



In response to taxpayer inquiries, this publication addresses how recent retroactive federal tax provisions interact with Colorado income taxation. In particular, Public Law 116-136, the Coronavirus Aid, Relief and Economic Security Act (CARES Act) modified numerous parts of the Internal Revenue Code, including provisions for net operating loss deductions, business interest expense limitations, excess loss limitations for taxpayers other than corporations, and cost recovery for qualified improvement property.¹ This publication also addresses certain modifications to federal taxable income required pursuant to HB20-1420, which took effect upon signature by the Governor on July 11, 2020.

This publication is designed to provide taxpayers with general guidance regarding Colorado income tax requirements. Additional information can be found in the Colorado’s statutes, regulations, forms and guidance. Nothing in this publication modifies or is intended to modify the requirements of Colorado’s statutes and regulations. Taxpayers should consult their tax advisors for guidance regarding specific situations.

Colorado taxable income is calculated from “federal taxable income,” as determined pursuant to the Internal Revenue Code.² Although Colorado adopts the Internal Revenue Code on a rolling basis, Colorado’s definition of “Internal Revenue Code” does not incorporate federal statutory changes that are enacted after the last day of a tax year (and

¹ Discussions of federal tax laws, regulations, and procedures in this publication are provided for the sole purpose of clarifying related Colorado laws, rules, and procedures and should not be relied upon. Taxpayers should consult their tax advisors for guidance on federal tax laws.

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thus, neither do Colorado statutory references to “federal taxable income”).³ Accordingly, federal statutory changes enacted after the end of a tax year do not impact a taxpayer’s Colorado tax liability for that tax year.

Because the CARES Act made federal statutory changes to current and prior tax years that took effect upon its enactment, this publication discusses the applicability of some of those changes to Colorado income taxes. In general, amended returns reporting only CARES Act adjustments for tax years ending before March 27, 2020 should not be filed⁴ unless the original return reflected federal

² Sections 39-22-104(1.7) and 39-22-304(1), C.R.S.

³ Section 39-22-103(5.3), C.R.S.; 1 CCR 201-2, Rule 39-22-103(5.3).

⁴ Although section 39-22-601(6)(a), C.R.S., generally requires an amended return to be filed after a taxpayer

adjustments allowed by the act.⁵ Some taxpayers may need to adjust federal taxable income reported to Colorado for tax years ending before March 27, 2020 when preparing their original return.

This publication addresses various tax situations applicable to individuals, estates and trusts, and C corporations.

Individuals⁶

Net Operating Losses

Net Operating Loss Carryback Provisions

The CARES Act allowed taxpayers to carry back net operating losses arising in tax years beginning after December 31, 2017 and before January 1, 2021 to the five tax years preceding the year of the loss.⁷ Loss carrybacks adjusting federal taxable income for tax years ending before March 27, 2020 will not impact a taxpayer's Colorado tax liability and should not be reported to Colorado.

files an amended return with the Internal Revenue Service, such returns are only required when the federal amended return reflects changes in federal taxable income reportable to Colorado. Because Colorado statutes do not incorporate federal statutory changes enacted after the end of a tax year, federal amended returns reflecting only changes made by the CARES Act do not change federal taxable income reportable to Colorado.

⁵ Some taxpayers will not have filed an original return for the tax year beginning in 2019 until after the passage of the CARES Act. As discussed below, adjustments to federal taxable income as reported on the Colorado Income tax return may be required to reflect the fact that Colorado applies changes to the federal Internal

Revenue Code on a prospective basis. Taxpayers that filed a Colorado return for tax years ending before the enactment of the CARES Act without making such adjustments must file an amended Colorado return.

For tax years ending before March 27, 2020, individual income taxpayers must adjust federal taxable income reported on line 1 of the Colorado individual income tax return (form DR 0104) to the extent it reflects a net operating loss carryback from a tax year beginning before January 1, 2021. This requirement does not apply to any farming losses carried back pursuant to section 172(b)(1)(B) of the Internal Revenue Code.

Because taxpayers must use pre-CARES Act provisions to calculate their federal taxable income reported on line 1 of the Colorado individual income tax return (form DR 0104) for tax years ending prior to March 27, 2020, taxpayers who carried back a loss arising in a tax year beginning after December 31, 2017 for federal income tax purposes may adjust federal taxable income reported on line 1 of the Colorado individual income tax return (form DR 0104) to carry such loss forward to a tax year ending before March 27, 2020. Such carry forward is subject to the deduction limitations discussed below.

Revenue Code on a prospective basis. Taxpayers that filed a Colorado return for tax years ending before the enactment of the CARES Act without making such adjustments must file an amended Colorado return.

⁶ The Colorado taxable income of estates and trusts is generally based upon federal taxable income as modified by section 39-22-104, C.R.S. §§ 39-22-401 and -403, C.R.S. Therefore, the discussion in this section will also apply to estates and trusts. References to line 1 of the Colorado individual income tax return (form DR 0104) will similarly apply to line 1 of the Colorado fiduciary income tax return (form DR 0105).

⁷ CARES Act, Pub. L. 116-136, section 2303(b).

Net Operating Loss Deduction Limitations

Prior to the CARES Act, the Internal Revenue Code limited deductions for net operating losses arising in tax years beginning after December 31, 2017 to 80 percent of taxable income for the year of the deduction.⁸ The CARES Act suspended the 80 percent limitation for net operating loss deductions claimed for tax years beginning before January 1, 2021.⁹

For Colorado, the limitation of 80 percent of taxable income for the year of the deduction will continue to apply to tax years ending before March 27, 2020. Taxpayers should not amend Colorado returns for tax years ending before March 27, 2020 to reflect decreases in federal taxable income resulting from the suspension of this limitation.

For tax years ending before March 27, 2020, individual income taxpayers will need to adjust federal taxable income reported on line 1 of the Colorado individual income tax return (form DR 0104) to the extent it reflects net operating loss deductions in excess of the pre-CARES Act limit. Taxpayers who filed a return reporting federal taxable income reflecting changes made by the CARES Act must file an amended return (form DR 0104X).

Add-Back Required

For tax years beginning or ending between March 27, 2020 and December 31, 2020, section 39-22-104(3)(l), C.R.S., requires taxpayers to add back to federal taxable income net operating loss

deductions taken on the federal return to the extent they are in excess of the taxable income limitation imposed by section 172(a) of the Internal Revenue Code prior to the amendment of that section by section 2303 of the CARES Act. In general, the add-back is equal to the amount by which a net operating loss deduction claimed on a taxpayer's federal income tax return exceeds 80 percent of the taxpayer's federal taxable income determined without regard to the net operating loss deduction.

Future-Year Subtractions Not Allowed

Section 39-22-104(4), C.R.S., lists the amounts individuals must subtract from federal taxable income in calculating their Colorado income tax liabilities. That section does not provide a subtraction for prior-year net operating loss deductions. Individuals may not take a subtraction from federal taxable income on their Colorado returns for tax years ending on and after March 27, 2020 to reflect additional deductions claimed on federal returns for prior tax years. The federal taxable income of an individual taxpayer who elects to waive carryback under section 172(b)(3) of the Internal Revenue Code will reflect the carryforward of such net operating losses without adjustment.

Business Interest Expense Limitation

The CARES Act made temporary changes to section 163(j) of the Internal Revenue Code.¹⁰ In general, the CARES Act increased the limitation on the

⁸ IRC section 172(a)(2); Pub. L. 115-97, section 13302.

⁹ CARES Act, Pub. L. No. 116-136, section 2303(a).

¹⁰ CARES Act, Pub. L. 116-136, section 2306.

deduction of business interest from 30 percent of adjusted taxable income to 50 percent of adjusted taxable income for tax years beginning in 2019 and 2020.¹¹

Under the CARES Act, the increased limit does not apply to partnerships for tax years beginning prior to January 1, 2020.¹² However, unless a partner elects otherwise, 50 percent of any business interest allocated to a partner in 2019 is deductible in the tax year beginning in 2020 and is not otherwise subject to the 50 percent (formerly 30 percent) limitation. The remaining 50 percent of excess business interest from 2019 allocated to the partner is subject to the adjusted taxable income limitation.

For Colorado, the limitation of 30 percent of adjusted taxable income for the year of the deduction will continue to apply to tax years ending before March 27, 2020. Taxpayers should not amend Colorado returns for tax years ending before March 27, 2020 to reflect decreases in federal taxable income resulting from the increase in this limitation.

For tax years ending before March 27, 2020, individual income taxpayers will need to adjust federal taxable income reported on line 1 of the Colorado individual income tax return (form DR 0104) to the extent it reflects business interest deductions in excess of the pre-CARES Act limit as a result of the CARES Act. Taxpayers who filed a return reporting federal taxable income reflecting

changes made by the CARES Act must file an amended return (form DR 0104X).

Add-Back Required

For tax years beginning or ending between March 27, 2020 and December 31, 2020, section 39-22-104(3)(n), C.R.S.,¹³ requires taxpayers to add back to federal taxable income business interest deductions taken on the federal return to the extent they are in excess of the limits imposed under section 163(j) of the Internal Revenue Code prior to the amendment of that section by section 2306 of the CARES Act. This includes, but is not limited to, additional deductions related to the increase in the applicable percentage and additional deductions resulting from the election to use 2019 adjusted taxable income in lieu of 2020 adjusted taxable income to calculate the limitation under section 163(j) of the Internal Revenue Code.

Future-Year Subtractions Not Allowed

Section 39-22-104(4), C.R.S., lists the amounts individuals must subtract from federal taxable income in calculating their Colorado income tax liabilities. That section does not provide a subtraction for prior-year business interest deductions that were subject to a higher limit for federal tax purposes than for Colorado tax purposes. Individuals may not take a subtraction from federal taxable income on their Colorado returns for tax years ending on and after March 27, 2020 to reflect additional deductions claimed on federal returns for prior tax years.

¹¹ CARES Act, Pub. L. 116-136, section 2306(a).

¹² CARES Act, Pub. L. 116-136, section 2306(a).

¹³ This section was added by HB20-1420, which took effect upon signature by the Governor on July 11, 2020.

Excess Loss Limitation

The CARES Act suspended the excess business loss limitation under section 461(l) of the Internal Revenue Code for tax years beginning prior to January 1, 2021 (tax years 2018, 2019, and 2020).¹⁴ In Colorado, for individual income tax purposes, the excess loss limitation will continue to apply to tax years ending before March 27, 2020. Taxpayers should not amend Colorado returns for tax years ending before March 27, 2020 to reflect decreases in federal taxable income resulting from the suspension of this limitation.

For tax years ending before March 27, 2020, individual income taxpayers will need to adjust federal taxable income reported on line 1 of the Colorado individual income tax return (form DR 0104) to the extent it reflects business loss deductions in excess of the pre-CARES Act limit. Taxpayers who filed a return reporting federal taxable income reflecting changes made by the CARES Act must file an amended return (form DR 0104X).

Add-Back Required

For tax years beginning or ending between March 27, 2020 and December 31, 2020, section 39-22-104(3)(m), C.R.S.,¹⁵ requires taxpayers to add back to federal taxable income business losses to the extent they are in excess of the limits imposed under section 461(l) of the Internal Revenue Code without regard to the amendment of that section

¹⁴ CARES Act, Pub. L. 116-136, section 2304.

¹⁵ This section was added by HB20-1420, which took effect upon signature by the Governor on July 11, 2020.

by section 2304 of the CARES Act except for the technical correction made by section 2304(b)(2)(B) of the CARES Act. In general, for tax year 2020, if a business loss reported on a taxpayer's return exceeds \$259,000, the addback is equal to the amount of the loss exceeding \$259,000. This excess is determined without regard to any deductions, gross income, or gains attributable to any trade or business of performing services as an employee.¹⁶

Future-Year Subtractions Not Allowed

Section 39-22-104(4), C.R.S., lists the amounts individuals must subtract from federal taxable income in calculating their Colorado income tax liabilities. That section does not provide a subtraction for prior-year business losses that were not subject to the excess loss limitation at the federal level but were subject to the limitation for Colorado tax purposes. Individuals may not take a subtraction from federal taxable income on their Colorado returns for tax years ending on and after March 27, 2020 to reflect additional losses allowed on federal returns for prior tax years.

Qualified Improvement Property

The CARES Act amended the 2017 Tax Cuts and Jobs Act¹⁷ to retroactively treat certain interior, non-load-bearing building improvements (so-called "qualified improvement property") as 15-year property under the Modified Accelerated Cost Recovery System.¹⁸ This class life accordingly makes qualified improvement property eligible for

¹⁶ CARES Act, Pub. L. 116-136, section 2304(b)(2)(B).

¹⁷ See CARES Act, Pub. L. 116-136, section 2307.

¹⁸ CARES Act, Pub. L. 116-136, section 2307(a)(1)(A).

the additional first-year depreciation allowed by section 168(k) of the Internal Revenue Code. Finally, qualified improvement property that is required to be treated as alternative depreciation system property now has a class life of 20 years.¹⁹

Taxpayers that change depreciation methods or make late elections, and file related amended returns or administrative adjustment requests, pursuant to Revenue Procedure 2020-025²⁰ for tax years ending prior to March 27, 2020 should not amend their Colorado returns.

For tax years ending before March 27, 2020, taxpayers will need to adjust federal taxable income reported on line 1 of the Colorado individual income tax return (form DR 0104) to the extent it reflects the changes in depreciation methods, class lives, or elections permitted by Revenue Procedure 2020-025. Taxpayers who filed a return reporting federal taxable income reflecting changes made by the CARES Act must file an amended return (form DR 0104X).

Federal taxable income for tax years ending on and after March 27, 2020 will reflect any changes or elections without adjustment.

Future-Year Subtractions Not Allowed

Section 39-22-104(4), C.R.S., lists the amounts individuals must subtract from federal taxable income in calculating their Colorado income tax liabilities. Except as provided in subsection (4)(b), section 39-22-104 does not provide a subtraction

for prior-year cost recovery or bonus depreciation allowed at the federal level that was not allowed for Colorado tax purposes. Individuals may not take a subtraction from federal taxable income on their Colorado returns for tax years ending on and after March 27, 2020 to reflect additional depreciation allowed on federal returns for prior tax years. Refer to the examples starting on page 13 for further information on the subtraction allowed upon the sale or other disposition of the qualified improvement property.

C corporations

Net Operating Losses

Net Operating Loss Carryback Provisions

The CARES Act allowed taxpayers to carry back net operating losses arising in tax years beginning after December 31, 2017 and before January 1, 2021 to the five tax years preceding the year of the loss.²¹ Loss carrybacks adjusting federal taxable income for tax years ending before March 27, 2020 will not impact a taxpayer's Colorado tax liability and should not be reported to Colorado.

Corporations are not allowed to carry back losses for Colorado income tax purposes.²² Colorado net operating losses may be carried forward to the extent allowed by statute.²³

¹⁹ CARES Act, Pub. L. 116-136, section 2307(a)(2).

²⁰ 2020-19 I.R.B. 785 (eff. Apr. 17, 2020).

²¹ CARES Act, Pub. L. 116-136, section 2303(b).

²² Section 39-22-504(3), C.R.S.

²³ Section 39-22-504(1) and (3), C.R.S.

Net Operating Loss Deduction Limitations

Prior to the CARES Act, the Internal Revenue Code limited deductions for net operating losses arising in tax years beginning after December 31, 2017 to 80 percent of taxable income for the year of the deduction.²⁴ The CARES Act suspended the 80 percent limitation for net operating loss deductions claimed for tax years beginning before January 1, 2021.²⁵

For Colorado, a limitation of 80 percent of taxable income for the year of the deduction will continue to apply to tax years ending before March 27, 2020. Taxpayers should not amend Colorado returns for tax years ending before March 27, 2020 to reflect decreases in federal taxable income resulting from the suspension of this limitation. For tax years beginning in 2019, and ending before March 27, 2020, the Colorado corporate income tax return for 2019 (form DR 0112) reflects the calculation of this limitation.

Pre-CARES Act Limits Made Permanent

House Bill 20-1420 amended section 39-22-504(1) adding a new paragraph (b). The amendment permanently applies the 80 percent limitation in section 172(a)(2) of the Internal Revenue Code to losses incurred after December 31, 2017 without regard to the amendments made by section 2303 of the CARES Act. In particular, the limit is calculated after the deductions allowed under section 199A and 250 of the Internal Revenue Code. The Colorado corporate income tax return (form

DR 0112) will reflect the calculation of this limitation.

Business Interest Expense Limitation

The CARES Act made temporary changes to section 163(j) of the Internal Revenue Code.²⁶ In general, the CARES Act increased the limitation on the deduction of business interest from 30 percent of adjusted taxable income to 50 percent of adjusted taxable income for tax years beginning in 2019 and 2020.²⁷

For partnerships, the increased limit does not apply for tax years beginning prior to January 1, 2020.²⁸ However, unless a partner elects otherwise, 50 percent of any business interest allocated to a partner in 2019 is deductible in the tax year beginning in 2020 and is not otherwise subject to the 50 percent (formerly 30 percent) limitation. The remaining 50 percent of excess business interest from 2019 allocated to the partner is subject to the adjusted taxable income limitation.

For Colorado corporate income tax purposes, the limitation of 30 percent of adjusted taxable income for the year of the deduction will continue to apply to tax years ending before March 27, 2020. Taxpayers should not amend Colorado returns for tax years ending before March 27, 2020 to reflect decreases in federal taxable income resulting from the increase in this limitation.

²⁴ IRC section 172(a)(2); Pub. L. 115-97, section 13302.

²⁵ CARES Act, Pub. L. No. 116-136, section 2303(a).

²⁶ CARES Act, Pub. L. 116-136, section 2306.

²⁷ CARES Act, Pub. L. 116-136, section 2306(a).

²⁸ CARES Act, Pub. L. 116-136, section 2306(a).

For tax years ending before March 27, 2020, taxpayers will need to adjust federal taxable income reported on line 1 of the Colorado C corporation income tax return (form DR 0112) to the extent it reflects business interest deductions in excess of the pre-CARES Act limit. Taxpayers that filed a return reporting federal taxable income reflecting changes made by the CARES Act must file an amended return (form DR 0112X).

Add-Back Required

For tax years beginning or ending between March 27, 2020 and December 31, 2020, section 39-22-104(3)(n), C.R.S.,²⁹ requires taxpayers to add back to federal taxable income business interest deductions taken on the federal return to the extent they are in excess of the limits imposed under section 163(j) of the Internal Revenue Code prior to the amendment of that section by section 2306 of the CARES Act. This includes, but is not limited to, additional deductions related to the increase in the applicable percentage and additional deductions resulting from the election to use 2019 adjusted taxable income in lieu of 2020 adjusted taxable income to calculate the limitation under section 163(j) of the Internal Revenue Code.

Future-Year Subtractions Not Allowed

Section 39-22-304(3), C.R.S., lists the amounts C corporations must subtract from federal taxable income in calculating their Colorado income tax liabilities. That section does not provide a subtraction for prior-year business interest

deductions that were subject to a higher limit for federal tax purposes than for Colorado tax purposes. C corporations may not take a subtraction from federal taxable income on their Colorado returns for tax years ending on and after March 27, 2020 to reflect additional deductions claimed on federal returns for prior tax years.

Qualified Improvement Property

The CARES Act amended the 2017 Tax Cuts and Jobs Act³⁰ to retroactively treat certain interior, non-load-bearing building improvements (so-called “qualified improvement property”) as 15-year property under the Modified Accelerated Cost Recovery System.³¹ This class life accordingly makes qualified improvement property eligible for the additional first-year depreciation allowed by section 168(k) of the Internal Revenue Code. Finally, qualified improvement property that is required to be treated as alternative depreciation system property now has a class life of 20 years.³²

Taxpayers that change depreciation methods or make late elections, and file related amended returns or administrative adjustment requests, pursuant to Revenue Procedure 2020-025³³ for tax years ending prior to March 27, 2020 should not amend their Colorado returns.

For tax years ending before March 27, 2020, taxpayers will need to adjust federal taxable income reported on line 1 of the Colorado C corporation income tax return (form DR 0112) to

²⁹ This section was added by HB20-1420, which took effect upon signature by the Governor on July 11, 2020.

³⁰ See CARES Act, Pub. L. 116-136, section 2307.

³¹ CARES Act, Pub. L. 116-136, section 2307(a)(1)(A).

³² CARES Act, Pub. L. 116-136, section 2307(a)(2).

³³ 2020-19 I.R.B. 785 (eff. Apr. 17, 2020).

the extent it reflects the changes in depreciation methods, class lives, or elections permitted by Revenue Procedure 2020-025. Taxpayers that filed a return reporting federal taxable income reflecting changes made by the CARES Act must file an amended return (form DR 0112X).

Federal taxable income for tax years ending on and after March 27, 2020 will reflect any changes or elections without adjustment.

Future-Year Subtractions Not Allowed

Section 39-22-304(3), C.R.S., lists the amounts C corporations must subtract from federal taxable

income in calculating their Colorado income tax liabilities. Except as provided in subsection (3)(c), section 39-22-304 does not provide a subtraction for prior-year cost recovery or bonus depreciation allowed at the federal level that was not allowed for Colorado tax purposes. C corporations may not take a subtraction from federal taxable income on their Colorado returns for tax years ending on and after March 27, 2020 to reflect additional depreciation allowed on federal returns for prior tax years. Refer to the examples starting on page 13 for further information on the subtraction allowed upon the sale or other disposition of the qualified improvement property.

Frequently Asked Questions

I amended my federal income tax return in response to the CARES Act in a way that changed my federal taxable income for a tax year ending before March 27, 2020. There were no other changes to my federal income tax return. Do I need to report that change to Colorado?

If the change was caused by:	Is the change reported to Colorado?
A federal net operating loss carryback	No
Increased net operating loss deduction because of the suspension of the 80% limit	No
Increased business interest expense deduction caused by the increase in the limit from 30% to 50% of adjusted taxable income	No
The suspension of the excess business loss limitation	No
Changes in the treatment of qualified improvement property	No



I filed or amended my Colorado income tax return for a tax year ending before March 27, 2020, using the federal taxable income from my federal return. My federal return incorporated provisions from the CARES Act. Do I need to amend my Colorado income tax return?

If my federal taxable income included:	Do I need to amend my Colorado return?
A federal net operating loss carryback from a tax year beginning before January 1, 2021 (other than farm losses)	Individuals: Yes
	C corporations: No
Increased net operating loss deduction because of the suspension of the 80% limit	Individuals: Yes
	C corporations: No, unless the corporation claimed an increased Colorado net operating loss because of the suspension of the 80% limit.
Increased business interest expense deduction caused by the increase in the limit from 30% to 50% of adjusted taxable income	Individuals: Yes
	C corporations: Yes
The suspension of the excess business loss limitation	Individuals: Yes
	C corporations: Not Applicable
Changes in the treatment of qualified improvement property	Individuals: Yes
	C corporations: Yes



I am preparing my federal and Colorado returns for the tax year beginning in 2019 and ending before March 27, 2020 (“tax year 2019”). My federal return incorporated provisions from the CARES Act for tax year 2019. Do I need to adjust “federal taxable income” (“FTI”) as reported on line 1 of my Colorado income tax return?

If my federal taxable income included:	Do I need to adjust FTI on line 1 of the Colorado income tax return?
Increased net operating loss deduction because of the suspension of the 80% limit	Individuals: Yes
	C corporations: No. Colorado form DR 0112 accounts for the 80% limitation on line 17. Follow the instructions for this line.
Increased business interest expense deduction caused by the increase in the limit from 30% to 50% of adjusted taxable income	Individuals: Yes
	C corporations: Yes
The suspension of the excess business loss limitation	Individuals: Yes
	C corporations: Not Applicable
Changes in the treatment of qualified improvement property	Individuals: Yes
	C corporations: Yes

For tax years ending after March 27, 2020, will I be allowed to adjust “federal taxable income” (“FTI”) as reported on line 1 of my Colorado income tax return, or to claim an amount under “other subtractions,” with respect to amounts I was able to claim in prior years at the federal level but was unable to claim for Colorado?

If I made prior-year federal adjustments for:	May I make an adjustment to FTI or claim an “other subtraction” on my Colorado return?
A federal net operating loss carryback from a tax year beginning before January 1, 2021 (other than farm losses)	Individuals: No C corporations: Taxpayers should not adjust FTI or claim an “other subtraction.” If the taxpayer has a Colorado net operating loss, that loss may be applied in future years to the extent allowed by statute.
Increased net operating loss deduction because of the suspension of the 80% limit	Individuals: No C corporations: No
Increased business interest expense deduction caused by the increase in the limit from 30% to 50% of adjusted taxable income	Individuals: No C corporations: No
The suspension of the excess business loss limitation	Individuals: No C corporations: Not Applicable
Changes in the treatment of qualified improvement property	Individuals: No changes or subtractions are permitted to claim accelerated or special depreciation. A subtraction may be appropriate to exclude excess gain or loss under section 39-22-104(4)(b). C corporations: No changes or subtractions are permitted to claim accelerated or special depreciation. A subtraction may be appropriate to exclude excess gain or loss under section 39-22-304(3)(c).

Qualified Improvement Property Examples

Common Facts

Taxpayer is a C corporation doing business in Colorado. Taxpayer uses a calendar-year accounting cycle. In April 2018, Taxpayer placed in service certain qualified improvement property with a basis of \$5,000. For tax year 2018, Taxpayer treated the property as 39-year property and computed depreciation under the general depreciation system using the straight-line method and applying the mid-month convention. Accordingly, Taxpayer deducted \$91 in depreciation for tax year 2018. Taxpayer's federal taxable income reported to Colorado reflected this deduction.

Prior to filing federal and Colorado returns for tax year 2019, Congress enacted the CARES Act, and the Internal Revenue Service issued Revenue Procedure 2020-25. Taxpayer also took notice of emergency rule 1 CCR 201-2, 39-22-103(5.3) adopted by the Colorado Department of Revenue on June 2, 2020 ("Colorado Rule"). Taxpayer prepared its 2019 return and filed it on July 15, 2020 accordingly.

Example 1

Pursuant to Rev. Proc. 2020-25, Taxpayer amended its federal return for tax year 2018 to claim the special depreciation allowance under section 168(k) for the qualified improvement property. Taxpayer increased its deduction to \$5,000. When Taxpayer computed its federal return for tax year 2019, it did not compute a depreciation deduction for the property.

In accordance with the Colorado Rule, Taxpayer did not amend its Colorado corporate income tax return for tax year 2018. Taxpayer also noted that its 2019 tax year ended prior to the enactment of the CARES Act. In accordance with the Colorado Rule, Taxpayer computed a pro forma deduction for tax year 2019 of \$128 based upon the pre-CARES act classification of qualified improvement property as nonresidential real property (i.e., 39-year property ineligible for the special depreciation allowance). Taxpayer reduced the federal taxable income reported on line 30 of IRS form 1120 by \$128 and reported the result on line 1 of Colorado form DR 0112.

The CARES Act was in effect during tax years 2020 through 2022. As such, no adjustment to federal taxable income as reported to Colorado is necessary because Taxpayer's federal taxable income for both federal and Colorado purposes is calculated under the same version of the code.

In April 2023, Taxpayer abandoned the qualified improvement property. In general, depreciation is deducted in the calculation of adjusted basis. Since depreciation that was allowed for federal income tax purposes was not allowed for Colorado purposes, the taxpayer's adjusted basis in the property is higher for Colorado income

tax purposes. Accordingly, Taxpayer computed a subtraction under section 39-22-304(3)(c), C.R.S. The amount of the subtraction was equal to the taxpayer's adjusted basis for Colorado income tax purposes (\$4,781).

Example 2

Pursuant to Rev. Proc. 2020-25, Taxpayer made an election under section 168(k)(7) not to deduct the additional first-year depreciation for tax year 2018 for the entire class including the qualified improvement property. Taxpayer also made a change in accounting method and computed depreciation for tax year 2018, treating the property as 15-year property and computing depreciation under the general depreciation system using the straight-line method and applying the half-year convention. As a result of this change, Taxpayer increased its depreciation deduction for tax year 2018 to \$167. In accordance with the Colorado Rule, Taxpayer did not amend its Colorado corporate income tax return for tax year 2018.

For tax year 2019, Taxpayer again computed a depreciation deduction for the qualified improvement property treating the property as 15-year property and computing depreciation under the general depreciation system using the straight-line method and applying the half-year convention. As such, Taxpayer deducted \$333 on its federal income tax return with respect to such property.

Taxpayer noted that its 2019 tax year ended prior to the enactment of the CARES Act. In accordance with the Colorado Rule, Taxpayer computed a pro forma deduction of \$128 based upon the pre-CARES act classification of qualified improvement property as nonresidential real property (i.e., 39-year property ineligible for the special depreciation allowance). Taxpayer computed the difference between the pro forma deduction and the deduction claimed on its federal return (\$333 - \$128). Taxpayer increased the federal taxable income reported on line 30 of IRS form 1120 by \$205 reporting the result on line 1 of Colorado form DR 0112.

In tax years 2020 and 2021, Taxpayer again claimed a deduction on its federal return with respect to the qualified improvement property in the amount of \$333. Because the CARES Act was in effect during tax year 2020, no adjustment to federal taxable income as reported to Colorado was necessary.

In tax year 2022, Taxpayer disposed of the qualified improvement property in a transaction that resulted in a section 1231 gain. In general, depreciation is deducted in the calculation of adjusted basis. Since depreciation that was allowed for federal income tax purposes was not allowed for Colorado purposes, the taxpayer's adjusted basis in the property is higher for Colorado income tax purposes. Accordingly, Taxpayer computed a subtraction under section 39-22-304(3)(c), C.R.S. The amount of the subtraction was equal to the difference between the federal and state depreciation amounts for tax years 2018 and 2019 (\$281), computed as follows:

- 2018: \$167 in federal depreciation less \$91 for Colorado (see "Common Facts" on prior page); plus
- 2019: \$333 in federal depreciation less \$128 for Colorado.