



**COLORADO**  
Department of Revenue  
Taxation Division

The background of the cover is a scenic photograph of a Colorado landscape. It shows a river flowing through a lush green meadow, with a dense forest of evergreen trees in the background. The sky is filled with soft, colorful clouds, suggesting a sunrise or sunset. The overall scene is peaceful and natural.

# Colorado Individual Income Tax Guide





Colorado imposes a tax on the income of every Colorado resident individual. Colorado income tax also applies to the Colorado-source income of any nonresident individual. In the case of an individual who is a Colorado resident for only part of the year, Colorado tax is imposed both on the income recognized while the individual was a Colorado resident, as well as any income derived from Colorado sources.

In general, each Colorado resident, part-year resident, or nonresident with income from Colorado sources is required to file a Colorado return if they are required to file a federal income tax return or they incur a Colorado tax liability. If an individual is not required to file a federal income tax return, they generally are not required to file a Colorado income tax return.

Colorado income tax is based generally on federal taxable income, although various modifications and adjustments are made in the calculation of Colorado income tax. Colorado law requires certain additions, and permits certain subtractions, in the calculation of Colorado taxable income.

Individuals are generally required to remit Colorado income tax as they receive income throughout the year. If the individual earns wage income as an employee, their employer will generally withhold Colorado income tax from their wages. If an individual receives income from other sources, they may be required to remit quarterly estimated tax payments in anticipation of the Colorado income tax they will owe. A refund is allowed for any overpayment of an individual's tax resulting from either wage withholding or estimated tax payments.

This publication is designed to provide taxpayers with general guidance regarding Colorado individual income tax, including the calculation of the tax, filing of returns, and other related requirements. Nothing in this publication modifies or is intended to modify the requirements of Colorado's statutes and regulations. Taxpayers are encouraged to consult their tax advisors for guidance regarding specific situations.

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# Part 1: Colorado Residency



An individual is subject to Colorado income tax for a given tax year if that individual is either:

- a Colorado resident for all or part of the tax year; or
- a nonresident who realizes income from sources in Colorado.

This *Part 1* describes rules that determine whether an individual is a full-year resident, a part-year resident, or a nonresident for Colorado income tax purposes.

## Colorado residency

The entirety of a resident individual's income is subject to Colorado income tax, regardless of whether the income was derived from sources inside or outside of Colorado. For information about the credit Colorado residents can claim for income derived from sources in, and taxed by, another state, please see Department publication *Income Tax Topics: Credit for Tax Paid to Another State*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).

In general, an individual is a Colorado resident if either:

- the individual is domiciled in Colorado; or
- the individual maintains a permanent place of abode in Colorado and spends, in aggregate, more than six months of the tax year in Colorado.

The following sections provide further guidance for determining whether a person is a Colorado resident. For questions regarding residency not addressed in this publication, please see *1 CCR 201-2*, Rule 39-22-103(8)(a).

### Military servicemembers

Specific state and federal laws apply in determining the residency of military servicemembers. For additional information, please see Department publication *Income Tax Topics: Military Servicemembers*.

### Domicile

In general, a person's domicile is the place they consider their home. It is the permanent place of abode to which a person intends to return, whenever they are away. A person's permanent place of abode may include, but is not limited to, a house, condominium, apartment, room in a house, or mobile home.

Various factors may be considered in determining domicile and a person's domicile is demonstrated by objective evidence. No one factor is determinative and not all factors may be relevant or equally weighted. Evidence of domicile may include:

- state tax return filed as a resident of that state;
- driver's license;
- motor vehicle registration;
- voter registration;
- residency of spouse and dependents;
- ownership and occupation of real property; and
- residency status for the purpose of college tuition.

Once a person's domicile is established in a state, it will continue to be the person's domicile until the person establishes domicile in another state. A person who is domiciled in a state remains a domiciliary of that state even if the person temporarily resides outside that state.

### College students

A student who moves to another state to attend college, but who does not intend to remain in that state after graduation, has not changed domicile. Moreover, a student who is being supported by a parent or parents does not establish a domicile separate from the parent(s) simply by attending school in another state, regardless of whether the student takes such steps as acquiring a driver's license or registering to vote in the state in which he or she attends school.



### Statutory residents

A person who is not domiciled in Colorado is nonetheless a Colorado resident for income tax purposes if that person both:

- maintains a permanent place of abode in Colorado and
- spends, in aggregate, more than six months of the tax year in Colorado.

A person who changes domicile by moving into or out of Colorado during the tax year generally is not considered a statutory resident under these rules, even if that person spends more than six months living in Colorado. Instead, the person is considered a part-year resident for that part of the year during which they were domiciled in Colorado. Please see the following section regarding part-year residents for additional information.

### Part-year residents

In general, a part-year Colorado resident is anyone who is either:

- domiciled in Colorado at the beginning of the tax year, but then abandons their Colorado domicile during the tax year; or
- domiciled outside of Colorado at the beginning of the tax year, but then moves to Colorado during the tax year and establishes domicile in the state.

At any given time, a person has only one domicile. A part-year resident is a Colorado resident for that part of the year during which they are domiciled in Colorado and a non-resident for that part of the year during which they are domiciled outside of Colorado.

All of the income realized by a taxpayer when they are domiciled in Colorado is subject to Colorado taxation. Additionally, any income they realize while they are not domiciled in Colorado is subject to Colorado taxation if it is derived from Colorado sources. For additional

information, please see Department publication *Income Tax Topics: Part-Year Residents & Nonresidents*.

### Nonresidents

Anyone who is not a Colorado resident at any time during the tax year is a nonresident. A nonresident is subject to Colorado taxation and may incur a Colorado income tax liability if they realize any income from Colorado sources during the tax year. For additional information, please see Department publication *Income Tax Topics: Part-Year Residents & Nonresidents*.

### Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to Colorado residency and the imposition of Colorado income tax on individuals. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Taxpayers with specific questions should consult their tax advisors.

#### Statutes and regulations

- § 39-22-103, C.R.S. Definitions.
- § 39-22-104, C.R.S. Income tax imposed on individuals.
- § 39-22-601, C.R.S. Returns.
- Rule 39-22-103(8)(a). Resident Individual.

#### Forms and guidance

- [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications)
- *Income Tax Topics: Credit for Tax Paid to Another State*
- *Income Tax Topics: Part-Year Residents & Nonresidents*
- *Income Tax Topics: Military Servicemembers*

# Part 2: Calculating Colorado Tax



In general, Colorado imposes an income tax on the modified federal taxable income of each individual, whether they are a Colorado resident, a nonresident, or a part-year resident. In the case of part-year residents and nonresidents, the tax is apportioned as described in Department publication *Income Tax Topics: Part-Year Residents & Nonresidents*. This Part 2 provides information regarding the calculation of Colorado taxable income (also known as modified federal taxable income), the Colorado income tax rate, and alternative minimum tax.

## Colorado taxable income

For the calculation of Colorado income tax, an individual's federal taxable income must be modified as required by Colorado law. Most individuals must prepare IRS Form 1040 or IRS Form 1040-SR to determine their federal taxable income. Additional federal forms, such as IRS Schedule 1 and IRS Schedule A, may also be required to compute an individual's federal taxable income.

Modifications to federal taxable income required by Colorado law include both additions and subtractions. Part 3 of this publication discusses required additions to taxable income. Allowable subtractions are described in Part 4.

## Colorado income tax rate

Colorado income tax is calculated as a percentage of Colorado taxable income. The Colorado income tax rate varies by tax year. The tax rates for recent tax years are shown below.

### Colorado Income Tax Rates

Tax Year	2019	2020	2021
Tax Rate	4.5%	4.55%	4.5%

For tax years 2022 and later, the Colorado income tax rate is set at 4.4%.

For individuals with Colorado taxable incomes of less than \$50,000, the Department publishes tax tables which approximate the individual's Colorado tax determined at the applicable prescribed rate.

## Alternative minimum tax (AMT)

Colorado law establishes an alternative minimum tax (AMT) for individuals. Colorado AMT is based largely on federal alternative minimum taxable income, making it likely that a taxpayer who owes federal AMT will also owe Colorado AMT. The Colorado AMT is in addition to the normal Colorado income tax a taxpayer owes and is equal to the amount by which the tentative minimum tax exceeds the normal tax.

### Calculating Colorado AMT

Colorado AMT is computed using the *Colorado Alternative Minimum Tax Computation Schedule* (DR 0104AMT). Individuals must first prepare IRS Form 6251 before completing Colorado form DR 0104AMT. In general, Colorado AMT is calculated in four steps:

- 1) A taxpayer's federal alternative minimum taxable income is first reduced by the applicable federal exemption (please see IRS Form 6251 for the exemption amount).
- 2) The resulting amount is then modified by any applicable Colorado additions and subtractions (except for state income tax addback and the state income tax refund subtraction) in order to determine Colorado alternative minimum taxable income.
- 3) Next, Colorado tentative minimum tax is calculated by multiplying Colorado alternative minimum taxable income by 3.47% and, in the case of part-year residents and nonresidents, apportioning the result as described in the instructions for form DR 0104AMT.
- 4) Finally, Colorado alternative minimum tax is calculated by subtracting the taxpayer's normal Colorado income tax from the taxpayer's tentative Colorado minimum tax.

If a taxpayer's tentative Colorado minimum tax is less than their normal Colorado income tax, the taxpayer owes no Colorado AMT. See form DR 0104AMT for additional information regarding the calculation of AMT.

## Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to the calculation of Colorado individual income tax. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Taxpayers with specific questions should consult their tax advisors.

### Statutes and regulations

- § 39-22-103, C.R.S. Definitions - construction of terms.
- § 39-22-104, C.R.S. Income tax imposed on individuals.
- § 39-22-105, C.R.S. Alternative minimum tax.
- § 39-22-627, C.R.S. Temporary adjustment of rate of income tax - refund of excess state revenues - authority of executive director.

### Forms and guidance

- [Tax.Colorado.gov/individual-income-tax](https://tax.colorado.gov/individual-income-tax)
- [Tax.Colorado.gov/individual-income-tax-forms](https://tax.colorado.gov/individual-income-tax-forms)
- *Colorado Individual Income Tax Return* (DR 0104)
- *Colorado Minimum Tax Computation Schedule* (DR 0104AMT)
- *Income Tax Topics: Part-Year Residents & Nonresidents*
- *IRS Topic No. 556 Alternative Minimum Tax*
- *IRS Form 6251, Alternative Minimum Tax - Individuals*

Colorado income tax is based on federal taxable income. However, Colorado law provides for a number of modifications to federal taxable income that apply in the calculation of Colorado tax. Additions are generally required for one of three reasons:

- 1) To impose Colorado income tax on certain types of income that are exempt from federal taxation;
- 2) To eliminate or reduce a deduction that is allowed under federal law, but not under state law (referred to as an “addback” of the amount deducted); or
- 3) To recapture a previously claimed subtraction.

This *Part 3* provides information regarding the additions to federal taxable income that are required under Colorado law.

## Income exempt from federal tax

Certain income is exempt from federal income tax, but subject to Colorado income tax. Consequently, this income must be added to federal taxable income for Colorado income tax purposes.

### Non-Colorado state and local bond interest

Interest on state and local bonds is generally exempt from federal income tax and therefore not included in federal taxable income. However, any state or local bond interest, other than interest from the State of Colorado or any political subdivision thereof, is subject to Colorado income tax and therefore must be added to federal taxable income. Political subdivisions include any city, county, or special district in Colorado.

The required addition does not include any amortization of the bond premium and is reduced by the amount of the deductions required by the Internal Revenue Code to be allocated to the interest income.

## Addbacks of federal deductions

Colorado generally conforms to federal law and permits in the calculation of Colorado tax the same deductions that are allowed in calculating federal tax. However, Colorado law disallows or reduces certain federal deductions for the purpose of calculating Colorado tax. Individuals that claim any of the following deductions in the calculation of their federal taxable income must make the required addition in the calculation of their Colorado tax.

### Deductions for state taxes paid

An individual who claims an itemized deduction on their federal income tax return for state income tax must add back on their Colorado returns the amount of state income tax deducted, subject to certain limitations. Individuals must add back the state income taxes they deduct, regardless of whether the state income taxes were paid to Colorado or to another state. A state income tax addback is also required for any partner or shareholder in a partnership or S corporation that claims a federal deduction for state income taxes. For additional information, please see Department publication *Income Tax Topics: State Income Tax Addback*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).

### Addbacks related to the CARES Act

Taxpayers may be required to add back on their 2020 *Colorado Individual Income Tax Return* (DR 0104) some portion of certain deductions claimed on their federal income tax return under the provisions of the CARES Act. These addbacks relate to NOL deductions, excess business losses, and business interest deductions. For additional information, please see Department publication *CARES Act Tax Law Changes & Colorado Impact*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).





### Qualified business income deduction

An individual who claims a qualified business income (“QBI”) deduction on their federal income tax return may be required to add back on their Colorado returns the full amount of the deduction.

For tax years 2018 and later, an individual who is a partner or shareholder in a partnership or S corporation that makes a SALT Parity election for the tax year must add back any QBI deduction the individual is allowed on their federal return. The individual must add back the full amount of their QBI deduction and not only the amount of the QBI deduction attributable to the partnership or S corporation that makes the SALT Parity election. For tax years 2018 through 2021, this addback may be made as part of the composite amended return filed by the partnership or S corporation making the election.

For tax years 2021 and later, the addback is required for single filers whose adjusted gross income (AGI) exceeds \$500,000 and for joint filers whose AGI exceeds \$1,000,000. The addback is not required for any taxpayer who files a Schedule F as an attachment to their federal income tax return for the tax year in which they claimed the qualified business income deduction.

### Federal itemized or standard deductions

For tax years 2022 and later, an individual may be required to add back on their Colorado return a portion of their itemized deductions or standard deduction from their federal return.

#### Tax year 2022

For tax year 2022 only, the addback is required for any single or joint filer whose adjusted gross income exceeds \$400,000 and who claims itemized deductions on their federal return in excess of the following limitations:

Filing status	Limit
Single	\$30,000
Joint	\$60,000

The required addback is the amount by which the itemized deductions the taxpayer claims on their federal return exceeds the applicable limit. The addback is not required for tax year 2022 for any taxpayer who claims the standard deduction on their federal return.

#### Tax year 2023 and later

For tax year 2023 and later, the addback is required for any single or joint filer whose adjusted gross income exceeds \$300,000 and who claims either itemized deductions or the standard deduction on their federal return in excess of the following limitations:

Filing status	Limit
Single	\$12,000
Joint	\$16,000

The required addback is the amount by which the standard deduction or itemized deductions the taxpayer claims on their federal return exceeds the applicable limit. The addback is required for tax years 2023 and later regardless of whether the taxpayer claims itemized deductions or the standard deduction on their federal return.



## Gross conservation easement deduction

Individuals may be able to claim both a federal charitable contribution deduction and a Colorado income tax credit for the donation of a gross conservation easement on property located in Colorado. If a taxpayer claims both a federal deduction and a Colorado credit for the same donation, the taxpayer must make an addition on their Colorado return in the amount of the federal deduction, subject to applicable limitations described below. If the taxpayer carries part of the federal deduction forward to subsequent tax years, the addition is required for any year in which the taxpayer claims the deduction to reduce federal taxable income. The addition is required regardless of whether all or part of the credit is:

- waitlisted by the Division of Conservation;
- carried forward to a subsequent tax year; or
- transferred to another taxpayer.

With respect to any single gross conservation easement donation, the aggregate addition required for all tax years in which federal deductions are claimed is limited to the contribution amount upon which the gross conservation easement credit claim is based.

## Deductions for certain business expenses

Certain business expenses, discussed below, that are deductible in the calculation of federal taxable income must be added back in the calculation of Colorado income tax. These additions are required regardless of whether the individual claimed the deduction as the sole proprietor of the business on Schedule C of their federal return or if the deduction was taken in the calculation of their income from a partnership or S corporation in which they were a partner or shareholder. A partner or shareholder must add back on their Colorado return their distributive or pro rata share of the deduction claimed by a partnership or S corporation.

## Unauthorized alien labor services

Individuals must make an addition on their Colorado income tax returns for any business expenses deducted in the calculation of federal taxable income for wages or remuneration paid to an unauthorized alien for the physical performance of services in Colorado. An individual is not required to make any addition if:

- the business did not know of the unauthorized status of the worker at the time of hiring; or
- the business is domiciled in Colorado and is exempt from compliance with federal employment verification procedures under federal law that makes the employment of unauthorized aliens unlawful.

Furthermore, the addition is not required if the worker:

- was lawfully admitted to the United States for permanent residence;
- was authorized to work in the United States by Chapter 12 of Title 8 of the U.S. Code or by the U.S. Attorney General;
- was paid less than \$600 in wages or remuneration for the year;
- was hired by the business prior to December 31, 2006;
- was not directly compensated or employed by the business; or
- holds and presents to the business a valid license or identification card issued by the Colorado Department of Revenue.



## Part 3: Additions to Taxable Income

### Clubs that restrict membership

Individuals must make an addition on their Colorado returns for any expenses deducted in the calculation of federal taxable income that were incurred with respect to expenditures made at, or payments made to, any club that both:

- is licensed pursuant to section 44-3-418, C.R.S., to sell alcohol beverages by the drink only to members of the club and guests for consumption on the premises of the club; and
- has a policy to restrict membership on the basis of sex, sexual orientation, gender identity, gender expression, marital status, race, creed, religion, color, ancestry, or national origin.

### Food and beverage expense deduction

For tax year 2022, individuals must make an addition on their Colorado returns for a portion of any business deduction claimed for food and beverage expenses. In general, the allowable federal deduction is limited to 50% of the expense. However, for tax years 2021 and 2022, section 274(n)(2)(D) of the Internal Revenue Code generally permits deduction of 100% of the expense for food and beverages provided by a restaurant. The required addback is equal to the amount of the deduction claimed in excess of 50% of the expense.

### Business meals deduction

For tax years 2024 through 2030, individuals must make an addition on their Colorado returns for any business deduction claimed for business meals. The required addback is equal to the full amount of the deduction claimed pursuant to section 274(k) of the Internal Revenue Code.

### Federal net operating loss (NOL) deduction

Individuals who have a federal net operating loss (NOL) may be able to carry the loss either forward or back and claim the loss as a deduction for a subsequent or prior tax year. In general, an individual is not required to make any further adjustment on their Colorado return for the NOL deduction claimed on their federal return. However, individuals may need to add back on their Colorado return some or all of the federal NOL deduction claimed if either it was sourced to another state or it was claimed for tax year 2020 under provisions of the CARES Act. For additional information regarding CARES Act related NOL addbacks for tax year 2020, please see Department publication *CARES Act Tax Law Changes & Colorado Impact*, available online at [Tax.Colorado.gov/current-guidance-publications](https://tax.colorado.gov/current-guidance-publications).

### Non-Colorado NOL deductions

An individual must make an addition on their Colorado return for any deduction claimed on their federal return for an NOL that is not allocated to Colorado.

If an individual is a Colorado resident for the entire tax year in which the NOL was sustained, the entire NOL is allocated to Colorado.

If an individual is not a Colorado resident for any part of the tax year in which the NOL was sustained, the NOL is allocated to Colorado to the extent that it is derived from sources within Colorado. Guidance for determining the source of income and losses can be found in Department publication *Income Tax Topics: Part-Year Residents & Nonresidents*.

If an individual is a Colorado resident for only part of the tax year in which the NOL was sustained, the loss is allocated to Colorado in two steps. First, the NOL is allocated to Colorado to the extent that it is derived from sources within Colorado. Then, any remaining part of the NOL that is not allocated to Colorado based on source is allocated to Colorado by multiplying it by a fraction. The numerator of the fraction is number of days during the tax year that the taxpayer was a Colorado resident and the denominator is the total number of days in the tax year.

## Recapture of prior subtractions

Various subtractions are allowed under Colorado law as outlined in *Part 4* of this publication. However, under certain circumstances, taxpayers must recapture a previously claimed subtraction in a subsequent year. The required recapture must be reported as an addition to federal taxable income on the taxpayer's Colorado income tax return.

### State tuition program contributions

A subtraction is allowed to taxpayers who make a contribution to a qualified state tuition program (generally a 529 savings plan administered by Collegenest). If, in any subsequent tax year, there is a non-qualifying distribution, refund, or withdrawal, the account holder must make an addition on their Colorado return for the distribution, refund, or withdrawal. For additional information, please see Department publication *Income Tax Topics: 529 Contribution Subtraction*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications), for additional information.

### ABLE contributions

For tax years 2023 through 2025, a subtraction is allowed to taxpayers who make a contribution to a qualified Achieving a Better Life Experience ("ABLE") program administered by Colorado ABLE. If, in any subsequent tax year, there is a non-qualifying distribution, refund, or withdrawal, the account holder must make an addition on their Colorado return for the distribution, refund, or withdrawal. For additional information, please see Department publication *Income Tax Topics: ABLE Contribution Subtraction*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).

## First-time home buyer savings account

A subtraction is allowed for interest and other income earned on the investment of money in a first-time home buyer savings account, to the extent such interest or other income is included in federal taxable income. Money withdrawn from a first-time home buyer savings account is subject to recapture in the taxable year in which it is withdrawn if either:

- it is withdrawn within one year of the first deposit in the account; or
- the money is used for any ineligible purpose.

For additional information, please see Department publication *Income Tax Topics: First-Time Home Buyer Savings Account Subtraction* and form DR 0350, *First-time Home Buyer Savings Account Interest Deduction* along with the associated instructions.

### Medical savings accounts (MSA)

If certain conditions are met, taxpayers may claim a subtraction for contributions made to a medical savings account. However, a taxpayer must add to their federal taxable income any amount withdrawn from a medical savings account established pursuant to section 39-22-504.7, C.R.S., for any reason other than to pay eligible medical expenses. For additional information, please see Department publication *FYI Income 29: Medical Savings Accounts*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).



## Qualifying home savings accounts

For tax years 2024 through 2026, individuals may claim a subtraction for any employer contribution made to their qualifying home savings account and included in their federal taxable income. If the individual ends their employment with the employer or uses money from the account for something other than eligible expenses, the individual must add to their federal taxable income the full amount of any employer contributions the employee subtracted on their Colorado return for any prior year. For additional information, please see Department publication *Income Tax Topics: Employer Contributions to Home Savings Accounts*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).

## Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to required additions to taxable income. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Taxpayers with specific questions should consult their tax advisors.

## Statutes and regulations

- § 39-22-104, C.R.S. Income tax imposed on individuals.
- § 39-22-504, C.R.S. Net operating losses.
- § 39-22-504.7, C.R.S. Medical savings accounts.
- § 39-22-529, C.R.S. Business expense deduction - labor services - unauthorized alien - definitions.
- Rule 39-22-104(3)(g). Gross conservation easement addition.

## Forms and guidance

- [Tax.Colorado.gov/individual-income-tax](https://tax.colorado.gov/individual-income-tax)
- [Tax.Colorado.gov/individual-income-tax-forms](https://tax.colorado.gov/individual-income-tax-forms)
- [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications)
- *Colorado Individual Income Tax Return (DR 0104)*
- *First-Time Home Buyer Savings Account Interest Deduction (DR 0350)*
- *Income Tax Topics: 529 Contribution Subtraction*
- *Income Tax Topics: First-Time Home Buyer Savings Account Subtraction*
- *Income Tax Topics: State Income Tax Addback*
- *CARES Act Tax Law Changes & Colorado Impact*
- *FYI Income 29: Medical Savings Accounts*
- *Income Tax Topics: Employer Contributions to Home Savings Accounts*

Colorado income tax is based on federal taxable income. However, Colorado law provides for a number of modifications to federal taxable income that apply in the calculation of Colorado tax. Subtractions are generally allowed to either: (1) fully or partially exempt from state taxation an item of income that is subject to federal taxation or (2) provide a state-level tax deduction for an expense or contribution that is not deductible in the calculation of federal income tax. Additionally, a subtraction is allowed under House Bill 21-1002 for certain taxpayers whose federal return for tax year 2020 was affected by the CARES Act. This *Part 4* provides information regarding the subtractions from federal taxable income that are allowed under Colorado law. Department publications referenced in *Part 4* are available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).

## Income exempted from Colorado taxation

Various types of income are subject to federal income tax, and therefore included in federal taxable income, but fully or partially exempt from Colorado taxation. A subtraction is allowed for the following types of income, if included in a taxpayer's federal taxable income, in order to fully or partially exempt this income from Colorado taxation.

### Social security, pensions, and annuities

Depending on their age at the end of the tax year, taxpayers may be allowed to subtract some or all of the social security, pension, and annuity income included in their federal taxable income. For additional information, please see Department publication *Income Tax Topics: Social Security, Pensions, and Annuities*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).

## Income from U.S. government obligations

A subtraction is allowed for certain types of income from U.S. government obligations to the extent such income is included in federal taxable income. The subtraction applies to interest income on obligations of the United States and its possessions, as well as any income from stocks or obligations of the United States government. No subtraction is allowed for any obligation or payment from the U.S. government for services rendered or for income from instruments issued by private financial institutions and guaranteed by the U.S. government. For additional information, please see Department publication *FYI Income 20: U.S. Government Interest*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).

## State income tax refunds

A subtraction is allowed for the amount of any state income tax refunds, credits, or offsets reported on an individual's federal return and included in their federal taxable income. An individual is generally required to report a state income tax refund on their federal return only if they claimed itemized deduction for the tax year in which the state income tax was paid. The subtraction a taxpayer can claim on their Colorado return is generally the amount of any state income tax refund reported on line 1 of their IRS Schedule 1.

## PERA and DPS retirement benefits

Under certain circumstances, a portion of pension income paid by the Colorado Public Employees Retirement Association (PERA) or the Denver Public Schools (DPS) Retirement System and included in a taxpayer's federal taxable income may qualify for subtraction. Most PERA and DPS retirement benefits will not qualify for subtraction. The subtraction is only allowed to retirees who made contributions to PERA or the DPS Retirement System between 1984 and 1986. For additional information, please see Department publication *Income Tax Topics: Social Security, Pensions, and Annuities*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).



### Railroad retirement benefits

A subtraction is allowed for any annuities or supplemental annuities paid by the U.S. Railroad Retirement Board that are included in an individual’s federal taxable income. Railroad retirement benefits that are eligible for the subtraction include:

- Tier I and Tier II benefits;
- vested dual benefits; and
- supplemental annuities.

Railroad retirement benefits are reported on Form RRB-1099 and Form RRB-1099-R. The subtraction is limited to those benefits that are included in an individual’s federal taxable income, which may be less than the full amount of benefits reported on Form RRB-1099 and Form RRB-1099-R. For additional information, please see Department publication *Income Tax Topics: Social Security, Pensions, and Annuities*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).

### Military retirement benefits

A subtraction is allowed to retired military servicemembers under 55 years of age at the end of the tax year for military retirement benefits included in their federal taxable income. The allowable subtraction is subject to the following limits, based on the tax year.

Tax year	Limit
2019	\$ 4,500
2020	\$ 7,500
2021	\$10,000
2022-2028	\$15,000

For additional information, please see Department publication *Income Tax Topics: Military Servicemembers*.

### Military family relief fund grants

A subtraction is allowed for any amount received as a grant from the Military Family Relief fund, to the extent that it is included in federal taxable income. Please visit [DMVA.Colorado.gov/services](https://dmva.colorado.gov/services) for additional information about the fund.

### Reacquisition of Colorado residency by military servicemember

Under certain circumstances, a military servicemember who is a Colorado resident can claim a subtraction for any compensation they receive for active duty military service that is included in their federal taxable income. The subtraction is not allowed for any other type of income the servicemember may receive during the tax year.

A servicemember may qualify for this subtraction only if:

- the servicemember’s home of record is Colorado;
- while in the military, the servicemember acquired legal residence in a state other than Colorado; and
- the servicemember subsequently reacquired Colorado residency.

A servicemember claiming this subtraction must provide documentation substantiating their changes of residency. For additional information, please see Department publication *Income Tax Topics: Military Servicemembers*.

### Capital gain subtraction

Qualifying taxpayers can claim a subtraction for certain qualifying capital gain income included in their federal taxable income. For additional information, please see Department publication *Income Tax Topics: Colorado Capital Gain Subtraction*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).



### First-time home buyer savings account

A subtraction is allowed for any interest and other income earned on money invested in a qualifying first-time home buyer savings account. The interest or other income must be included in federal taxable income to qualify for the subtraction. For additional information, please see Department publication *Income Tax Topics: First-Time Home Buyer Savings Account Subtraction*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).

### Nonresidents performing disaster-relief work

A subtraction is allowed to any nonresident individual for compensation received for performing disaster-related work in Colorado during a disaster period, to the extent such compensation is included in their federal taxable income. Wages that qualify for this subtraction are exempt from wage withholding and a nonresident individual who qualifies for this subtraction generally will not be required to file a Colorado return, unless they have other Colorado source income.

For the purpose of the subtraction, a disaster period begins when the governor issues an executive order declaring a state disaster emergency and ends 60 days after the expiration of the executive order. Disaster-related work that qualifies for the exemption is either of the following:

- repairing, renovating, installing, building, or rendering services that relate to infrastructure that has been damaged, impaired, or destroyed by a declared state disaster emergency; or
- providing emergency medical, firefighting, law enforcement, hazardous material, search and rescue, or other emergency service related to a declared state disaster emergency.

### Qualified reservation income

A subtraction is allowed for the qualified reservation income of an enrolled tribal member who lives on a reservation. The income must be derived wholly from reservation sources and must be included in the tribal member's federal taxable income to qualify for subtraction.

### Compensation for exonerated persons

A subtraction is allowed for any amount received as compensation for an exonerated person pursuant to section 13-65-103, C.R.S. The subtraction is allowed only for amounts included in the taxpayer's federal taxable income. No subtraction is allowed for any portions of the judgment awarded as attorney's fees.

### Olympic medals

A subtraction is allowed to any individual who wins a medal while competing for the United States of America in either the Olympic Games or the Paralympic Games, so long as the individual's adjusted gross income for the tax year does not exceed \$1 million (\$500,000 if married filing separately).

The value of any medal won while competing for the U.S. at either the Olympic Games or the Paralympic Games is subtracted from federal taxable income, regardless of whether or not the medal's monetary value is included in federal taxable income.

In general, prize money awarded by the U.S. Olympic Committee to medal winners is excluded from federal taxable income on the winner's federal income tax return and no additional Colorado subtraction is allowed for prize money. However, if a medal winner's federal taxable income includes any monetary award given for winning the medal by the U.S. Olympic Committee or any sport-specific national governing body or Paralympic sport organization, a subtraction is allowed on the Colorado return for that monetary award.

The subtraction is not allowed for any endorsement income or nonmonetary benefits.

### Certain employer contributions

Under certain circumstances, an employee may claim a subtraction on their Colorado return for contributions made by their employer to the employee's savings account either for college or for a qualifying home purchase. In either case, the subtraction is allowed only to the extent that the employer's contribution is included in the employee's federal taxable income.

#### 529 CollegInvest accounts

Individuals may claim a subtraction for any amount they received during the tax year as employer matching contributions to their adult learner's individual trust account or savings account with CollegInvest. The individual must be the account owner and account beneficiary and have opened the account to pursue their own postsecondary educational opportunities and job retraining goals. The subtraction is allowed only to the extent that the employer's contribution is included in the employee's federal taxable income. Please visit [CollegInvest.org](https://CollegInvest.org) for additional information regarding CollegInvest accounts.

The employee may also be allowed to claim a subtraction for their own contribution which their employer matched. For additional information, please see Department publication *Income Tax Topics: 529 Contribution Subtraction*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://Tax.Colorado.gov/individual-income-tax-guidance-publications).

#### Qualifying home savings accounts

For tax years 2024 through 2026, individuals may claim a subtraction for any employer contribution made to their qualifying home savings account and included in their federal taxable income. Employees may not claim any subtraction for contributions they make to their own accounts. For additional information, please see Department publication *Income Tax Topics: Employer Contributions to Home Savings Accounts*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://Tax.Colorado.gov/individual-income-tax-guidance-publications).

### Deductions for expenses and contributions

Colorado allows subtractions for various types of expenses and contributions that do not qualify for deduction in the calculation of federal taxable income. Subtractions are allowed for the following types of expenses and contributions.

#### Charitable contribution subtraction

Individuals who claim the standard deduction, rather than itemized deductions on their federal income tax returns, may claim a subtraction for charitable contributions they make during the tax year. The subtraction is allowed only for the aggregate amount of charitable contributions in excess of \$500. Charitable contributions must qualify for deduction under federal law to be eligible for subtraction. For additional information, please see Department publication *Income Tax Topics: Charitable Contributions*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://Tax.Colorado.gov/individual-income-tax-guidance-publications).

#### State tuition program contributions

Individuals may claim a subtraction from federal taxable income for contributions they make during the tax year to a qualified state tuition program established by CollegInvest. For additional information, please see Department publication *Income Tax Topics: 529 Contribution Subtraction*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://Tax.Colorado.gov/individual-income-tax-guidance-publications).

#### ABLE contributions

For tax years 2023 through 2025, individuals may claim a subtraction from federal taxable income for contributions they make during the tax year to a qualified Achieving a Better Life Experience ("ABLE") program administered by Colorado ABLE. For additional information, please see Department publication *Income Tax Topics: ABLE Contribution Subtraction*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://Tax.Colorado.gov/individual-income-tax-guidance-publications).

### Wildfire mitigation measures

Landowners may claim a subtraction from federal taxable income for costs they incur during the tax year in performing wildfire mitigation measures on their property within Colorado. The subtraction is limited to \$2,500 and, for certain tax years, is allowed for only 50% of the incurred costs. For additional information, please see Department publication *Income Tax Topics: Wildfire Mitigation Measures*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).

### Marijuana business expenses

A subtraction is allowed to individuals licensed under the Colorado Marijuana Code for an amount equal to any expenditure that would be eligible to be claimed as a federal income tax deduction, but for which deduction is disallowed by section 280E of the Internal Revenue Code because marijuana is a controlled substance under federal law. Additional information about licensing under the Colorado Marijuana Code can be found online at [SBG.Colorado.gov/marijuana-enforcement](https://sbg.colorado.gov/marijuana-enforcement).

### Natural medicine business expenses

A subtraction is allowed to individuals licensed under the Colorado Natural Medicine Code (article 50 of title 44, C.R.S.) for an amount equal to any expenditure that would be eligible to be claimed as a federal income tax deduction, but for which deduction is disallowed by section 280E of the Internal Revenue Code because natural medicine is a controlled substance under federal law. Additional information about natural medicine under the Colorado Natural Medicine Code can be found online at [DNM.Colorado.gov/](https://dnm.colorado.gov/).

### Medical savings account contributions

An individual may claim a subtraction for up to \$3,000 in contributions made during the tax year to a medical savings account (MSA) as either an employee or an employer, but only if such contributions have not already been deducted or excluded from federal taxable income on the individual's federal income tax return. In many cases, MSA contributions will be deducted or excluded under federal law, in which case no additional Colorado subtraction is allowed. The contribution must meet the requirements of sections 39-22-504.6 and 39-22-504.7, C.R.S., to qualify for the subtraction. For additional information, please see Department publication *FYI Income 29: Medical Savings Accounts*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).

### Catastrophic health insurance

Individuals may claim a subtraction for amounts withheld from their wages to pay premiums for catastrophic health insurance, but only if such contributions have not already been deducted or excluded from federal taxable income on the individual's federal income tax return. For additional information, please see Department publication *FYI Income 30: Catastrophic Health Insurance*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).

### Subtraction related to CARES Act

A subtraction from federal taxable income is allowed under House Bill 21-1002 for certain taxpayers whose federal return for tax year 2020 was affected by the CARES Act. For additional information, please see Department publication *CARES Act Tax Law Changes & Colorado Impact*, available online at [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications).



### Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to subtractions allowed in the calculation of Colorado income tax. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Taxpayers with specific questions should consult their tax advisors.

### Statutes and regulations

- § 39-22-104, C.R.S. Income tax imposed on individuals.
- § 39-22-104.5, C.R.S. Pretax payments - catastrophic health insurance.
- § 39-22-104.6. Pretax payments - medical savings accounts.
- § 39-22-504.6, C.R.S. Definitions.
- § 39-22-504.7, C.R.S. Medical savings accounts - establishment - contributions - distributions - restrictions - taxation - portability.
- § 39-22-518, C.R.S. Tax modification for net capital gains.
- Rule 39-22-104(4). Subtractions from Federal Taxable Income.
- Rule 39-22-104(4)(f). Pension and Annuity Subtraction.
- Rule 39-22-104(4)(m). Charitable Contribution Subtraction.
- Rule 39-22-104(4)(n.5). Wildfire Mitigation Measures Subtraction.

### Forms and guidance

- [Tax.Colorado.gov/individual-income-tax](https://tax.colorado.gov/individual-income-tax)
- [Tax.Colorado.gov/individual-income-tax-forms](https://tax.colorado.gov/individual-income-tax-forms)
- [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications)
- *Colorado Individual Income Tax Return (DR 0104)*
- *Subtractions from Income Schedule (DR 0104AD)*
- *First-Time Home Buyer Savings Account Interest Deduction (DR 0350)*
- *Colorado Source Capital Gain Subtraction Affidavit (DR 1316)*
- *Income Tax Topics: 529 Contribution Subtraction*
- *Income Tax Topics: Charitable Contributions*
- *Income Tax Topics: Colorado Capital Gain Subtraction*
- *Income Tax Topics: First-Time Home Buyer Savings Account Subtraction*
- *Income Tax Topics: Military Servicemembers*
- *Income Tax Topics: Social Security, Pensions, and Annuities*
- *Income Tax Topics: Wildfire Mitigation Measures*
- *FYI Income 20: U.S. Government Interest*
- *FYI Income 29: Medical Savings Accounts*
- *FYI Income 30: Catastrophic Health Insurance*

Colorado allows a variety of refundable and nonrefundable income tax credits. Most, but not all credits are claimed on the *Individual Credit Schedule* (DR 0104CR).

This *Part 5* lists nonrefundable and refundable credits allowed under Colorado law along with statutes, publications, forms, or webpages that provide additional information about the credit.

## Nonrefundable Income Tax Credits

- Advanced industry investment credit
  - ❖ [OEDIT.Colorado.gov/advanced-industries-investment-tax-credit](https://OEDIT.Colorado.gov/advanced-industries-investment-tax-credit)
- Affordable housing credit
  - ❖ [chfainfo.com/arh/lihtc](https://chfainfo.com/arh/lihtc)
- Certified Colorado disability funding committee license fee credit
  - ❖ [Colorado.gov/dfc](https://Colorado.gov/dfc)
- Child care center investment credit
  - ❖ *FYI Income 7*
- Child care contribution credit
  - ❖ *FYI Income 35*
- Colorado homeless contribution tax credit
  - ❖ [CDOLA.Colorado.gov/hctc](https://CDOLA.Colorado.gov/hctc)
- Colorado job growth incentive tax credit
  - ❖ [OEDIT.Colorado.gov/job-growth-incentive-tax-credit](https://OEDIT.Colorado.gov/job-growth-incentive-tax-credit)
- Colorado minimum tax credit
  - ❖ *FYI Income 14*
- Colorado works program credit
  - ❖ *FYI Income 34*
- Credit for employer contribution to employee 529 plan
  - ❖ *Income Tax Topics: 529 Employer Contribution Credit*
- Credit for employer paid leave of absence for live organ donation
  - ❖ Section 39-22-540, C.R.S.
- Credit for environmental remediation of contaminated land
  - ❖ *FYI Income 42*
- Credit for taxes paid to other states
  - ❖ *Income Tax Topics: Credit for Taxes Paid to Another State*
- Employer child care facility investment credit
  - ❖ *FYI Income 7*
- Enterprise zone credits
  - ❖ *Enterprise Zone Tax Guide*
- Gross conservation easement credit
  - ❖ *Income Tax Topics: Conservation Easement Credit*
- Heat pump system or heat pump water heater credit
  - ❖ *Colorado form DR 1322*
- Long-term care insurance credit
  - ❖ *FYI Income 37*
- Preservation of historic structures credit
  - ❖ [OEDIT.Colorado.gov/commercial-historic-preservation-tax-credit](https://OEDIT.Colorado.gov/commercial-historic-preservation-tax-credit)
  - ❖ [historycolorado.org/preservation-tax-credits](https://historycolorado.org/preservation-tax-credits)
- Residential energy storage systems credit
  - ❖ *Colorado form DR 1307*
- Retrofitting a residence to increase visitability credit (home modification tax credit)
  - ❖ [cdola.colorado.gov/home-modification-tax-credit](https://cdola.colorado.gov/home-modification-tax-credit)
- Rural & frontier health care preceptor credit
  - ❖ [Tax.Colorado.Gov/rural-and-frontier-health-care-preceptor-tax-credit](https://Tax.Colorado.Gov/rural-and-frontier-health-care-preceptor-tax-credit)
- Rural jump-start zone credit
  - ❖ [OEDIT.Colorado.gov/rural-jump-start-program](https://OEDIT.Colorado.gov/rural-jump-start-program)
- School-to-career investment credit
  - ❖ *FYI Income 32*
- Wildfire mitigation measures credit
  - ❖ *Income Tax Topics: Wildfire Mitigations Measures*

## Refundable income tax credits

- Alternative transportation options credit
  - ❖ *Income Tax Topics: Alternative Transportation Options Credit*
- Business personal property credit
  - ❖ *Colorado Form 104 Book*
- Child care expenses credit
  - ❖ *Income Tax Topics: Child Care Credits*
- Child tax credit
  - ❖ Form DR 0104CN, *Colorado Child Tax Credit*
- Community Food Consortium Member Credit
  - ❖ *House Bill 23-1008*
  - ❖ *ag.colorado.gov/markets/community-food-access-program/community-food-consortium*
- Community Food Consortium Equipment Credit
  - ❖ *House Bill 23-1008*
  - ❖ *ag.colorado.gov/markets/community-food-access-program/community-food-consortium*
- Credit for conversion costs for employee business ownership
  - ❖ *OEDIT.Colorado.gov/employee-ownership-tax-credit*
- Early childhood educator credit
  - ❖ *Income Tax Topics: Early Childhood Educator Credit*
- Earned income tax credit
  - ❖ *Income Tax Topics: Earned Income Tax Credit*
- Heat pump system or heat pump water heater credit
  - ❖ *Colorado form DR 1322*
- Income qualified senior housing tax credit
  - ❖ *Income Tax Topics: Income-Qualified Senior Housing Tax Credit*
- Innovative motor vehicle credit
  - ❖ *Income Tax Topics: Innovative Motor Vehicle Credit*
- Innovative truck credit
  - ❖ *Income Tax Topics: Innovative Truck Credit*
- Residential energy storage systems credit
  - ❖ *Colorado form DR 1307*
- SALT Parity Act credit
  - ❖ *Income Tax Topics: SALT Parity Act*



## Part 6: Income Tax Withholding

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Colorado law requires the payer of certain types of income to withhold Colorado income tax. This *Part 6* discusses the types of income that are subject to Colorado income tax withholding. For those types of income, the payer must do all of the following:

- withhold the prescribed amount of income tax from any payment made to the recipient;
- remit the income tax withholding to the Department; and
- issue a statement (such as IRS Form W-2 or 1099) to the recipient indicating the amount of tax withheld.

The taxpayer may then claim the withholding, when they file their Colorado income tax return, as a credit against the due. To the extent the income tax withheld exceeds the tax due, the taxpayer may either claim a refund for the excess or carry forward the excess as a credit toward estimated tax due for the following tax year.

### Wage withholding

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In general, employers are required to withhold Colorado income tax from any compensation paid to an employee who is either of the following:

- a Colorado resident; or
- a nonresident who performed work in Colorado.

Colorado income tax withholding is generally required with respect to any compensation that is subject to federal income tax withholding. Compensation that is subject to Colorado wage withholding includes, but is not limited to:

- salaries and wages;
- tips;
- bonuses;
- certain noncash fringe benefits; and
- sick pay.

Please see *IRS Publication 505* and the *Colorado Wage Withholding Guide* for additional information regarding taxable wages.

Colorado income tax withholding, along with the employee's wages, are reported on IRS Form W-2, *Wage and Tax Statement*. The employee may claim credit for the withholding on their *Colorado Individual Income Tax Return* (DR 0104) and may claim a refund if the withholding exceeds the amount of tax due. A copy of any Form W-2 reporting Colorado withholding must be submitted with the taxpayer's return.

### Withholding from gambling winnings

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In general, gambling winnings of more than \$5,000 from any of the following sources in Colorado are subject to Colorado income tax withholding:

- any sweepstakes or lottery;
- any wagering pool, including payments made to winners of poker tournaments; and
- any other wager if the proceeds are at least 300 times the amount of the bet.

Withholding is generally not required for gambling winnings from bingo, keno, and slot machines. Please see *IRS Publication 505* for additional information regarding gambling winnings for which withholding is required.

Colorado income tax withholding, along with the amount of the winnings, are reported on IRS Form W-2G, *Certain Gambling Winnings*. The winner may claim credit for the withholding on their *Colorado Individual Income Tax Return* (DR 0104) and may claim a refund if the withholding exceeds the amount of tax due. A copy of any Form W-2G reporting Colorado withholding must be submitted with the taxpayer's return.





## Part 6: Income Tax Withholding

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### Nonresident withholding and prepayments

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Withholding requirements, or other tax payment requirements, apply specifically to certain types of income received or recognized by nonresidents, namely:

- nonresident beneficiary withholding (DR 0104BEP)
- nonresident real estate withholding (DR 1079); and
- nonresident partner or shareholder payments (DR 0108).

These types of nonresident withholding and prepayments may be claimed on the applicable line of the *Colorado Individual Income Tax Return* (DR 0104) that references forms DR 0104BEP, DR 0108, and DR 1079, and not on the line designated for withholding from Forms W-2 or 1099. For additional information, please see Department publication *Income Tax Topics: Part-Year Residents & Nonresidents*.

### Withholding from 1099 payments

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State income tax withholding is not generally required with respect to various types of income not mentioned previously in this *Part 6*. However, Colorado income taxes may be withheld from other types of income at the recipient's request. Such requests should be directed to the person, business, or organization paying the income. Taxpayers commonly request Colorado income tax withholding from pension or unemployment compensation they receive.

A payer who withholds Colorado income tax must report the withholding on the IRS Form 1099 issued to the recipient. Taxpayers may claim credit for the withholding on their *Colorado Individual Income Tax Return* (DR 0104) and may claim a refund if the withholding exceeds the amount of tax due. A copy of any Form 1099 reporting Colorado withholding must be submitted with the taxpayer's return.

### Additional resources

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The following is a list of statutes, regulations, forms, and guidance pertaining to individual income tax withholding. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Taxpayers with specific questions should consult their tax advisors.

#### Statutes and regulations

- § 39-22-601, C.R.S. Returns.
- § 39-22-604, C.R.S. Withholding tax.
- § 39-22-604.5, C.R.S. Withholding tax - transfers of Colorado real property - nonresident transferors.
- Rule 39-22-604. Colorado Income Tax Withholding.
- Rule 39-22-604(17). Every Person Making Payment of Winnings Within Colorado.

#### Forms and guidance

- [Tax.Colorado.gov/individual-income-tax](https://tax.colorado.gov/individual-income-tax)
- [Tax.Colorado.gov/individual-income-tax-forms](https://tax.colorado.gov/individual-income-tax-forms)
- [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications)
- *Colorado Individual Income Tax Return* (DR 0104)
- *Income Tax Topics: Part-Year Residents & Nonresidents*
- IRS Form W-2, *Wage and Tax Statement*
- IRS Form W-2G, *Certain Gambling Winnings*
- *IRS Publication 505, Tax Withholding and Estimated Tax*

# Part 7: Estimated Tax Payments



In general, an individual must remit Colorado estimated tax payments if his or her total Colorado tax liability, less withholding and credits, exceeds \$1,000. This *Part 7* discusses the calculation of required quarterly estimated payments, the remittance of estimated payments, and the penalty for failure to remit required estimated payments.

## Calculating required quarterly payments

Taxpayers required to make estimated payments typically must make four quarterly payments, each equal to 25% of their required annual payment. The general rules for calculating estimated payments are discussed in the following sections. Information about the annualized income installment method appears later in this publication.

### Required annual payment

The required annual payment is the total amount a taxpayer must remit in estimated payments for the tax year, typically in four equal estimated payments. Except for high-income taxpayers, discussed in the following section, the total required annual payment is the lesser of:

- 70% of the taxpayer’s net tax liability for the current tax year;
- 100% of the taxpayer’s net tax liability for the preceding tax year.

### High-income taxpayers

If the taxpayer’s federal adjusted gross income for the preceding year was more than \$150,000 or, if married filing separately, more than \$75,000, the total required annual payment is the lesser of:

- 70% of the taxpayer’s actual net tax liability for the current tax year;
- 110% of the taxpayer’s actual net tax liability for the preceding tax year.

### Limitation on use of preceding year’s liability

Individuals can base their required annual payment on their liability for the prior year only if they filed a Colorado income tax return for the prior tax year and their prior tax year was a full 12 months.

### Net Colorado tax liability

For the purpose of calculating required estimated tax payments, a taxpayer’s net Colorado income tax liability is the total tax determined on the taxpayer’s return or by any subsequent amendment or assessment minus certain credits. For this calculation, total tax includes Colorado tax, alternative minimum tax, and any recapture of prior year credits. The credits subtracted in this calculation consist of all credits other than wage withholding, nonresident real estate withholding, nonresident beneficiary withholding, sales tax refund credits, and any payments remitted by the taxpayer.

## Calculation of Net Colorado Tax Liability

Total tax including:	Minus	Certain credits:	Equals	
<ul style="list-style-type: none"> <li>➤ Colorado tax</li> <li>➤ Colorado alternative minimum tax</li> <li>➤ Recapture of prior year credits</li> </ul>	(-)	All credits <b>EXCEPT</b> : <ul style="list-style-type: none"> <li>➤ Wage withholding</li> <li>➤ Nonresident real estate withholding</li> <li>➤ Nonresident beneficiary withholding</li> <li>➤ Sales tax refund credit</li> <li>➤ Payments remitted by the taxpayer</li> </ul>	(=)	Net Colorado tax liability



## Annualized income installment method

The annualized income installment method allows taxpayers who do not receive income evenly throughout the year to calculate the amount of each quarterly estimated payment separately, based upon the income actually received in the months preceding the payment due date. Taxpayers may use the annualized income installment method only if they also use the annualized income installment method to compute their federal estimated tax payments.

Taxpayers can use the Annualized Installment Method Schedule in Part 4 of Colorado form DR 0204 to calculate their required quarterly estimated payments using the annualized income installment method. In determining each required quarterly payment amount, the taxpayer must calculate their Colorado taxable income for the annualization period, which, for calendar year filers, runs from January 1st through the end of the month preceding the due date of the payment. Generally, a taxpayer must first complete the federal annualized installment schedule (Schedule AI of *IRS Form 2210* or the Annualized Estimated Tax Worksheet from *IRS Publication 505*) to calculate their Colorado taxable income for each annualization period. Taxpayers with business activity both inside and outside Colorado must calculate apportionment fractions for each annualization period and may not use estimated apportionment fractions or apportionment fractions from a prior year. Part-year residents and non-residents will also need to apportion their income to determine their Colorado taxable income (please see Department publication *Income Tax Topics: Part-Year Residents & Nonresidents*).

Taxpayers must retain records detailing the calculation of their quarterly estimated payments and provide those records to the Department upon request.

## Remitting estimated payments

Taxpayers must remit any required quarterly estimated payments by the applicable due dates. Estimated tax payments are generally due on April 15, June 15, and September 15 of the tax year, and January 15 of the following year. If any due date falls on a Saturday, Sunday, or legal holiday, the payment will be due on the next business day. If a required payment is not remitted or is underpaid, the Department will first credit any subsequent payments toward the amount due, regardless of when the payment is received.

### Due dates for quarterly estimated payments

Quarter	Due Date*
1 <sup>st</sup>	April 15 <sup>th</sup>
2 <sup>nd</sup>	June 15 <sup>th</sup>
3 <sup>rd</sup>	September 15 <sup>th</sup>
4 <sup>th</sup>	January 15 <sup>th</sup> of the next year

Taxpayers may remit estimated payments through Revenue Online or via Electronic Funds Transfer (EFT). Taxpayers remitting estimated payments by check must include a *Colorado Estimated Income Tax Payment Form* (DR 0104EP) with their payment to ensure proper crediting of their account. Forms and instructions are available online at [Tax.Colorado.gov/individual-income-tax-forms](https://tax.colorado.gov/individual-income-tax-forms).



Any taxpayer who jointly files their estimated tax with the IRS must also jointly file estimated tax with the State of Colorado. Please exercise care when remitting joint estimated payments and when filing joint returns to ensure that the taxpayers' Social Security numbers are entered in the same order on all submitted forms. The Department credits estimated tax payments to the account associated with the Social Security number that is listed first on form DR 0104EP payment voucher. If, by mutual agreement between spouses or in the case of a surviving spouse, the payment needs to be applied in a manner other than originally requested on form DR 0104EP, the taxpayer(s) must make a written request to the Department prior to the filing of the *Colorado Individual Income Tax Return* (DR 0104).

### Farmers and fishermen

Special rules apply to estimated payments for farmers and fishermen. A taxpayer is considered a farmer or fisherman if at least 2/3 of their gross income is from farming or fishing for the tax year or for the preceding tax year. Please see *IRS Publication 505* for assistance in calculating gross income from farming and fishing.

Farmers and fishermen are required to make only one estimated payment, due January 15 of the following tax year, for the entire required annual amount, rather than four quarterly payments. The required annual amount for farmers and fishermen is 50% (rather than 70%) of their net Colorado tax liability for the current year. Please see *Net Colorado tax liability*, earlier in this publication, for instructions in calculating net Colorado tax liability.

Additionally, farmers and fishermen are exempt from the requirement to remit any estimated tax payments if they file their Colorado returns and remit full payment of any tax due by March 1<sup>st</sup> of the following year.

### Estimated tax penalty

If a taxpayer fails to remit required estimated payments or underpays their required estimated tax, the taxpayer will owe an estimated tax penalty. The penalty is actually an assessment of interest, calculated on the unpaid or underpaid amount, from the due date of the payment until the date the payment is made or the date the annual income tax return is due, whichever is earlier. Annual interest rates may vary from year to year and are listed in the table below. Taxpayers can calculate the estimated tax penalty they owe using form DR 0204.

<i>Calendar year</i>	2020	2021	2022	2023	2024
<i>Interest rate</i>	9%	6%	6%	8%	11%

In calculating the penalty, a taxpayer's wage withholding, nonresident real estate withholding, nonresident beneficiary withholding, and sales tax refund credit are treated as a payment of estimated tax, with 25% allocated to each quarter, unless the taxpayer establishes the dates on which the amounts were actually withheld.

Under certain circumstances a taxpayer may be exempt from the requirement to remit estimated payments. A taxpayer will owe no estimated tax payments and owe no estimated tax penalty if either of the following conditions exist:

- The taxpayer's net Colorado tax liability minus all credits, withholding, and any sales tax refund is less than \$1,000.
- The taxpayer was a full-year resident for the preceding tax year, which consisted of 12 months, and the taxpayer had no net Colorado tax liability for that tax year.

If the tax return is filed and any tax due is paid by January 31 of the following tax year, no penalty will be due for any underpayment of the fourth quarter installment payment.





## Part 7: Estimated Tax Payments

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### Additional resources

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The following is a list of statutes, regulations, forms, and guidance pertaining to estimated payments for individuals. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Taxpayers with specific questions should consult their tax advisors.

#### Statutes and regulations

- § 39-22-605, C.R.S. Failure by individual to pay estimate income tax.
- Rule 39-22-605. Estimated individual income tax.

#### Forms and guidance

- [Tax.Colorado.gov/individual-income-tax-estimated-payments](https://tax.colorado.gov/individual-income-tax-estimated-payments)
- [Tax.Colorado.gov/individual-income-tax-forms](https://tax.colorado.gov/individual-income-tax-forms)
- [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications)
- *Colorado Estimated Tax Payment Form (DR 0104EP)*
- *Computation of Penalty Due Based on Underpayment of Colorado Individual Estimated Tax (DR 0204)*
- *Income Tax Topics: Part-Year Residents & Nonresidents*
- *IRS Publication 505, Tax Withholding and Estimated Tax*

# Part 8: Filing and Recordkeeping



Colorado law imposes requirements on individual income taxpayers for both filing and recordkeeping. Every taxpayer that is subject to Colorado income tax must file an annual income tax return and make timely payment of any tax due. Additionally, an amended return must be filed to correct any errors in, or report any changes to, the original return. Finally, taxpayers are required to retain any and all records necessary to determine the correct amount of tax they owe.

This *Part 8* outlines filing and recordkeeping requirements applicable to individual income taxpayers.

## Filing

Each Colorado resident, part-year resident, or nonresident with income from Colorado sources is required to file a Colorado return if they are required to file a federal income tax return or they incur a Colorado tax liability. If an individual is not required to file a federal income tax return, they generally are not required to file a Colorado income tax return. Please see the instructions for *IRS Form 1040* for additional information about federal filing requirements.

An individual who is not required to file a Colorado return may nonetheless file a Colorado return to request a refund for any wage withholding or refundable credits for which they are eligible.

Returns may be filed electronically either directly through the Department's *RevenueOnline* filing system or through one of the IRS's e-File options. Taxpayers may also elect to file a paper, rather than electronic return. Please visit [Tax.Colorado.Gov](http://Tax.Colorado.Gov) and [IRS.gov](http://IRS.gov) for additional information about filing options.

## Filing status

An individual's filing status for Colorado income tax purposes is the same as their filing status for federal income tax purposes. If two taxpayers file a joint federal return, they must file a joint Colorado income tax return. Married taxpayers who file their federal income tax returns separately must also file their Colorado income tax returns separately.

Taxpayers who file a joint federal return must file a joint Colorado return, even if they are not residents of the same state. If only one of the taxpayers included in joint return is a Colorado resident, they must complete and file a *Part-Year Resident/Nonresident Tax Calculation Schedule* (DR 0104PN) with their return. For additional information, please see Department publication *Income Tax Topics: Part-Year Residents & Nonresidents*.

## Joint and several liability

Taxpayers who file a joint return are both responsible for the entire tax liability reported on the return and any additional tax resulting from subsequent adjustments made by the Department. Both taxpayers are liable for the full amount of tax due, even if they subsequently divorce and the divorce decree states that one taxpayer is solely liable for the tax.

## Innocent spouse relief

A taxpayer who filed joint state and federal income tax returns may be relieved of responsibility for the tax due if their spouse (or former spouse) improperly reported items or omitted items on the return. If a taxpayer has been granted innocent spouse relief or any other relief under section 6015 of the Internal Revenue Code, that taxpayer is allowed comparable relief from joint and several liability for Colorado income tax for the same tax year.

Taxpayers must first file *IRS Form 8857, Request for Innocent Spouse Relief* with the IRS. A taxpayer that has been granted relief must then submit a written request, along with a copy of the IRS final determination letter, to:

Colorado Department of Revenue  
Innocent Spouse Desk  
PO Box 17087  
Denver, CO 80217-0087



## Original returns

Every resident individual and every nonresident individual with income from Colorado sources is required to file a *Colorado Individual Income Tax Return* (DR 0104) if either:

- the individual is required to file a federal income tax return; or
- the individual has incurred a Colorado tax liability for the tax year.

The requirement to file also applies to any part-year resident who is either required to file a federal income tax return or has incurred a Colorado tax liability for the tax year.

Income tax returns for calendar year filers are due April 15<sup>th</sup> of the next year. All individual income taxpayers are allowed an automatic six-month extension for filing of their income tax returns. If either the regular or extended due date falls on a Saturday, Sunday, or legal holiday, the due date will be extended to the next business day.

If an individual fails or refuses to file any required return, the executive director of the Department may file a return on the individual's behalf with such information as may be available. The assessment of tax based on the executive director's filing is as good and sufficient as an assessment based on a return filed by a taxpayer.

## Amended returns for federal adjustments

An individual is required to file an *Amended Colorado Individual Income Tax Return* (DR 0104X) to report any change to an item or amount determined under the Internal Revenue Code that is used to compute Colorado income tax. An amended Colorado return is required regardless of whether the federal adjustment results from an audit or other action by the IRS or from the timely filing of an amended federal return or federal refund claim.

The amended Colorado return is due within 180 days after the federal adjustment is finalized. If a taxpayer files an amended federal return or a federal refund claim, the due date is 180 days after the amended federal return or refund claim was filed. If the federal adjustment arises from an IRS audit or action, the amended Colorado return is due 180 days after all federal adjustments arising from the IRS audit or action have been finally determined. In general, federal adjustments are finalized for Colorado income tax purposes when all rights to appeal the federal adjustment have been waived or exhausted or the taxpayer and IRS both sign an agreement with respect to the adjustment.

Please see *Part 10* of this publication for additional information regarding the period allowed for assessment.



## Penalties and interest

Full payment of Colorado income tax for calendar year filers is due April 15<sup>th</sup> of the next year. Interest is due on any tax not paid by the applicable due date, along with penalty, unless certain conditions, described below, are met.

### Interest

Interest accrues on any late payment of tax from the original due date of the tax, not including any extension, to the date the tax is paid. An extension of the time to file a return does not similarly extend the time to pay the tax. Interest accrues on any tax balance reported on, but not paid with, a filed return. Interest also accrues on any additional tax assessed as the result or an audit or the filing of an amended return.

The rate of interest accrual depends on the calendar year(s) over which the deficiency continues. Additionally, a discounted rate is allowed if:

- the taxpayer pays the tax in full prior to the issuance of a notice of deficiency;
- the taxpayer pays the tax in full within 30 days of the issuance of a notice of deficiency; or
- within 30 days of the issuance of a notice of deficiency, the taxpayer enters into an agreement to pay the tax in monthly installments.

The discounted and non-discounted, regular interest rates for recent years are listed in the following table.

<i>Calendar year</i>	<i>Discounted rate</i>	<i>Regular rate</i>
2020	6%	9%
2021	3%	6%
2022	3%	6%
2023	5%	8%
2024	8%	11%

## Penalties

If an individual fails to pay any tax by the applicable due date, the individual will owe a late payment penalty. The late payment penalty is the greater of five dollars or 5% of the unpaid tax, plus an additional 0.5% for each month the tax remains unpaid, not to exceed a total of 12%. However, the penalty is waived if all of the following conditions are met:

- the taxpayer has paid at least 90% of the tax due by the original due date, not including any extensions;
- the taxpayer files a return by the extended due date; and
- the taxpayer pays any tax balance reported on the return at the time of filing.

In addition to the late payment penalty, statute authorizes a number of other penalties for:

- failure to pay a notice and demand for payment (collection penalty);
- fraudulent or willful failure to file;
- filing a fraudulent, frivolous, or willfully false return;
- fraudulent failure to pay tax when due or willful attempt to evade tax;
- negligence or disregard for laws, rules, or regulations, without intent to defraud; and
- a tax preparer’s penalty for willful or reckless disregard for applicable laws or rules.



## Recordkeeping requirements

Every individual who is subject to Colorado income tax or otherwise required to file a return must keep and preserve such books, accounts, and records as may be necessary to determine the correct amount of tax. Such books, accounts, and records must be kept and preserved for a period of four years following the due date of the return, the filing of a return, or the payment of the tax, whichever occurs later. All such books, accounts, and records shall be open for examination by the Department at any time.

## Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to filing and recordkeeping requirements. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Taxpayers with specific questions should consult their tax advisors.

## Statutes and regulations

- § 39-21-109, C.R.S. Interest on underpayment, non-payment, or extensions of time for payment of tax.
- § 39-21-110.5, C.R.S. Rate of interest to be fixed.
- § 39-21-113, C.R.S. Reports and returns - rule.
- § 39-21-119, C.R.S. Filing with executive director - when deemed to have been made.
- § 39-21-120, C.R.S. Signature and filing alternatives for tax returns.
- § 39-22-107, C.R.S. Income tax filing status.
- § 39-22-107.5, C.R.S. Income tax filing status - innocent spouse relief.
- § 39-22-111, C.R.S. Accounting periods and methods.
- § 39-22-601, C.R.S. Returns.
- § 39-22-608, C.R.S. Form, place, and date of filing return - extension - electronic filing.
- § 39-22-609, C.R.S. Payment of tax - applicable when.
- § 39-22-621, C.R.S. Interest and penalties.
- Rule 39-21-120. Signature and filing alternatives.
- Rule 39-22-608. Due date for filing income tax returns and payments.
- Rule 39-22-621.2(j).

## Forms and guidance

- [Tax.Colorado.gov/individual-income-tax](https://tax.colorado.gov/individual-income-tax)
- [Tax.Colorado.gov/individual-income-tax-forms](https://tax.colorado.gov/individual-income-tax-forms)
- [Tax.Colorado.gov/individual-income-tax-guidance-publications](https://tax.colorado.gov/individual-income-tax-guidance-publications)
- [Colorado.gov/RevenueOnline](https://colorado.gov/RevenueOnline)
- *Colorado Individual Income Tax Return (DR 0104)*
- *Amended Colorado Individual Income Tax Return (DR 0104X)*

Taxpayers may claim refunds for any overpayment of their income tax liabilities. Generally, an overpayment results from prepayments, such as quarterly estimated payments and wage withholding, that exceed the amount of an individual's tax. State law prescribes the period of time allowed for an individual to claim a refund for an overpayment of tax. However, statute also provides for the extension of the period for refunds under various circumstances.

Any refund allowed to a taxpayer may be intercepted and applied toward outstanding debts the taxpayer owes to the state or to the IRS.

Under certain circumstances, the Department may issue an IRS Form 1099-G to report a state income tax refund or credit.

This *Part 9* includes information regarding refund claims, refund offsets and intercepts, relief for innocent and injured spouses, the statute of limitations, and IRS Form 1099-G.

### Claiming a refund

Individuals must file a *Colorado Individual Income Tax Return* (DR 0104) to claim a refund for any overpayment of their Colorado income tax. The Department will not issue a refund to any taxpayer who has not filed an income tax return for the applicable tax year.

If an individual identifies an error on their original return that results in an overpayment of tax or if an IRS adjustment reduces the individual's federal taxable income and Colorado income tax liability, the individual must file an *Amended Colorado Individual Income Tax Return* (DR 0104X) to claim a refund for the overpayment.

For any refund claim made with either an original or amended return, the taxpayer must submit with the return any required documentation necessary to verify the claim including, but not limited to, any required schedules, attachments, and W-2s.

### Carryforward toward next year's estimated tax

A taxpayer who has overpaid their Colorado income tax may elect to carry forward some or all of the overpayment to the following tax year. This election is made on the return filed for the tax year of the overpayment. The amount that is carried forward is applied toward the estimated tax due for the first quarter of the following year, regardless of whether the return is filed prior to the due date of the first quarter estimated payment or subsequently, under extension.

### Refund offsets and intercepts

Prior to the issuance of a refund, an overpayment of Colorado income tax will first be applied toward any outstanding debt the taxpayer owes the state. Refunds may be applied to state debts including, but not limited to:

- state tax liabilities;
- required repayment of unemployment benefits;
- unpaid child support debt;
- required repayment of public assistance or medical assistance benefits;
- unpaid loans due to a state institution of higher education, Collegenest, or the Student Loan Division of the Department of Higher Education; or
- judicial fines, fees, costs, surcharges, or restitution.

An overpayment of Colorado individual income tax may also be taken as part of the *IRS State Income Tax Levy Program (SITLP)* and applied toward unpaid federal tax liabilities the individual owes.

In the event of any refund offset or intercept, the Department will send a notice to the taxpayer advising of the debt to which their overpayment has been applied.



## Injured spouse relief

If a refund requested on a joint return is applied toward an amount owed by just one of the taxpayers filing the return, the spouse who does not owe the debt (the “injured spouse”) may request to receive their portion of the refund. Injured spouse claims should be mailed separately from the return to:

Colorado Department of Revenue  
Injured Spouse Desk  
PO Box 17087  
Denver, CO 80217-0087

Injured spouse claims submitted to the Department must include a copy of the taxpayers’ federal income tax return or *IRS Form 8379, Injured Spouse Allocation*, and copies of all W-2, W-2G, or any 1099 statements received by both taxpayers included in the joint return.

Please see *Innocent spouse relief* in *Part 8* of this publication for information about relief a taxpayer can request if their spouse (or former spouse) improperly reported items or omitted items on their joint return.

## Refund rejections

In the event that the Department has, upon review of any return, rejected either in whole or in part a claim for refund made therewith, the Department will mail to the taxpayer a notice of refund rejection. The taxpayer may submit a protest or request a hearing with respect to the rejected refund claim. Please see *Protests and appeals* in *Part 10* of this publication for additional information.

## Form 1099-G

Federal law requires the Department to issue an IRS Form 1099-G to report any income tax refund, credit, or refund offset granted or allowed to any individual who claimed itemized deductions on their federal income tax return for the tax year giving rise to the refund, credit, or refund offset. The Department must provide copies of the Form 1099-G both to the taxpayer and to the IRS. If the taxpayer claimed the standard deduction, rather than itemized deductions on their federal return, no Form 1099-G is required.

The state income tax refund, credits, or offsets reported in box 2 of Form 1099-G may include:

- any refund issued to the taxpayer, either via direct deposit or with a paper check;
- any amount carried forward and credited toward estimated tax for the following tax year;
- any amount offset against state income tax debts, federal income tax debts, or debts owed to another state agency; and
- any amount contributed to a charitable organization with form DR 0104CH, *Voluntary Contributions Schedule*.

The amount reported in box 2 of Form 1099-G will not include any state sales tax refund allowed to refund a TABOR surplus because it is a refund of sales tax, rather than income tax.

An individual who receives a Form 1099-G from the Department that contains an error can contact the Department at (303)238-7378 to request a correction.

## Time allowed for refund claims

An individual must file any claim for refund within the period allowed for filing a claim for refund of federal income tax plus one year. The period allowed for filing a claim for refund of federal income tax is affected by various factors, including the date the original return is filed, the date any payment of tax was made, any agreement for extension between the taxpayer and the taxing authority, and a number of other factors not discussed in this publication. The period for filing a claim for refund of Colorado income tax is similarly affected by these factors.

In general, the period allowed for claiming a refund of federal income tax is three years. Consequently, the period allowed for claiming a refund of Colorado income tax is generally four years. The application of this time period in various circumstances, as well as other factors that may affect the period allowed for claiming a refund of Colorado income tax, are discussed in the following sections.

A claim for refund of Colorado individual income tax is made with the filing of either an original *Colorado Individual Income Tax Return* (DR 0104) or an *Amended Colorado Individual Income Tax Return* (DR 0104X).

Any request made by an individual to apply an overpayment toward the estimated tax due for the following tax year is a claim for refund subject to the limitations discussed in this *Part 9*. If the period for claiming a refund has expired and no refund may be claimed, the crediting of any overpayment toward the following year's estimated tax is similarly prohibited.

### Refunds claimed with original returns

An individual may file an original return to claim a refund any time within four years of the due date of the return, not including any extension of the time to file. The claim may include any estimated payments made prior to the due date of the return and any other allowable credits, to the extent either exceed the tax due. No refund is allowed to any taxpayer who fails to

file an original income tax return within four years of the due date of the return, not including any extension of the time to file.

### Refunds claimed with amended returns

An individual generally must file an amended return to claim a refund within four years of the date the original return was filed. If the individual did not file their original return timely (by the original due date, including extensions), the refund claim allowable with the amended return is generally limited to payments made within the four years immediately preceding the filing of the amended return. In determining the timeliness of a refund claim, any estimated payments remitted for the tax year are deemed to have been paid on the due date of the original return, not including any extensions.

Any refund claim made with an amended return filed more than four years after the individual's original return is limited to payments made in the three years immediately preceding the filing of the amended return.

### Net operating loss and capital loss carrybacks

Under certain circumstances, an individual may carry back a net operating loss (NOL) or capital loss to a prior tax year. An individual who carries back an NOL or capital loss for federal income tax purposes must also file an amended Colorado return for the tax year to which the loss is carried back. In general, the statute of limitations for filing the amended return is determined with respect to the year of the loss, not the year to which the loss is carried back. For example, if an individual carries back an NOL from tax year 2020 to tax year 2015, the taxpayer has four years from the due date of the 2020 Colorado return (including extensions) to file the 2015 amended Colorado return to claim a refund for the carryback of the 2020 NOL.



**Example #1**

An individual files an original return late, on June 20, 2018, for tax year 2015. The return reports \$12,000 of tax, claims \$10,000 in estimated payments, and is accompanied by a payment of \$2,000 for the remaining tax balance. The individual files an amended return on August 15, 2020, reporting a \$6,000 decrease in tax and claiming a refund for the \$6,000 reduction in tax.

Since the amended return was filed within four years of the original return, but the original return was not filed timely, the refund that may be claimed with the amended return is limited to payments made in the four years preceding the filing of the amended return. The estimated payments were made more than four years prior to the filing of the amended return. Therefore, no refund is allowed for any part of the estimated payments and the refund allowed to the taxpayer is limited to the \$2,000 of tax paid with the original return within the four years preceding the filing of the amended return.

**Example #2**

An individual files an original return under extension, on October 15, 2016, for tax year 2015. The return reports \$10,000 of tax and claims \$6,000 in estimated payments. The individual does not remit payment of the remaining \$4,000 tax balance until May 10, 2019. The individual files an amended return November 20, 2020 reporting a \$5,000 decrease in tax and claiming a refund for the \$5,000 reduction in tax.

Since the amended return was not filed within four years of the original return, the refund that may be claimed with the amended return is limited to payments made in the three years preceding the filing of the amended return. The estimated payments were made more than three years prior to the filing of the amended return. Therefore, no refund is allowed for any part of the estimated payments and the refund allowed to the individual is limited to the \$4,000 of tax paid within the three years preceding the filing of the amended return.

**Extensions of the period for claiming refunds**

If an individual and the IRS enter into an agreement to extend the period allowed for claiming a refund of federal income tax, the period for claiming a refund of Colorado income tax is extended by the same amount of time. The individual may file a claim for refund of Colorado income tax at any time within one year following the expiration of the period agreed upon by the taxpayer and the IRS for the claiming of a refund of federal income tax. In the case of a federal adjustment, an individual may file a claim for refund of Colorado income tax at any time within one year of the finalization of the federal adjustment or within the time provided under the general statute of limitations discussed earlier in this *Part 9*, whichever is later.

The period allowed for claiming a refund for Colorado income tax may also be extended by agreement between the individual and the Colorado Department of Revenue. Any agreement to extend the period allowed for assessment will extend the period allowed for filing a claim for refund by the same amount of time. Unless the individual fails to file a return or files a false or fraudulent return with intent to evade tax, the time allowed for claiming a refund for any tax year will not expire prior to the expiration of the time allowed for the assessment of any deficiency for the same tax year.



### Protective claims

If your right to a refund is contingent on future events and may not be determinable until after the time period for filing a claim for refund expires, you can file a protective claim for refund. Protective claims are often based on current litigation or expected changes in the tax law, other legislation, or regulations.

An individual may file a protective claim with an *Amended Colorado Individual Income Tax Return* (DR 0104X). The individual should check the applicable box on the form to designate it as a protective claim. The return should reflect all of the same income, modifications, tax, and credits from the taxpayer's original return or as previously adjusted. The individual must also include an attachment identifying and describing the contingencies affecting the claim.

Generally, the Department will delay action on the protective claim until the contingency is resolved. Once the contingency is resolved, the individual should file an *Amended Colorado Individual Income Tax Return* (DR 0104X) reflecting any adjustment to income, modifications, tax, or credits resulting from the resolution of the contingency.

### Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to income tax refunds. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Taxpayers with specific questions should consult their tax advisors.

#### Statutes and regulations

- § 39-21-103, C.R.S. Hearings.
- § 39-21-104, C.R.S. Rejection of claims.
- § 39-21-107, C.R.S. Income tax filing status.
- § 39-21-108, C.R.S. Refunds.
- § 39-22-604, C.R.S. Withholding tax.
- Rule 39-21-103. Hearings.
- Rule 39-21-108. Refunds.
- 26 U.S.C. § 6402. Authority to make credits or refunds.
- 26 U.S.C. § 6511. Limitations on credit or refund.
- 26 U.S.C. § 6513. Time return deemed filed and tax considered paid.

#### Forms and guidance

- [Tax.Colorado.gov/individual-income-tax](https://tax.colorado.gov/individual-income-tax)
- [Tax.Colorado.gov/individual-income-tax-forms](https://tax.colorado.gov/individual-income-tax-forms)
- [Colorado.gov/RevenueOnline](https://colorado.gov/RevenueOnline)
- *Colorado Individual Income Tax Return* (DR 0104)
- *Amended Colorado Individual Income Tax Return* (DR 0104X)
- *Voluntary Contributions Schedule* (DR 0104CH)

An assessment of tax may be made either by the filing of a return reporting tax due or by the mailing or issuance by the Department of a notice and demand for payment for any additional tax not reported on the taxpayer's return. In either case, state law prescribes the period of time during which an assessment of tax can be made. This *Part 10* provides information regarding assessments, the time period during which assessments can be made, and taxpayers' right to protest and appeal an assessment made by the Department.

## Time period for assessments

In general, any assessment of tax, penalties, and interest must be made within one year after the expiration of the time allowed for assessing a deficiency in federal income tax. The period allowed for the assessment of federal income tax is generally three years from the time of filing of the taxpayer's original return. Consequently, the period allowed for assessment of Colorado income tax is generally four years from the filing of the taxpayer's original return. If the original return was filed prior to the due date, not including any extensions, the original return is considered to be filed on the due date.

In the case of the filing of a false or fraudulent return with intent to evade tax, the tax due may be assessed and collected at any time.

## Assessments based on a return

The filing of a return by an individual constitutes an assessment with respect to the tax, penalty, and interest reported on the return. If an individual has not previously filed an original return for the tax period, the tax due may be assessed at any time the individual files a return. If a taxpayer fails or refuses to file any required return, the Department may, at any time, file a return on the taxpayer's behalf with such information as may be available, and assess the resulting tax. The assessment based on the return filed by the Department is as good and sufficient as an assessment based on a return filed by the individual.

In general, an amended return that reports and assesses any additional tax due must be filed within four years of the filing of the original return.

## Assessments resulting from adjustments

At any time within four years of the filing of an original return, whether filed timely, under extension, or otherwise, the Department may examine the return, determine the correct amount of tax, and issue a notice of deficiency for any additional tax due. Following the resolution of any protest and request for hearing or, if the taxpayer files no protest or request within the prescribed time, the Department will issue a notice of final determination for any additional tax due.

The period allowed for the Department to assess additional tax may be extended if there is any change made to the individual's federal taxable income. A taxpayer is required, as described in *Part 8* of this publication, to file an amended return to report any change to the individual's federal taxable income. The Department may assess additional tax any time within one year after the taxpayer timely files the required amended return or within the time provided under the general statute of limitations discussed above, whichever is later. If the taxpayer fails to file the required amended return in a timely manner, the Department may assess additional tax within any of the following periods of time:

- the general statute of limitations discussed above;
- the one-year period following the date the federal adjustments report was filed; or
- the six-year period after the federal adjustment was finalized (see *Part 8* for additional information).

In the case of fraud, the Department may assess additional tax at any time.

## Extensions of the period for assessment

The period for assessment may be extended by written agreement, by virtue of the extension of the period for assessment of federal tax, or by bankruptcy or other court proceedings, as discussed below.

### *Written agreements with the Department*

The period allowed for assessment may be extended by written agreement between an individual and the Department made prior to the expiration of the period otherwise prescribed by law for assessment. The period established in the written agreement may be further extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

### *Bankruptcy and other court proceedings*

The period for assessment is extended during and for six months after any period during which either:

- the taxpayer's assets are in the control or custody of a court in any proceeding before any court of the United States or any state; or
- the Department is prohibited from collecting by reason of a bankruptcy case under title 11 of the United States Code.

## Protests and appeals

An individual who receives a notice of deficiency or notice of refund rejection may submit a written protest and request a hearing to dispute the notice. Any protest or request for hearing must be submitted within 30 days of the date of the notice. The protest or request for hearing must contain at least the following information:

- the taxpayer's name, address, and account number;
- the tax period(s) involved;
- the type and amount of tax in dispute; and
- a summary statement of the findings with which the taxpayer does not agree and the grounds upon which the taxpayer relies for the purpose of showing the tax is not due.

The protest or request for hearing must be signed by the taxpayer. A protest or request for hearing may be submitted online at [Colorado.gov/RevenueOnline](https://Colorado.gov/RevenueOnline) or by mail, fax, or email in accordance with instructions included in the notice.

## Additional resources

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The following is a list of statutes, regulations, forms, and guidance pertaining to assessments. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Taxpayers with specific questions should consult their tax advisors.

### Statutes and regulations

- § 39-21-103, C.R.S. Hearings.
- § 39-21-104, C.R.S. Rejection of claims.
- § 39-21-107, C.R.S. Limitations.
- § 39-22-103, C.R.S. Definitions - construction of terms.
- § 39-22-601.5, C.R.S. Reporting federal adjustments - definitions.
- § 39-22-602, C.R.S. Failure to make return - director may make.
- Rule 39-21-103. Hearings.
- Rule 39-22-103.1. Assessment.
- 26 U.S.C. § 6501. Limitations on assessment and collection.
- 26 U.S.C. § 6513. Time return deemed filed and tax considered paid.

### Forms and guidance

- [Tax.Colorado.gov](https://tax.colorado.gov)
- [Tax.Colorado.gov/individual-income-tax-forms](https://tax.colorado.gov/individual-income-tax-forms)
- [Colorado.gov/RevenueOnline](https://colorado.gov/RevenueOnline)
- *Colorado Individual Income Tax Return (DR 0104)*
- *Amended Colorado Individual Income Tax Return (DR 0104X)*