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How Colorado accountants ensured a new tax-refund law will benefit everyone

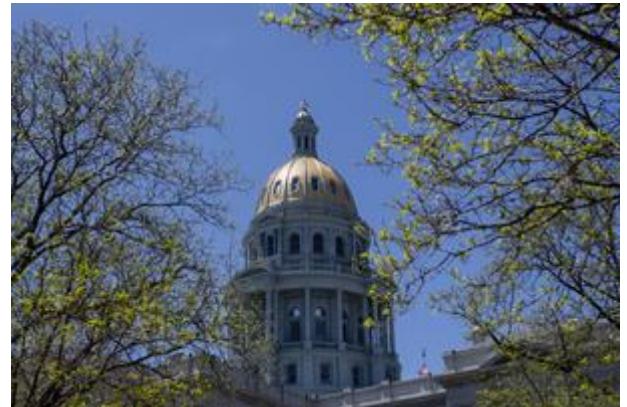
Colorado accountants are the quiet workers behind a bill that should now apply to everyone in the state.

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On Monday, Gov. Jared Polis signed into law a bill sending certain tax refunds to Coloradans early.

But on April 25, when Polis announced that the Legislature had come up with a way to speed up Taxpayer's Bill of Rights refunds and to get at least \$400 to everyone in Colorado, not everyone was cheering. Many accountants statewide worried.

The original version of Senate Bill 233 required that state residents — including the owners of pass-through entities like LLCs and S Corporations that file taxes as individuals — get said filings in by May 31 to be eligible for the new type of refunds. But some 5% of state filers — that's about 125,000 single or joint filers — seek an



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The Colorado State Capitol on May 10, 2022, in Denver.

extension each year, and that can skew more heavily toward small, pass-through entities, said Phil Horwitz, state and local tax director for accounting firm Moss Adams.

Thus, the state was about to create two problems, explained Mary Medley, CEO of the Colorado Society of CPAs. It was about to block scores of people from this proposed tax refund, making the system highly inequitable, and it could have caused both procedural and legal nightmares for accountants, who were going to have to work around the clock to try to speed up tax returns for clients — in some cases, with information they may not have yet.

Oh, and the bill was being introduced and rushed through with just two and a half weeks left in the 2022 legislative session.

What happened next was what Medley described as a massive and quick community reaction in which accountants and business lobbyists sat down with legislators and with Polis and explained the bind they were about to create.

Over the next two weeks, SB 233 was amended and then amended again so that all state residents had to do to receive their checks by Sept. 30 was to seek an extension by June 30, or even to apply for a property tax, rent or heat credit by that date.

And on Monday, when the Democratic governor signed the bill into law, everyone breathed a collective sigh of relief and declared that the bill had indeed been fixed.

"This was the classic example of a well-intentioned idea that needed public input, communication and a reality check to say, 'Wait a minute, let's make sure this is fairly and equitably handled,'" Medley said.

SB 233, often the first bill that Polis mentions when he talks about the legislative accomplishments of 2022, creates a new TABOR refund mechanism that will produce checks of between \$400 and \$500 for individual filers and between \$800 and \$1,000 for joint filers. And it speeds up those refunds so that they will go out this summer or fall rather than next spring as originally scheduled.

TABOR is the 1992 law that caps the amount of revenue that Colorado can collect and requires that excess amounts go back to

state residents. Traditionally, that's done in three ways: A homestead property-tax exemption for senior and veteran homeowners, a temporary reduction in the state's income tax and a six-tiered system that offers refunds based on the amount of sales tax an individual has paid. And the methods work like a line of buckets, ensuring that the income-tax break comes only after the homestead tax break is paid and that the sales-tax refunds come only after the other two means are used.

For this year only, however, SB 233 creates a new method after the homestead and income-tax breaks have been paid that sends checks of equal amounts to anyone who is at least 18 years old and was a full-time resident of Colorado for all of 2021. It's a negotiated plan that preserves the TABOR refunds that Polis lauds while finding more equitable distribution of the money, as most of the rest of his party has been seeking to do for years.

SB 233 is particularly appealing as a bill during an election year in which state business owners and residents are facing soaring inflation. But while Polis celebrated the idea, accountants quickly hit the phones and email chains to explain why its initial execution could be problematic. Rep. Marc Snyder, D-Manitou Springs, noted their response later, during a committee hearing on the proposal.

People apply for extensions for a variety of reasons, ranging from delays in the time it may take them to get earnings statements to trips that have kept them out of the state or even the country, Medley explained. This year, for example, she has clients who lost homes in the Marshall Fire in Boulder County who have been juggling so many requirements that getting their taxes done on time has been impossible.

Were the state to require that taxes be filed by May 31 to claim refunds, either many of those folks would be left out of the payback or tax preparers may be told to do the impossible and file expedited or incomplete forms, at risk of losing their clients.

And Polis rolled the bill out 10 days after the filing date of a particularly difficult tax season that involved the calculation of two years of changes in federal law, meaning most accountants are exhausted already.

The first amendments in the Senate Finance Committee on April 29 just moved back the deadline for tax filings to June 30, which would have done very little for most filers who seek an extension giving them until Oct. 17 to get everything filed, Horwitz noted. But later amendments eliminated the discrepancies.

That wasn't enough to make everyone happy. Most Republicans in the Senate and about half of the GOP members in the House opposed it, saying it was simply Democrats' attempt to repackage tax refunds that already were coming and take credit for them.

"Quite frankly, I don't necessarily think that after 23 years of having a system in place that it's broken," said Sen. Kevin Priola, R-Henderson.

Cosponsoring Sen. Nick Hinrichsen, D-Pueblo, noted that the only people who will be getting more than \$100 extra back because of the bill are those who make less than \$47,000 a year — though he noted that everyone will be getting money more quickly.

"Money a year from now won't put food on your table or gas in your car now," Hinrichsen told the Senate Finance Committee.

But that money will now be going back to everyone in Colorado — thanks largely to the efforts of normally apolitical accountants who guided legislators through significant changes on a quickly moving bill.

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