

(1) For income tax years commencing on or after January 1, 1981, there shall be allowed, as a credit against any taxes imposed by this part 3 on income derived from a new mining, milling, or mining and milling operation or expansion of an existing mining, milling, or mining and milling operation, an amount equal to the value of eligible contributions by the taxpayer made prior to the commencement of operations by the new operation or by the expansion of an existing operation to assist in solving the impact problems of units of local government resulting from the initiation of a new operation or an expansion of an existing operation. The credit allowed by this section shall be allowed only on a new operation or an expansion of an existing operation located within Colorado which begins actual operations subsequent to June 30, 1980. Such credit shall be based on the ratio of the gross income attributable to such new operation or expansion to the total Colorado gross income multiplied by the Colorado income tax liability for the year for which the credit is claimed.

(2) Eligible contributions, for the purpose of such credit, shall include the donation of property or payments to units of local government for use in the planning or construction or expansion of public facilities, limited to roads, schools, water facilities, sewerage facilities, police and fire protection facilities, and hospitals, which are deemed to be necessitated by the initiation of a new operation or an expansion of an existing operation. In order to qualify as an eligible contribution for credit, the following requirements shall be fulfilled:

(a) Each contribution shall be based on an agreement between the taxpayer and a unit of local government specifying the need for such contribution and its nature, value, and purpose. Such agreement shall be submitted for review to each unit of local government which is impacted by the new operation or the expansion of an existing operation. Each impacted unit of local government may send comments on the agreement to the parties to the agreement and the energy impact assistance advisory committee pursuant to section 34-63-102 (5) (b), C.R.S.

(b) Each contribution must be determined to be eligible for credit, after joint submission by the taxpayer and the unit of local government, by the executive director of the department of local affairs upon the recommendation of the energy impact assistance advisory committee.

(c) Certification of eligibility for credit of a contribution of a specified value must be made by the executive director of the department of local affairs to the executive director of the department of revenue, the unit of local government, and the taxpayer. Certification of eligibility for credit shall not be made to the specified value of any contribution submitted, but to a prorated value of the contribution, if the total of all claims received by the department of local affairs exceeds one hundred thousand dollars.

(3) A taxpayer may claim credit against income tax liability during the first five years of operations by a new operation or an expansion of an existing operation in the amount of the total value of all contributions certified as eligible for credit by submitting with the annual declarations and returns required by section 39-29-112 the certifications of eligibility for such credit. Any unabsorbed credit may not be claimed as a refund or applied as a credit to estimated tax.

Source: L. 80: Entire section added, p. 723, § 17, effective May 1. L. 94: (2)(a) amended, p. 1646, § 82, effective May 31.