



An individual may owe Colorado income tax and be required to file a Colorado income tax return even if that individual was not a resident of Colorado for the entire year. In general, any part of a nonresident's income that is derived from Colorado sources is subject to Colorado income tax. In the case of a part-year resident, any income that relates to that part of the year while he or she was a Colorado resident and any other income derived from Colorado sources are both subject to Colorado income tax.

This publication provides information regarding Colorado income tax for part-year resident and nonresident individuals, including:

- guidance for the preparation of Form 104PN, *Part-Year Resident/Nonresident Tax Calculation Schedule*;
- rules for determining whether an item of income is derived from Colorado sources;
- the allocation of adjustments, additions, and subtractions to Colorado; and
- the apportionment of tax.

This publication is designed to provide general guidance regarding the calculation of Colorado income tax for part-year residents and nonresidents and to supplement the guidance provided in the *Colorado Individual Income Tax Guide*. 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.

## Residency

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.

If an individual does not meet the criteria for Colorado residency at any time during the tax year, the individual is a nonresident. If an individual is domiciled in Colorado for only part of the year, they are a part-year resident.

See *Part 1* of the *Colorado Individual Income Tax Guide* for additional information regarding Colorado residency, domicile, and the six-month rule.

## Joint filers

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. The *Part-Year Resident/Nonresident Tax Calculation Schedule* (Form 104PN) filed with a joint return must reflect the residency status of each of the taxpayers included in the return. The following pages of this publication provide directions for the completion of Form 104PN, whether the taxpayers included in the joint return are full-year residents, part-year residents, or nonresidents.

## Calculating apportioned Colorado tax

Colorado income tax for part-year residents and nonresidents is calculated in the same manner as Colorado income tax for full-year residents, up to a point. Part-year residents and nonresidents must first calculate Colorado tax as though they were full-year residents. The calculated tax is then apportioned, based on the percentage of their income that is subject to Colorado income tax. Part-year residents and nonresidents must complete a *Part-Year Resident/ Nonresident Tax Calculation Schedule* (Form 104PN), in addition to a *Colorado Individual Income Tax Return* (DR 0104), to calculate the percentage of their income that is subject to Colorado income tax.



## Colorado taxable income

A part-year resident or nonresident individual's Colorado income tax calculation begins with their full federal taxable income, without modification or adjustment to exclude income received from sources outside of Colorado. Colorado taxable income is then calculated on the *Colorado Individual Income Tax Return* (DR 0104) by making any applicable additions and subtractions, regardless of whether those additions and subtractions relate to any Colorado-source income. See *Part 3* and *Part 4* of the *Colorado Individual Income Tax Guide* for information about specific additions and subtractions.

## Colorado tax rate

A part-year resident or nonresident's Colorado income tax is calculated by first multiplying their Colorado taxable income by the Colorado income tax rate for the tax year and then multiplying the result by the individual's apportionment percentage. The Colorado income tax rate for tax years 2018 and prior was 4.63%, for tax year 2019 was 4.5%, and for tax year 2020 is 4.55%.

## Apportionment percentage

The apportionment percentage used to calculate a part-year resident or nonresident's Colorado income tax is based on the taxpayer's federal adjusted gross income, modified by any additions and subtractions required under Colorado law. Part-year residents and nonresidents must complete a *Part-Year Resident/Nonresident Tax Calculation Schedule* (Form 104PN) to determine their apportionment percentage. Form 104PN includes two columns: the first to calculate their modified federal adjusted gross income and the second to calculate their modified Colorado adjusted gross income. The taxpayer's apportionment percentage is calculated by dividing their modified Colorado adjusted gross income by their modified federal adjusted gross income. If the taxpayer's modified Colorado adjusted gross income is greater than their modified federal adjusted gross income, the taxpayer's apportionment percentage will be greater than 100%.

## Modified federal adjusted gross income

Taxpayers must complete the "Federal Information" column of Form 104PN to calculate their modified federal adjusted gross income. All income reported on the taxpayer's federal income tax return must be included in this column, as well as any adjustments reported on IRS Schedule 1. The standard deduction or itemized deductions claimed on the taxpayer's federal return are not reported on Form 104PN. The taxpayer's federal adjusted gross income is modified by any applicable Colorado additions and subtractions. See pages 6 and 7 for additional information regarding Colorado additions and subtractions.

## Allocation of tax items to Colorado

In accordance with Colorado statute and regulation, items of income, adjustment, addition, and subtraction reported in the "Federal Information" column of Form 104PN are allocated to Colorado, and included in the "Colorado Information" column of Form 104PN, to determine the taxpayer's modified Colorado adjusted gross income. See pages 5-7 for guidance in allocating adjustments, additions, and subtractions to Colorado.

## Income allocation

Any income reported in the "Federal Information" column of Form 104PN must be included on the applicable line of the "Colorado Information" column if the income was either:

- recognized during the part of the year while the taxpayer was a Colorado resident; or
- derived from Colorado sources (see the table of Colorado-Source Income on the following page).

If one of the taxpayers included in joint return is a full-year resident, the entirety of that taxpayer's income reported in the "Federal Information" column of Form 104PN must be included in the "Colorado Information" column, even if it was derived from sources outside of Colorado.

**Colorado-Source Income**

| <i>Type of income or loss</i>  | <i>Colorado-source income</i>   |
|--|---|
| <b>Wages and unemployment compensation</b> , including severance payments, payments for sick and vacation leave, and disability pay                                  | Wages and unemployment compensation are Colorado-source income if the employee was physically present in Colorado when performing the work. See <i>1 CCR 201-2</i> , Rule 39-22-109(3)(b) for additional information, including information about sourcing wages when work is performed both inside and outside of Colorado. See Department publication <i>Income Tax Topics: Military Servicemembers</i> for information about sourcing wage income for military servicemembers and their spouses. See the table on the following page for information about wages paid to nonresidents that are exempt from Colorado tax. |
| <b>Income from intangible property</b> (such as stocks, bonds, patents, and copyrights), including interest, dividends, royalties, capital gains, and capital losses | Income from intangible personal property is Colorado-source income to the extent that such income is from property employed in a business, trade, profession, or occupation carried on in Colorado. See <i>1 CCR 201-2</i> , Rule 39-22-109(3)(e) for additional information, including information about sourcing the gain or loss from the sale of an interest in a pass-through entity.  |
| <b>Income from real and tangible personal property</b> , including interest, rents and royalties, capital gains, and capital losses                                  | Income from real and tangible personal property located in Colorado is Colorado-source income. See <i>1 CCR 201-2</i> , Rule 39-22-109(3)(a) for additional information, including information about sourcing gains and losses deferred pursuant to IRC section 1031.   |
| <b>Retirement income</b> , including IRA distributions, pensions, annuities, and social security benefits  | Retirement income, as defined in 4 U.S.C. § 114(b), received by nonresidents is not Colorado-source income.   |
| <b>Business income</b> reported on IRS Schedule C  | Income from business carried on in Colorado is Colorado-source income. Business income from the performance of purely personal services is Colorado source income if the person performing the service was physically present in Colorado at the time. Any other business income reported on IRS Schedule C is apportioned in accordance with section 39-22-303.6, C.R.S., and the regulations promulgated thereunder. See <i>1 CCR 201-2</i> , Rule 39-22-109(3)(b)(ii), (iii), and (vi) for additional information.   |
| <b>Income from gambling and games of chance</b> , including limited stakes gambling, bingo, raffle, Colorado Lottery, sweepstakes, and door prizes                   | Income from gambling and games of chance conducted in Colorado is Colorado-source income regardless of whether the nonresident was present in Colorado when the gambling or game was conducted or the winnings or prize was awarded or paid.  |
| <b>Net operating loss (NOL) deduction</b>  | A net operating loss deduction claimed on a taxpayer’s federal income tax return is allocated to Colorado if the loss arose from Colorado sources in the year it was sustained.   |
| <b>Other types of income</b>   | See section 39-22-109, C.R.S., section 39-22-326, C.R.S., and <i>1 CCR 201-2</i> , Rule 39-22-109.  |



**Exempt wages for nonresident employees**

Under certain circumstances, wages paid to nonresidents for work performed in Colorado are not subject to Colorado income tax. In such cases, the wages are not included in the “Colorado Information”

column of Form 104PN. The following table lists certain types of wages paid to nonresident employees that are exempt from Colorado income tax and should not be included in the “Colorado Information” column of Form 104PN.

**Nonresident Wages Exempt from Colorado Income Tax**

| <i>Type of employee</i>                 | <i>Exempt wages</i>   | <i>Legal authority</i>                           |
|---|---|--|
| Rail carrier employee                   | Compensation paid for the performance of regularly assigned duties on a railroad in more than one state   | 49 U.S.C. § 11502                                |
| Air carrier employee                    | Compensation paid for employee’s work for an air carrier, provided no more than 50% of the employee’s pay is earned in Colorado   | 49 U.S.C. § 40116(f)                             |
| Motor carrier employee                  | Compensation paid for the performance of regularly assigned duties in two or more states with respect to a motor vehicle  | 49 U.S.C. § 14503(a)                             |
| Military servicemember                  | Compensation paid for military service  | 50 U.S.C. § 4001(b)<br>§ 39-22-109(2)(b), C.R.S. |
| Spouse of military servicemember        | Compensation paid to the spouse of a military servicemember if such spouse is in Colorado solely to be with the servicemember serving in compliance with military orders                            | 50 U.S.C. § 4001(c)                              |
| Film and television production employee | Compensation paid for the performance of services in connection with any phase of a motion picture, television production, or television commercial for less than 120 days during the calendar year | § 39-22-604(2)(a), C.R.S.                        |



## Allocation of Federal Adjustments for Nonresidents

Federal adjustments from line 10c of 2020 IRS Form 1040 or 1040-SR (line 8a of IRS Form 1040 for prior tax years) are entered on line 22 of Colorado Form 104PN. In determining modified Colorado adjusted gross income, federal adjustments are allocated to Colorado and included on line 23 of Form 104PN based on different rules, described below, depending on the type of federal adjustment.

### *Proration based on wage and self-employment income*

The following adjustments are prorated and allocated to Colorado based on Colorado wage and self-employment income. The portion of these adjustments to include on line 23 of Form 104PN is determined by multiplying the amount of the adjustment by a percentage. The percentage is determined by dividing the taxpayer's combined Colorado wage and Colorado self-employment income, on lines 5 and 15 of Form 104PN by the taxpayer's combined wage and self-employment income on lines 4 and 14 of Form 104PN.

- Educator expenses
- Certain business expenses of reservists, performing artists, and fee-basis government officials
- Health savings account deduction
- Deductible part of self-employment tax
- Self-employed SEP, SIMPLE, and qualified plans
- Self-employed health insurance deduction
- IRA deduction
- Archer medical savings account (MSA) deduction
- Contributions to section 501(c)(18)(D) pension plans
- Contributions by certain chaplains to section 403(b) plans

### *Proration based on total income*

The following adjustments are prorated and allocated to Colorado based on total Colorado income. The portion of these adjustments to include on line 23 of Form 104PN is determined by multiplying the amount of the adjustment by a percentage. The percentage is determined by dividing the taxpayer's total Colorado income, on line 21 of Form 104PN by the taxpayer's total income on line 20 of Form 104PN.

- Alimony paid
- Student loan interest deduction
- Tuition and fees
- Reforestation amortization and expenses
- Repayment of supplemental unemployment benefits
- Attorney fees and court costs
- Charitable contributions on line 10b of IRS Form 1040

### *Allocation of other adjustments to Colorado*

- Penalty on early withdrawal of savings is allocated to Colorado on line 23 of Form 104PN if paid while the taxpayer was a Colorado resident.
- Moving expenses for members of the Armed Forces moving into Colorado, but not for moving out of Colorado, are allocated to Colorado on line 23 of Form 104PN.
- Jury duty pay that is paid by the taxpayer to his or her employer is allocated to Colorado on line 23 of Form 104PN if the jury service was in Colorado.
- Deductible expenses from the rental of personal property are allocated to Colorado on line 23 of Form 104PN if the rental property is located in Colorado.



**Colorado modifications**

Federal adjusted gross income reported on line 24 of Form 104PN must be modified by any applicable Colorado additions and subtractions reported on lines

26 and 30, respectively. Any additions and subtractions reported on lines 26 and 30 are then allocated to Colorado and entered lines 27 and 31, respectively, in accordance with the criteria described below and on the following page.

**Colorado Additions**

Taxpayers must enter on line 26 of Form 104PN any additions reported on *Colorado Individual Income Tax Return* (DR 0104), except for the following additions:

- the state income tax addback; and
- the gross conservation easement addback.

See *Part 3* of the *Colorado Individual Income Tax Guide* for additional information about Colorado additions that taxpayers must report on their Colorado returns. Additions reported on line 26 of Form 104PN must be included in line 27, and added in the calculation of modified Colorado adjusted gross income, under the following conditions:

**Additions always included on line 27 of Form 104PN**

- Expenses deducted with respect to certain clubs that restrict membership
- Recapture of first-time home buyer savings account subtraction
- Recapture of medical savings account subtraction
- Recapture of state tuition program contribution subtraction

**Additions never included on line 27 of Form 104PN**

- Non-Colorado NOL deductions

**Additions included on line 27 of Form 104PN if the underlying or related income was recognized while the taxpayer was a Colorado resident**

- Non-Colorado state and local bond interest

**Additions included on line 27 if underlying or related expenses or losses were from business activity in Colorado or were incurred while the taxpayer was a Colorado resident**

- Addbacks related to the CARES Act (involving NOL deductions, excess business losses, or business interest deductions)
- Shareholder’s share of S corporation’s additions pursuant to § 39-22-323, C.R.S. related to business expenses
- Unauthorized alien labor services



## Colorado Subtractions

Taxpayers must enter on line 30 of Form 104PN any subtractions reported on their *Subtractions from Income Schedule* (DR 0104AD), except for any qualifying charitable contribution subtraction. See *Part 4* of the *Colorado Individual Income Tax Guide* for additional information about Colorado subtractions taxpayers may claim on their Colorado returns.

In general, subtractions related to specific items of income are included in line 31 of Form 104PN, and subtracted in the calculation of modified Colorado adjusted gross income, only to the extent that the related item of income is included in Colorado adjusted gross income reported on line 25. Subtractions reported on line 30 of Form 104PN are included in line 31 under the following conditions:

### *Subtractions always included on line 31 of Form 104PN*

- Adult learner savings account contributions
- Marijuana business expenses
- Medical savings account contributions
- Military family relief fund grants
- State tuition program (CollegInvest) contributions
- Wildfire mitigation measures

### *Subtractions included on line 31 of Form 104PN to the extent the related income is included in Colorado adjusted gross income reported on line 25 of Form 104PN*

- Capital gain subtraction
- Compensation for exonerated persons
- First-time home buyer savings account interest
- Income from U.S. government obligations
- Military compensation after reacquisition of Colorado residency
- Military retirement benefits
- Nonresidents performing disaster-relief work
- Olympic medals
- Pension and annuity income
- PERA and DPS retirement benefits
- Qualified reservation income
- Railroad retirement benefits
- State income tax refunds
- S corporation shareholder subtractions related to income

### *S corporation shareholder subtractions related to business expenses*

A shareholder's share of an S corporation's subtractions pursuant to § 39-22-323, C.R.S., related to business expenses are allocated to Colorado and included on line 31 of Form 104PN to the extent that the underlying or related expenses or losses are from business activity in Colorado or were incurred while the taxpayer was a Colorado resident.



## IRS Form 1040-NR

Taxpayers are required to enter information from certain lines of their federal returns on Colorado Form 104PN. The instructions for Form 104PN reference the applicable lines of IRS Forms 1040 and 1040-SR, but not IRS Form 1040-NR, which some taxpayers may be required to file instead. The following table references the appropriate lines of IRS Form 1040-NR for the completion of Colorado Form 104PN.

## Alternative minimum tax (AMT)

In addition to regular Colorado income tax, part-year residents and nonresidents may owe Colorado alternative minimum tax. 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. See *Part 2* of the *Colorado Individual Income Tax Guide, FYI Income 14*, and the *Colorado Alternative Minimum Tax Computation Schedule (DR 0104AMT)* for additional information.

### IRS Form 1040-NR Line Numbers for Completing Colorado Form 104PN

| <i>Form 104PN</i> | <i>Income type</i>                         | <i>2019 IRS Form 1040-NR</i> | <i>2020 IRS Form 1040-NR</i>                |
|-------------------|--|------------------------------|---|
| Line 4            | Wages, salaries, and tips                  | Line 8                       | Line 1a                                     |
| Line 6            | Interest and dividends                     | Lines 9a and 10a             | Lines 2b and 3b                             |
| Line 8            | Unemployment compensation                  | Line 20                      | Schedule 1, Line 7                          |
| Line 10           | Capital gains or losses                    | Lines 14 and 15              | Line 7 and Schedule 1, Line 4               |
| Line 12           | Pensions, annuities, and IRS distributions | Lines 16b and 17b            | Lines 4b and 5b                             |
| Line 14           | Business and farm income or loss           | Lines 13 and 19              | Schedule 1, Lines 3 and 6                   |
| Line 16           | IRS Schedule E income                      | Line 18                      | Schedule 1, Line 5                          |
| Line 18           | Other income                               | Lines 11, 12, and 21         | Lines 1b and Schedule 1, Lines 1, 2a, and 8 |
| Line 20           | Total income                               | Line 23                      | Line 9                                      |
| Line 22           | Federal adjustments                        | Line 34                      | Line 10d                                    |
| Line 24           | Adjusted gross income                      | Line 35                      | Line 11                                     |



## Income tax credits

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Most Colorado income tax credits are allowed to part-year residents and nonresidents in the same manner that they are allowed to full-year residents. However, specific rules apply to part-year residents and nonresidents with respect to certain credits.

### Earned income and child care tax credits

The Colorado earned income tax credit and the Colorado child care expenses tax credit are allowed only to Colorado residents, including both full-year residents and part-year residents. Nonresidents may not claim either of these credits. The credits allowed to part-year residents must be apportioned by multiplying the credits by the apportionment percentage from the taxpayer's Form 104PN, *Part-Year Resident/Nonresident Tax Calculation Schedule*, except that the apportionment percentage used to calculate these credits cannot exceed 100%. Please see Form DR 0347, *Child Care Expenses Tax Credit*, and Department publications *FYI Income 27* and *FYI Income 33* for additional information.

### Credit for taxes paid to another state

The credit for taxes paid to another state is allowed only to Colorado residents. Part-year residents can claim the credit only with respect to income that was both recognized while they were a Colorado resident and derived from sources in another state. Nonresidents may not claim any credit for taxes paid to another state. Please see Department publication *FYI Income 17* for additional information.

## Income tax prepayments

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In general, Colorado law requires the payment of income tax throughout the year, as income is received and recognized by the taxpayer. Such prepayment of tax may be made in a number of different ways, including quarterly estimated tax payments, income tax withholding, and certain withholding and prepayment methods specific to nonresidents.

### Estimated tax payments

In general, an individual must remit quarterly Colorado estimated tax payments if his or her total Colorado tax liability, less withholding and credits, exceeds \$1,000. See *Part 7* of the *Colorado Individual Income Tax Guide* for additional information regarding Colorado estimated income tax payments.

### Colorado withholding on Form W-2 or 1099

Colorado law requires the payer of certain types of income to withhold Colorado income tax. A payer who has withheld Colorado income tax must remit the tax to the Department and issue a statement (such as an 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 return, as a credit against the income tax due.

Please see *Part 6* of the *Colorado Individual Income Tax Guide* for additional information regarding Colorado income tax withholding reported on IRS Form W-2 or 1099.



## Nonresident withholding and prepayments

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. Nonresidents may claim a refund if the withholding or prepayment exceeds the amount of tax due.

### Nonresident beneficiary withholding

Every fiduciary of an estate or trust with a nonresident beneficiary who receives net income from real or tangible personal property within Colorado must withhold income tax from income distributed to the beneficiary. The fiduciary must remit the amount withheld with form DR 0104BEP, *Colorado Nonresident Beneficiary Estimated Income Tax Payment*.

In general, the amount of the required withholding is equal to the applicable income tax rate for the tax year multiplied by the beneficiary's net income from real or tangible personal property within Colorado. If the beneficiary files their income tax return prior to the due date for the withholding payment, the fiduciary may instead withhold only the amount of tax reported on the beneficiary's return.

## Nonresident real estate withholding

In general, whenever a nonresident sells, transfers, or otherwise conveys real property in Colorado, Colorado income taxes must be withheld from the net proceeds. The title insurance company or any other person or entity that provides closing and settlement services is generally required to withhold from the net proceeds, and remit to the Department of Revenue, the lesser of:

- 2% of the sales price of the nonresident's interest in the real property; or
- the nonresident's net proceeds from the sale, transfer, or conveyance of the real property.

Nonresident real estate withholding must be remitted with form DR 1079, *Payment of Withholding Tax on Certain Colorado Real Property Interest Transfers*. Please see *FYI Income 5* for additional information regarding nonresident real estate withholding.

### Nonresident partners and shareholders

Partnerships and S corporations are required to remit a payment on behalf of any nonresident partner or shareholder, unless the nonresident partner or shareholder either:

- has submitted a signed *Colorado Nonresident Partner or Shareholder Agreement* (DR 0107); or
- is included in a composite return filed by the partnership or S corporation.

The required payment is equal to the applicable income tax rate for the tax year multiplied by the nonresident partner or shareholder's Colorado source income. The payment is required regardless of whether the partnership or S corporation distributes any of the income to the nonresident partner or shareholder.

Nonresident partner and shareholder payments must be remitted with form DR 0108, *Statement of Colorado Tax Remittance for Nonresident Partner or Shareholder*.



## Additional resources

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The following is a list of statutes, regulations, forms, and guidance pertaining to part-year residents and nonresidents. 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

- § 39-22-103, C.R.S. Definitions.
- § 39-22-104, C.R.S. Income tax imposed on individuals.
- § 39-22-107, C.R.S. Income tax filing status.
- § 39-22-109, C.R.S. Income of a nonresident individual for purposes of Colorado income tax.
- § 39-22-110, C.R.S. Apportionment of tax in the case of a part-year resident.
- § 39-22-326, C.R.S. Part-year residence.
- § 39-22-601, C.R.S. Returns.
- Rule 39-22-109. Colorado-Source Income.
- Rule 39-22-110. Apportionment of Tax for Part-Year Residents and Nonresident Individuals.

### Forms and guidance

- [Tax.Colorado.gov](https://tax.colorado.gov)
- *Part-year Resident/Nonresident Tax Calculation Schedule* (DR 0104PN)
- *Colorado Alternative Minimum Tax Computation Schedule* (DR 0104AMT)
- *Childcare Expenses Tax Credit* (DR 0347)
- *Colorado Individual Income Tax Guide*
- *Income Tax Topics: Military Servicemembers*
- *FYI Income 14: Alternative Minimum Tax*
- *FYI Income 17: Credit for Income Tax Paid to Another State*
- *FYI Income 27: Earned Income Tax Credit*
- *FYI Income 33: Child Care Expenses Tax Credit*