

A subtraction from federal taxable income is allowed to individuals for interest and other income earned on money in a first-time home buyer savings account, provided certain conditions are met. This publication is designed to provide general guidance regarding the subtraction 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 and regulations authorizing these exemptions. Taxpayers are encouraged to consult their tax advisors for guidance regarding specific situations.

First-time home buyer savings accounts

Any individual may open a savings account and designate it, in its entirety, as a first-time home buyer savings account to pay or reimburse a qualified beneficiary's eligible expenses for the purchase of a primary residence in Colorado. The savings account may be opened with any of the following financial institutions:

- a state bank,
- a state trust company,
- a savings and loan association,
- a federally chartered credit union doing business in Colorado,
- a credit union chartered by the state of Colorado,
- a national bank,
- a broker-dealer,
- a mutual fund,
- an insurance company, or
- any other similar financial entity qualified to do business in the state of Colorado.

An individual may be the account holder of multiple accounts, and an individual may jointly own the account with another person if they file a joint income tax return.

Qualified beneficiary

An account holder must designate a qualified beneficiary of the first-time home buyer savings account no later than April 15th of the year following the tax year during which the account is established. The account holder may designate himself or herself as the qualified beneficiary. The account holder may change the designated qualified beneficiary at any time, but there may not be more than one qualified beneficiary at any time. An account holder cannot have multiple accounts with the same qualified beneficiary, but an individual may be designated as the qualified beneficiary of multiple accounts.

An individual may be designated as the qualified beneficiary of a first-time home buyer savings account only if either:

- the individual has never owned or purchased under contract for deed, either individually or jointly, a single-family, owner-occupied primary residence, including, but not limited to, a condominium unit or a manufactured or mobile home that is assessed and taxed as real property; or
- as a result of the individual's dissolution of marriage, the individual has not been listed on a property title for at least three consecutive years or more.

Account limitations

Several limitations apply to first-time home buyer savings accounts.

- The maximum contribution an individual can make to an account during a tax year is \$14,000.
- The maximum contribution account holders who file a joint return can make to a first-time home buyer savings account during a tax year is \$28,000.
- The maximum amount of all contributions for all tax years to an account is \$50,000.
- The maximum total amount in an account is \$150,000.



Eligible expenses

Money withdrawn from a first-time home buyer savings account may be used to pay or reimburse a qualified beneficiary's eligible expenses for the purchase of a primary residence in Colorado. Any amounts withdrawn and used for any other purpose or withdrawn within a year since the first deposit was made to the account may be subject to *recapture* and *penalty*, as discussed later in this publication.

Eligible expenses payable with money withdrawn from the account are a down payment and any closing costs included on a real estate settlement statement, including, but not limited to, appraisal fees, mortgage origination fees, and inspection fees.

The money in the account may be:

- 1) used for eligible expenses related to a qualified beneficiary's purchase of his or her primary residence in the state;
- 2) used for eligible expenses related to a qualified beneficiary's purchase of his or her primary residence in or outside the state, if the qualified beneficiary is active-duty military and was stationed in Colorado for any time after the creation of the account;
- 3) used for expenses that would have qualified under (1) or (2) above, but the contract for purchase did not close;
- 4) transferred to another newly created first-time home buyer savings account; or
- 5) used to pay a service fee that is deducted by the financial institution.

The money in an account may be used or transferred as described above, regardless of whether the qualified beneficiary is the sole owner of the primary residence or the joint owner of the primary residence with another person who is not a qualified beneficiary.

The money in a first-time home buyer savings account may not be used for the purchase of a manufactured or mobile home that is not taxed as real property.

The account holder may not use money in an account to pay expenses of administering the account; except that a service fee may be deducted from the account by the financial institution.

Documentation

The account holder is responsible for maintaining documentation for the first-time home buyer savings account and for eligible expenses related to the qualified beneficiary's purchase of his or her primary residence.

Subtraction

A subtraction is allowed and may be claimed on the Colorado *Subtractions from Income Schedule* (DR 0104AD) for an amount equal to any interest and other income earned on the investment of the money in a first-time home buyer savings account during the tax year, to the extent such interest or other income is included in a taxpayer's federal taxable income. To be eligible for the subtraction, an account holder must comply with all of the requirements established in section 39-22-4704, C.R.S.

No subtraction is allowed for any interest or other income earned on the investment of money in an account after any of the following account limitations are exceeded:

| <i>Limitation</i> | <i>Amount</i> |
|---|---------------|
| Contributions made during any tax year by an individual account holder | \$14,000 |
| Contributions made during any tax year by account holders who file a joint return | \$28,000 |
| Total contributions made during all tax years | \$50,000 |
| Total amount in an account | \$150,000 |



Annual filing

To be eligible for the subtraction, an account holder must annually file with his or her Colorado individual income tax return form DR 0350, *First-time Home Buyer Savings Account Interest Deduction* and copies of the IRS Form 1099 for the account issued by the financial institution. Upon withdrawal, the account holder must also submit a real estate settlement statement that shows that the withdrawal was used for an eligible expense.

Recapture

Money withdrawn from a first-time home buyer savings account is subject to recapture in the tax year in which it is withdrawn if either:

- at the time of the withdrawal, it has been less than a year since the first deposit was made in the first-time home buyer savings account; or
- the money is used for any purpose other than those specified in the section of this publication titled *Eligible expenses*.

If an amount withdrawn is subject to recapture, the account holder must enter the required amount as an “Other Addition” on the applicable line of the *Colorado Individual Income Tax Return* (Form 104). The amount that must be entered as an addition is calculated by multiplying the full amount withdrawn by a fraction, the numerator of which is the total amount claimed as a subtraction in all prior tax years and the denominator of which is the total amount in the account.

If the account holder dies, then all of the money in the account that was subtracted from taxable income is subject to recapture in the tax year of their death. If the account is jointly owned and all account holders die, then all of the money in the account that was subtracted from taxable income is subject to recapture in the tax year of their deaths.

Money may remain in a first-time home buyer savings account for an unlimited period of time without the interest or income being subject to recapture.

Penalty

In general, if any money is subject to recapture, the account holder must also pay a penalty in the same tax year as the recapture. However, the penalty does not apply if:

- the money is used for eligible expenses related to a qualified beneficiary's purchase of his or her primary residence outside of the state;
- the money is from a first-time home buyer savings account for which the qualified beneficiary dies and the account holder does not designate a new qualified beneficiary during the same taxable year; or
- the recapture results from the death(s) of the account holder(s).

The amount of the penalty depends, in part, on the amount of time between the first deposit in the account and the date of the withdrawal that is subject to recapture.

- If the withdrawal was made ten or fewer years after the first deposit in the account, then the penalty is equal to 5% of the amount subject to recapture.
- If the withdrawal was made more than ten years after the first deposit in the account, then the penalty is equal to 10% of the amount subject to recapture.



Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to the first-time home buyer savings account subtraction. 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

- § 39-22-4703, C.R.S. Definitions.
- § 39-22-4704, C.R.S. First-time home buyer savings account.
- § 39-22-4705, C.R.S. Eligible expenses - penalties for other uses.
- § 39-22-4706, C.R.S. Forms.

Forms and guidance

- *Tax.Colorado.Gov*
- *First-time Home Buyer Savings Account Interest Deduction (DR 0350)*
- *Subtractions from Income Schedule (DR 0104AD)*