



The American Rescue Plan Act (Public Law 117-2), which was signed into law March 11, 2021, retroactively excluded up to \$10,200 in unemployment compensation from federal taxable income tax for tax year 2020. To qualify, taxpayers were required to have a modified gross income below \$150,000. More information regarding the 2020 unemployment compensation exclusion can be found in the current *IRS FAQs for 2020 Unemployment Compensation Exclusion* section of the IRS website ([www.irs.gov](http://www.irs.gov)).

When the American Rescue Plan Act was enacted, a Department rule provided that retroactive changes in federal law did not affect a taxpayer's Colorado income tax liability. In accordance with this rule, the Department advised taxpayers who had filed their federal and state returns that they should not amend their state return to remove the excludable unemployment compensation. Taxpayers who had not filed their federal and state returns were advised to add back the excluded unemployment compensation by transferring the amount listed on their federal Schedule 1, line 8 (IRS form 1040) to "other additions" on line 6 of their Colorado DR 0104 income tax return.

A recent court decision determined that the rule was incorrect and that retroactive changes in federal law can affect a taxpayer's Colorado taxable income. As a result, eligible taxpayers who did not previously exclude up to \$10,200 of unemployment compensation from the federal taxable income reported to Colorado, or who added back the excluded amount of unemployment compensation, may amend their 2020 income tax return to claim the exclusion. An amended return will be accepted if it is filed within the statute of limitations. For most impacted taxpayers this means they will need to file an amended return on or before May 17, 2025.

Taxpayers who are unsure whether they received unemployment compensation in 2020, should review their 2020 tax records and confirm they received, and included with their income tax filing, a 1099-G with an amount listed in box 1 as unemployment compensation. Those individuals who are unsure whether they received a 1099-G may review their MyUI+ account through the Colorado Department of Labor and Employment by following the *1099-G instructions* section of their website ([CDLE.Colorado.gov](http://CDLE.Colorado.gov)). They may also request a wage and income transcript from the IRS by visiting [irs.gov/individuals/get-transcript](https://irs.gov/individuals/get-transcript)

After unemployment compensation is verified, taxpayers should review both their federal and state income tax return filings for the 2020 income tax year to determine whether they qualified for the exclusion. Once taxpayers confirm they are qualified, the instructions for amending their returns depend on the scenario of their 2020 filings.

## Scenario 1. The IRS Automatically Adjusted the Federal Return

Under scenario 1, the taxpayer filed their federal return prior to the announcement of the American Rescue Plan Act and included all unemployment compensation received in 2020 on Schedule 1 line 7. The Internal Revenue Service (IRS) automatically adjusted eligible returns to provide the tax benefit and to update the taxable amount of unemployment compensation. Those changes should be reflected in a return adjustment letter, CP21 or CP22, issued by the IRS. If the return was automatically adjusted by the IRS, taxpayers who did not previously amend or adjust their Colorado return to exclude unemployment compensation may amend their Colorado income tax return to reflect the adjustment stated on the IRS return adjustment letter.

For example, under scenario 1, the return adjustment letter should reflect changes made to the federal return, including an adjustment Schedule 1 line 8 to add the exclusion of the lesser of unemployment compensation received or \$10,200.

This adjustment would also be reflected on line 10a of the 1040 or 1040 SR resulting in a corrected federal taxable income on line 15.

When amending their state returns, taxpayers should enter the newly calculated federal taxable income amount shown on the federal return line 15 on line 1 of their state DR 0104X.

DR 0104X

|  |     | As Amended |
|--|-----|------------|
| 1. Enter Federal Taxable Income from 1040 line 15, 1040 SR line 15 or 1040X line 5 | ● 1 | 00         |

If the line item adjustments are not reflected in the adjustment letter, taxpayers can request a federal tax account transcript by going to <https://www.irs.gov/individuals/transcript-types-and-ways-to-order-them>.

### Scenario 2. The Taxpayer Added Back Unemployment Compensation on the Original Colorado Return

Under scenario 2, the federal return that was filed excluded a portion of unemployment compensation, up to the \$10,200 limit, on the Federal 1040 or 1040-SR Schedule 1, line 8. While all unemployment compensation was listed on line 7 of that schedule, a negative amount was listed on line 8 for the unemployment compensation exclusion and listed as "UCE." On the taxpayer's original Colorado return (DR 0104), the taxpayer added back the excluded unemployment compensation on line 6 "other additions." If this scenario applies, the taxpayer may amend their Colorado income tax return by removing the unemployment compensation amount previously reported on the "other additions" line of the return.

For example, under scenario 2, the 1040 or 1040-SR Schedule 1 would have originally been filed as follows\*:

| SCHEDULE 1<br>(Form 1040)                              |   | <b>Additional Income and Adjustments to Income</b>   |                             | OMB No. 1545-0074                            |
|--|---|--|-----------------------------|--|
| Department of the Treasury<br>Internal Revenue Service |   | ▶ Attach to Form 1040, 1040-SR, or 1040-NR.<br>▶ Go to <a href="http://www.irs.gov/Form1040">www.irs.gov/Form1040</a> for instructions and the latest information. |                             | <b>2020</b><br>Attachment<br>Sequence No. 01 |
| Name(s) shown on Form 1040, 1040-SR, or 1040-NR        |   |  | Your social security number |  |
| <b>Part I Additional Income</b>                        |   |  |                             |  |
| <b>1</b>   | Taxable refunds, credits, or offsets of state and local income taxes . . . . .                | <b>1</b>   |                             |  |
| <b>2a</b>  | Alimony received . . . . .  | <b>2a</b>  |                             |  |
| <b>b</b>   | Date of original divorce or separation agreement (see instructions) ▶                         |  |                             |  |
| <b>3</b>   | Business income or (loss). Attach Schedule C . . . . .  | <b>3</b>   |                             |  |
| <b>4</b>   | Other gains or (losses). Attach Form 4797 . . . . .   | <b>4</b>   |                             |  |
| <b>5</b>   | Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E   | <b>5</b>   |                             |  |
| <b>6</b>   | Farm income or (loss). Attach Schedule F . . . . .  | <b>6</b>   |                             |  |
| <b>7</b>   | Unemployment compensation . . . . .   | <b>7</b>   | 30200                       |  |
| <b>8</b>   | Other income. List type and amount ▶ UCE  | <b>8</b>   | (10200)                     |  |
| <b>9</b>   | Combine lines 1 through 8. Enter here and on Form 1040, 1040-SR, or 1040-NR, line 8 . . . . . | <b>9</b>   | 20000                       |  |
| <b>Part II Adjustments to Income</b>                   |   |  |                             |  |

\* The amounts listed are for illustration purposes only. Your figures will be different.

And on the DR 0104 would have originally been filed as follows\*:

| Name   | SSN or ITIN |           |
|--|-------------|-----------|
|  |             |           |
| 4. Excess Business Loss Addback (see instructions) | ● 4         | 00        |
| 5. Net Operating Loss Addback (see instructions)   | ● 5         | 00        |
| 6. Other Additions, explain (see instructions)     | ● 6         | 10,200 00 |
| Explain:<br>Unemployment Compensation              |             |           |

\* The amounts listed are for illustration purposes only. Your figures will be different.

If the state return that was originally filed only listed the unemployment compensation and no "other additions" were included, then the taxpayer's amended return, DR 0104X line 6, should be updated to say zero.

If the state return that was originally filed included additions other than unemployment compensation, then the taxpayer should subtract unemployment compensation from the "other additions" so that line 6 reflects only the remaining amount.

### Additional Information

Taxpayers who confirm unemployment compensation was reported in 2020, but are unsure which of the two scenarios applies to them, may obtain an IRS tax return transcript by visiting :<https://www.irs.gov/individuals/get-transcript> and review their prior year Colorado income tax filing by visiting [https://www.colorado.gov/revenueonline/\\_/](https://www.colorado.gov/revenueonline/_/)

Form DR 0104X for tax year 2020 must be used to file an amended Colorado income tax return. The paper version of the form and instructions is located at <https://tax.colorado.gov/2020-individual-income-tax-forms>. Save time and reduce errors by amending online at [https://www.colorado.gov/revenueonline/\\_/](https://www.colorado.gov/revenueonline/_/) The examples provided in the above listed scenarios are for reference purposes only to demonstrate the changes relating to the unemployment compensation exclusion. Taxpayers must review the entire return, enter values from other lines that did not change, and recalculate the return accordingly.

The DR 0104X is a standalone return. In addition to the amounts that changed, taxpayers must include the correct amount of federal taxable income and any applicable additions, subtractions, credits, withholding, or other payments claimed on the initial DR 0104 that are unchanged. These amounts will not be automatically transferred to the amended return. For example, if W-2 withholding remained unchanged, include the same amount on line 20 (CO Income Tax Withheld from W-2s and 1099s) of the DR 0104X as was stated on line 20 of the original DR 0104. Any required supplemental schedules (e.g., DR 0104CR), forms (e.g. DR 0347), and documentation must be resubmitted with the DR 0104X. Refer to the DR 0104 Individual Income Tax Booklet (<https://tax.colorado.gov/2020-individual-income-tax-forms>) for instructions on required schedules, forms, and documentation.