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**The FY 1997-98 TABOR Refund**

by Tom Dunn

In its recent special session, the General Assembly enacted House Bill 98S-1003 to refund to Colorado residents \$565.0 million collected by the state in fiscal year 1997-98. The refund will be reduced to \$365.0 million if voters approve Referendum B at the November 3 election. Referendum B is a measure allowing the state to retain and spend \$200 million of the TABOR surplus for five years (FY 1997-98 through FY 2001-02) for transportation improvements and for construction of K-12 and higher education facilities. An estimated 2,617,000 taxpayers are expected to be eligible for the refund. The refund is required by a provision in the state Constitution commonly referred to as TABOR (The Taxpayer's Bill of Rights). TABOR directs that moneys the state collected in fiscal year 1997-98 in excess of a 5.5 percent growth rate be returned to the taxpayers, absent a vote of the people.

As with last year's refund, the method selected by the General Assembly to refund the excess revenues is a sales tax refund claimed on the income tax form. The amount of each person's refund depends upon his or her federal adjusted gross income and tax filing status for 1998, as well as whether voters approve Referendum B at the November 3 election. The refund amounts are illustrated in Table 1.

**Who Is Eligible for the Refund?**

Most persons who are at least 18 years old and lived in Colorado for all of 1998, regardless of whether they pay state income taxes, are eligible for the refund. Some individuals under 18 are also eligible for the refund as long as they were full-year residents in 1998. A person under 18 who is required to file a state income tax form because he or she meets the federal income thresholds 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?

Nonresidents and part-year residents during 1998 are not eligible for the refund even if they earned income in Colorado during 1998. Corporations are not eligible for the refund. A person under 18 who does not meet the criteria specified in the preceding paragraph cannot receive the refund. Unlike last year, a person who is not required to file a state income return but is filing for a refund of estimated taxes paid during 1998 will not be eligible for the refund. Persons age 18 or over who were convicted of a felony or misdemeanor or who were adjudicated for an offense that would be a misdemeanor if committed by an adult and who served prison or jail sentences of at least 180 days during FY 1997-98 are also not eligible for the refund. Similarly, a person under age 18 who was adjudicated for an offense that would be a felony if committed by an adult and was committed to the Department of Human Services for at least 180 days is not eligible for the refund.

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

Federal Adjusted Gross Income	Refund for Single, Head of Household, or Married Separate if Voters:		Refund for Joint Return or Surviving Spouse if Voters:	
	Do not approve Referendum B	Approve Referendum B	Do not approve Referendum B	Approve Referendum B
\$20,000 or less	\$142	\$92	\$284	\$184
\$20,001 to \$50,000	\$195	\$126	\$390	\$252
\$50,001 to \$95,000	\$276	\$178	\$552	\$356
More than \$95,000	\$384	\$248	\$768	\$496

### How Is Residency Documented?

Generally, anyone who lived in Colorado for all of 1998 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 person who typically does not file an income tax return and is eligible for the refund must provide proof of residency. The Department of Revenue requires proof in the form of a Colorado driver's license or Colorado ID number, a signed lease agreement showing full-year residency, or utility bills for the first and last months of 1998.

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

The amount of a person's refund is based on 1998 federal adjusted gross income. Federal adjusted gross income is a person's income before personal exemptions and deductions. This income measure includes wages, interest, dividends, alimony received, business income, capital gains, unemployment compensation, taxable IRA distributions, taxable social security income, farm and rental income, and for taxpayers who itemize deductions, state income tax refunds. Federal adjusted gross income is reduced by certain adjustments such as IRA deductions, alimony paid, moving expenses, and contributions for a Keogh and self-employed SEP plan.

## **How Is a Refund Claimed?**

Most taxpayers can claim the refund by filing a state income tax return. Eligible Colorado residents who do not file a federal income tax return because their incomes are too low or who have no income should insert a zero on the line for federal adjusted gross income. The state tax forms will be available at the end of 1998. The state will begin processing refunds on January 4, 1999. Taxpayers who file a claim for a property tax assistance grant and/or a claim for a heat or fuel expenses assistance grant can now file for the sales tax refund on the form 104PTC. Last year, these taxpayers had to file for the sales tax refund on the state income tax return.

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

All Colorado residents who are eligible for the sales tax refund must file a 1998 state income tax return or a form for the claim for the property tax assistance grant or heat or fuel expenses assistance grant by April 15, 1999. However, taxpayers who file for an extension of time to file the state tax income return will receive the refund if the return is filed by October 15, 1999. Unlike last year, taxpayers who file for an extension of time to file will not be required to pay all or any portion of their net income tax liabilities due prior to October 15, 1999.

## **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 only 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 paid to the state. The refund will be added to the income tax refund for Coloradans who have overpaid their 1998 state income taxes. The refund will not be reported as income to the federal government by the Department of Revenue and therefore will not be subject to federal income taxes.

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