment within such period, then the amendment, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.