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# ISSUE BRIEF

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## The TABOR Refund

In its recent special session, the General Assembly enacted House Bill 97S-1001 to refund to Colorado residents \$142.1 million collected by the state in fiscal year 1996-97. An estimated 2.6 million Coloradans are expected to share in the refund. A refund is required by a provision in the state constitution commonly referred to as TABOR (The Taxpayer's Bill of Rights). TABOR directed that moneys the state collected in fiscal year 1996-97 in excess of a 6.6 percent growth rate be returned to the taxpayers, absent a vote of the people.

The method selected by the General Assembly to refund the \$142.1 million is a sales tax refund. The refund, however, will be processed through the individual income tax system. The amount of each person's refund depends upon his or her federal adjusted gross income for 1997 and tax filing status. The refund amounts are illustrated in Table 1.

**Table 1: TABOR Refund Amounts by  
Income and Tax Filing Status**

Federal Adjusted Gross Income	Single, Head of Household, or Married Separate	Joint Return or Surviving Spouse
	Amount of Credit	
\$15,000 and less	\$37	\$74
\$15,001 to \$100,000	\$60	\$120
More than \$100,000	\$80	\$160

The remainder of this issue brief provides more detailed information on the refund.

### Who Is Eligible for the Refund?

A person is eligible for the refund if he or she lived in Colorado for all of calendar year 1997 and was 18 years old for all of 1997, regardless of whether he or she pays state income taxes. Some individuals under 18 are also eligible for the refund as long as they were full-year residents in 1997. A person under 18 who is required to file a federal income tax form because he or she meets the income threshold is eligible for the refund. A refund can also be obtained by a person under 18 who does not meet the federal income threshold but who has had Colorado income tax withheld from wages and files a Colorado income tax return to get a refund of the amount withheld.

### **Who Is *Not* Eligible for the Refund?**

A person is *not* eligible for a refund if he or she earned income in Colorado in 1997 but did not live in Colorado or lived in Colorado for only part of 1997. Corporations are not eligible for the refund. A person under 18 who does not meet the criteria in the preceding paragraph cannot receive the refund.

### **How Is Residency Documented?**

Generally, anyone who lived in Colorado for all of 1997 and is required to file a Colorado income tax return meets the residency requirement. For purposes of the refund, simply filing an income tax return is proof of residency. However, a number of people who do not owe income tax, and therefore usually do not file a Colorado income tax form, are also eligible for the refund. For these residents, a copy of a Colorado driver's license or a lease may be used as proof of residency.

### **How Is the Amount of the Refund Determined?**

The amount of a person's refund is based on 1997 federal adjusted gross income. Federal adjusted gross income is a person's income *before* personal exemptions and deductions, whether itemized or standard. In many instances, it is solely the wages and salaries reported on a W-2 form. However, federal adjusted gross income also includes other sources of income, such as interest and dividends, alimony received, business income, unemployment compensation, capital gains, taxable IRA distributions, taxable social security payments, farm and rental income, and for taxpayers who itemize deductions, state income tax refunds. Federal adjusted gross income includes reductions for IRA deductions, contributions to a Keogh and self-employed SEP plan, moving expenses, and alimony paid.

In 1996, taxpayers reported federal adjusted gross income on line 4 of the federal 1040EZ form, on line 16 of the federal 1040A, and on line 31 of the federal 1040 form. Taxpayers can *estimate* the amount of their refund using the refund amounts in Table 1 and their 1996 federal adjusted gross income, provided they have not had significant changes in their income.

### **How Is a Refund Obtained?**

A state income tax return must be filed to receive the refund. Colorado residents who would not normally file a state income tax return must do so to receive the refund. These individuals would insert a zero on the line for federal adjusted gross income. The state tax forms will be available at the end of the year. The state will begin processing refunds on January 2, 1998.

### **What Are the Deadlines for Filing for the Refund?**

For all Colorado residents who are normally required to file a Colorado income tax return, the deadlines are the same as for filing income taxes. Tax returns are due on April 15, 1998. Taxpayers who file for an extension will receive a refund as long as the tax return is filed by October 15, 1998, and 90 percent of the tax owed is paid by April 15, 1998.

Coloradans filing a return only to receive the refund (those with no federal adjusted gross income) must file a return by April 15, 1998.

### **When Will the Refunds Be Issued?**

The refunds will be issued under the same time schedule as income tax refunds. Refunds will be issued in two weeks for returns filed in January, in three weeks for returns filed in February, in four weeks for returns filed in March, and in eight weeks for returns filed in April.

### **How Will Coloradans Receive the Refund?**

Coloradans who file a state income tax return simply to receive the refund will receive a check for the amount of the refund. For those who owe state income taxes, the refund will reduce the amount of tax that must be mailed to the state. The refund will be added to the income tax refund check for Coloradans who have overpaid their 1997 state income taxes.

### **Will the Refund Be Taxed by the Federal Government in 1998?**

The question of whether the refund will be taxed by the federal government only applies to people who itemize their deductions when computing their federal income taxes. At the time this issue brief was printed, the federal government had not made a decision on whether the refund will be taxed at the federal level. If it is, it will be included as income on 1998 tax returns filed in 1999.

*This issue brief is the first in a series of issue briefs on fiscal topics. In the upcoming weeks, you will receive issue briefs on Colorado's level of taxation compared to other states, the role of school finance in state tax policy, property taxes, volatility of state taxes, who pays Colorado taxes, the big picture of state revenues, issues that arise when changing tax policy, appropriations growth, and funding of transportation and capital projects. These issue briefs will be mailed weekly through the first week in January, 1998.*

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