Income Tax Topics: Credit for Tax Paid to Another State

Colorado resident individuals may claim a credit on their Colorado returns for income tax accrued to another state for the same tax year. The credit is subject to several requirements and limitations, discussed later in this publication. Nonresidents may not claim the credit.

This publication is designed to provide general guidance regarding the credit for taxes paid to other states and to supplement the guidance provided in the *Colorado Individual Income Tax Guide*. Nothing in this publication modifies or is intended to modify Colorado's statutes or regulations. Taxpayers are encouraged to consult their tax advisors for guidance regarding specific situations.

The guidance in this publication applies specifically to resident individuals, but generally applies to resident estates and trusts as well.

Colorado residency

The credit for taxes paid to other states is allowed only to Colorado residents. Please see Part 1 of the *Colorado Individual Income Tax Guide* for information about how Colorado residency is determined.

The credit is allowed to both full-year residents and part-year residents, although part-year residents may claim the credit only for income earned or recognized from sources in another state while they were a Colorado resident. Part-year residents may not claim any credit for taxes paid on income earned or recognized during the part of the year when they were not a Colorado resident. Please see the section on part-year residents, later in this publication, for additional information.

Taxpayers who are not Colorado residents for any part of the year may not claim any credit for taxes paid to other states. Instead, Colorado income tax for nonresidents is apportioned so that only their Colorado-source income is taxed. For additional information, please see Department publication *Income Tax Topics: Part-Year Residents and Nonresidents*, available online at *Tax.Colorado.gov/individual-income-tax-guidance-publications*.

Eligible taxes

The credit is allowed for net taxes accrued to another state on an individual's federal taxable income derived from sources in that state. The following sections discuss qualifying conditions for the credit.

State taxes

The credit is allowed only for state taxes accrued for the tax year to one of the following:

- another state in the United States;
- the District of Columbia; or
- a territory or possession of the United States.

Within this publication, the term "state" is used to include another state in the United States, the District of Columbia, and any territory or possession of the United States.

The credit is not allowed for taxes accrued to any city, local jurisdiction, foreign country, or any subdivision thereof.

Taxes on income from sources in another state

The credit is allowed only for state taxes imposed on the taxpayer's income. It is allowed regardless of whether the state imposing the tax refers to it as an income tax, as a gross receipts tax, or by another name. The income must be included in the taxpayer's modified adjusted gross income for the tax year, discussed later in this publication.

The credit is not allowed for any franchise tax or any other tax accrued to another state that is not imposed on income.

Additionally, the credit is not allowed for any amount of tax a state imposes based on the taxpayer's residency in that state, rather than based upon the source from which the income is derived.

Income sourcing

The credit is allowed only for taxes imposed on income derived from sources in the other state. In general, income is derived from sources in another state if it is attributed to any of the following:

- the ownership of any interest in real or tangible personal property in that state;
- A business, trade, profession, or occupation carried on in that state;
- A partner's distributive share of partnership income sourced that state under Colorado law; and
- A shareholder's pro rata share of S corporation income sourced to that state under Colorado law.

Please see *1 CCR 201-2*, Rule 39-22-109 for additional information about income sourcing.

Tax accrual during the tax year

The credit is allowed based on the tax year for which the tax accrues, not the date the tax is actually paid. If the other state taxes the income in a different tax year than Colorado, the credit may not be claimed for taxes accrued to the other state for that tax year.

State taxes accrued by partnerships and S corporations

Some states may impose an income tax directly on a partnership or S corporation ("pass-through entity"). In such case, each resident partner or shareholder ("member") is considered to have paid a tax to that state in an amount equal to that member's pro rata share of the net income tax paid by the pass-through entity. However, please see the discussion later in this publication regarding adjustments and refunds.

If the tax year for the pass-through entity is not the same as the tax year for the member, taxes accrued by the pass-through entity for a tax year are deemed to accrue for its members in the member's tax year within which the pass-through entity's tax year ends.

Allowable credit

In general, the credit is allowed for the net amount of income tax accrued to another state, but the credit is limited in two ways, discussed later in this publication. The net tax that qualifies for the credit is the income tax imposed by the other state, including any alternative minimum tax imposed by that state, minus any income tax credits allowed by the state against the income tax imposed, except for any credits allowed for estimated payments made by the taxpayer and income taxes withheld from the taxpayer's wages or other income. The net tax that qualifies for the credit does not include any recapture required by the state for credits claimed by the taxpayer in a prior tax year. If the other state does not impose any income tax, the Colorado resident cannot claim any credit with respect to income derived from sources in that state.

Limitations

Two limitations apply to the credit allowed for taxes paid to another state. The first limit applies in determining the credit a taxpayer may claim for tax accrued to any single state. The second limit applies in determining the total credit a taxpayer may claim for tax accrued to all states.

Both limits are based on the taxpayer's gross Colorado tax and modified Colorado adjusted gross income. The following sections discuss the calculation of a taxpayer's gross Colorado tax and modified Colorado adjusted gross income.

Gross Colorado tax

An individual's gross Colorado tax is the total Colorado income tax imposed on the individual's income for the tax year under Colorado law, including any alternative minimum tax. For the purpose of calculating the credit, a taxpayer's gross Colorado tax does not include the recapture of any credit claimed in a prior tax year and is not reduced by any credit claimed by the taxpayer for the tax year.

Modified Colorado adjusted gross income

A taxpayer's modified Colorado adjusted gross income is their federal adjusted gross income modified by any additions and subtractions reported on their Colorado income tax return for the tax year, except for the following additions and subtractions:

- Any state income tax addback on line 2 of the *Colorado Individual Income Tax Return* (DR 0104);
- Any qualified business income deduction addback on line 3 of the 2021, 2022, or 2023 *Colorado Individual Income Tax Return* (DR 0104);
- Any itemized deduction addback or federal deduction addback on line 4 of the 2022 or 2023 *Colorado Individual Income Tax Return* (DR 0104);
- Any conservation easement addback reported on the "Other Additions" line of the *Colorado Individual Income Tax Return* (DR 0104); and
- Any subtraction claimed for qualifying charitable contributions on the *Subtractions from Income Schedule* (DR 0104AD).

Credit limitation for each state

The credit a taxpayer may claim is limited to the amount of Colorado income tax the taxpayer would otherwise owe for the portion of their federal taxable income that is derived from sources in the other state. The limit is calculated by multiplying the taxpayer's gross Colorado tax for the tax year by a fraction representing the portion of their income that is derived from sources in the other state. The numerator of the fraction is the taxpayer's modified Colorado adjusted gross income from sources within the other state and the denominator is the taxpayer's entire modified Colorado adjusted gross income. For assistance in determining the amount of income derived from sources in the other state, please see the section on income sourcing, earlier in this publication.

In determining taxpayer's modified Colorado adjusted gross income from sources within the other state, all of the taxpayer's income, gains, and losses from sources within the other state are considered. However, no additions made on the taxpayer's income tax return filed for that state are included in this calculation, except to the extent that the same addition is required under Colorado law in determining the taxpayer's modified Colorado adjusted gross income.

Limitation on the total credit

The total credit a taxpayer may claim for all states is limited to the amount of Colorado income tax the taxpayer would otherwise owe for the portion of their modified Colorado adjusted gross income that is derived from sources outside of Colorado. The limit is calculated by multiplying the taxpayer's gross Colorado tax for the tax year by a fraction representing the portion of their income that is derived from sources outside of Colorado. The numerator of the fraction is the taxpayer's modified Colorado adjusted gross income from sources outside of Colorado and the denominator is the taxpayer's entire modified Colorado adjusted gross income. For assistance in determining the amount of income derived from sources in the other state, please see the section on income sourcing, earlier in this publication.

In determining a taxpayer's modified Colorado adjusted gross income from sources outside of Colorado, all of the taxpayer's income, gains, and losses from sources within the other state are considered. For example, if the taxpayer has $50,000 of income from one state and a $30,000 loss from another state, the taxpayer's modified Colorado adjusted gross income from sources outside of Colorado is $20,000.

States that do not impose an income tax

Several states do not impose an income tax. Colorado residents may not claim any credit for income derived from sources in these states. The credit is allowed only if the Colorado resident actually accrues an income tax liability for their income derived from sources in the other state.

Example of credit limitation

A resident individual taxpayer has income and losses from three states other than Colorado during the tax year and accrues tax to two of those states:

- ***State A:*** The taxpayer has $25,000 of income from State A and accrues $800 of tax to State A on that income.
- ***State B:*** The taxpayer has $5,000 of income from State B and accrues $300 of tax to State B on that income.
- ***State C:*** The taxpayer has a $17,500 loss from State C and accrues $0 of tax to State C on that loss.

The taxpayer's total modified Colorado adjusted gross income for the tax year is $125,000. To determine the allowable credit, the taxpayer must calculate the credit limitation for each, as well as the limitation on the total credit, as illustrated below.

Allowable Credit for Taxes Paid to Other States

State	*State A*	*State B*	*State C*	*Total*
Gross Colorado tax	$ 5,000	$ 5,000	$ 5,000	$ 5,000
Modified Colorado adjusted gross income from sources in the other state	$ 25,000	$ 5,000	-$ 17,500	$ 12,500
Total modified Colorado adjusted gross income	$ 125,000	$ 125,000	$ 125,000	$ 125,000
Modified Colorado adjusted gross income from sources in the other state divided by total modified Colorado adjusted gross income	20%	4%	0%	10%
Gross Colorado tax multiplied by the percentage calculated above	$ 1,000	$ 200	$ 0	$ 500
Tax accrued to the other state	$ 800	$ 300	$ 0	$ 1,100
Allowable credit	$ 800	$ 200	$ 0	$ 500

The total credit the taxpayer may claim is limited to $500.

- ***State A:*** The credit limitation calculated for State A is $1,000 and the taxpayer accrued $800 of tax to State A. The taxpayer can claim no more than $800 of credit for tax paid to State A.
- ***State B:*** The credit limitation calculated for State B is $200 and the taxpayer accrued $300 of tax to State B. The taxpayer can claim no more than $200 of credit for tax paid to State B.
- ***State C:*** The taxpayer accrued no tax to State C and can therefore claim no credit for tax accrued to State C.
- ***Total:*** The total credit limitation is $500 and the taxpayer accrued $1,100 of total tax to all states. The taxpayer can claim a total credit of no more than $500 for taxes paid to other states.

Part year residents

A part-year resident can claim credit only for tax accrued to another state while the taxpayer was a Colorado resident. If the taxpayer accrued tax to the other state during both the part of the year that the taxpayer was a Colorado resident and the part of the year that the taxpayer was not a Colorado resident, the total net tax accrued to the other state for the tax year must be prorated to determine the amount of credit the part-year resident may claim. The prorated amount is determined by multiplying the total tax accrued to the other state for the tax year by a fraction. The numerator of the fraction is the part of the total amount of income taxed by the other state that is derived from sources in that state while the taxpayer was a Colorado resident, and the denominator is the total amount of income taxed by the other state.

Modified Colorado adjusted gross income

For the purpose of calculating the credit limitations described earlier in this publication, only that part of a part-year resident's modified Colorado adjusted gross income that relates to the period of the year they were a Colorado resident is considered. This amount is calculated on the *Part-Year Resident/Nonresident Tax Calculation Schedule* (DR 0104PN) and appears on line 33 of that form.

Example of credit for part-year resident

The taxpayer is a resident of State A from January 1 through June 30 and a resident of Colorado from July 1 through December 31 of the tax year. Their federal adjusted gross income is $60,000, consisting of $48,000 of wage income and $12,000 of rental income. They claim $15,000 in federal deductions, resulting in federal taxable income of $45,000.

Of their $48,000 of wage income, $6,000 was earned while living and working in State A and $42,000 was earned while living and working in Colorado. The taxpayer's $12,000 of rental income was from a property in State A. The rental income was received evenly throughout the year, with $1,000 of rental income realized during each month of the tax year.

As a part-year resident, the taxpayer completes a *Part-Year Resident/Nonresident Tax Calculation Schedule* (DR 0104PN) to calculate their Colorado income tax, as illustrated below. For additional information regarding the tax calculation for part-year residents, please see the form DR 0104PN, its instructions, and Department publication *Income Tax Topics: Part-Year Residents & Nonresidents*, all available online at *Tax.Colorado.gov*.

Part-Year Resident Tax Calculation (DR 104PN)

Line item	*Federal*	*Colorado*
Wages	$ 48,000	$42,000
Rental income	$ 12,000	$ 6,000
Modified adjusted gross income	$ 60,000	$ 48,000
Apportionment percentage		80%
Tentative tax		$ 1,980
Apportioned tax		$ 1,584

State A imposes $900 of tax on the $18,000 of income from that state, consisting of the $6,000 of wage income, earned in State A while they were a resident of State A, and $12,000 of rental income from real property in State A, realized over the course of the entire year.

To determine the possible credit the taxpayer can claim for taxes paid to State A, the $900 of tax accrued must be prorated as described earlier in this publication. Of the $6,000 of wages and $12,000 of rental income taxed by State A, only $6,000 of the rental income was realized while the taxpayer was a Colorado resident. Consequently, the $900 of tax accrued to State A is prorated by multiplying it by 33% (the $6,000 of rental income that is subject to Colorado tax divided by the $18,000 of total income taxed by State A). As a result, only $300 of the tax imposed by State A accrued while the taxpayer was a Colorado resident and only this $300 of tax can potentially be claimed as a credit for tax paid to another state, subject to the limitation discussed below.

The credit the taxpayer can claim for tax paid to State A is limited to $198, as illustrated below. Of the taxpayer's $48,000 total modified Colorado adjusted gross income, $6,000, or 12.5% was from sources in State A. Consequently, the taxpayer can claim credit for no more than 12.5% of the taxpayer's total $1,584 gross Colorado tax.

Allowable Credit for Taxes Paid to Other States

State	*State A*
Gross Colorado tax	$ 1,584
Modified Colorado adjusted gross income from sources in the other state	$ 6,000
Total modified Colorado adjusted gross income	$ 48,000
Modified Colorado adjusted gross income from sources in the other state divided by total modified Colorado adjusted gross income	12.5%
Gross Colorado tax multiplied by the percentage calculated above	$ 198
Tax accrued to the other state	$ 300
Allowable credit	$ 198

Claiming the credit

Any taxpayer claiming the credit must complete a separate *Individual Credit Schedule* (DR 104CR) to calculate the credit limitation for each state, as well as a separate form DR 104CR to calculate the credit limitation for all states. The taxpayer must submit all the completed schedules with their *Colorado Individual Income Tax Return* (DR 0104). Forms and instructions are available online at *Tax.Colorado.gov/individual-income-tax-forms*.

Along with the return and schedule(s), the taxpayer must also provide a copy of the return filed with each other state or so much of the return(s) as is relevant to the determination of the credit. Any partner or shareholder claiming credit for their distributive or pro rata share of tax paid to another state by the partnership or S corporation who did not file their own individual return with the other state must submit with their Colorado return a copy of the statement provided to them by the partnership or S corporation reporting their distributive or pro rata share of the tax and the income derived from sources in that state.

Adjustments and refunds

Although credit is allowed for the amount of tax accrued during the tax year, any credit claim must reflect the amount of tax ultimately paid. Net tax accrued to another state is reduced by any refund the taxpayer receives, including any amount credited toward their estimated tax for the following tax year or toward a balance due for another year.

If, for example, a Colorado resident accrues $1,000 of tax to another state, but later claims a $200 credit against that tax, reducing the net tax accrued to $800, the credit they may claim on their Colorado return is based on the $800 of net tax accrued.

Similarly, if a partner receives a refund for some or all of the tax paid to another state on their behalf by the partnership, the amount of tax the partner is considered to have paid is reduced by the amount of the refund.

A taxpayer must file an *Amended Colorado Individual Income Tax Return* (DR 0104X) to correct the amount of the credit claimed in any of the following circumstances:

- the tax ultimately paid to the other state differs from the amount the taxpayer used to calculate the credit;
- any part of the tax paid is refunded;
- the modified Colorado adjusted gross income from sources in other states reported on the taxpayer's original return was not calculated correctly.

If a taxpayer files an amended return, to redetermine the amount of the credit or for any other reason, the taxpayer must include all of the necessary credit schedules (DR 0104CR) for the credit claimed on the amended return, even if the amount of the credit did not change with the amended return.

Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to the credit for taxes paid to other states. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

Statutes and regulations

- § 39-22-108, C.R.S. Credit for tax paid to other states.
- Rule 39-22-108. Credit for Taxes Paid to Another State.

Forms and guidance

- *Colorado.gov/Tax*
- *Tax.Colorado.gov/individual-income-tax-forms*
- *Colorado Individual Income Tax Return* (DR 0104)
- *Individual Credit Schedule* (DR 104CR)
- *Amended Colorado Individual Income Tax Return* (DR 0104X)
- *Part-Year Resident/Nonresident Tax Calculation Schedule* (DR 0104PN)
- *Colorado Individual Income Tax Guide*
- *Tax.Colorado.gov/individual-income-tax-guidance-publications*
- *Income Tax Topics: Part-Year Residents and Nonresidents*