



Estate 1

Colorado Estate Tax

GENERAL INFORMATION

The Colorado Estate Tax does not apply to decedents whose date of death is on or after January 1, 2005. The Colorado estate tax is based on the state death tax credit allowable on the federal return. The credit was eliminated effective December 31, 2004 as a result of federal estate tax law changes. Future changes to the federal laws will determine whether Colorado estate tax is due in future years.

The Colorado estate tax replaced the Colorado inheritance and gift tax for decedents with a date of death on or after January 1, 1980. The Colorado inheritance or gift tax does not apply to transfers made on or after January 1, 1980.

ESTATE TAX RETURN

Form DR 1210 "Colorado Estate Tax Return" must be filed if the date of death is prior to January 1, 2005 and a United States Estate (and Generation-Skipping Transfer) Tax Return (Form 706, or 706NA for a non-resident alien decedent) is required to be filed. If you do not know whether you need to file the federal return, contact the Internal Revenue Service.

Because the Colorado estate tax is based on the state death tax credit allowable on the federal return the table for determining the amount of the credit is located in the federal "Instructions for Form 706" booklet.

Generation-Skipping Transfers

Although Colorado has a generation-skipping transfer tax that is reportable on Form DR 1210 "Colorado Estate Tax Return," only a few estates are required to pay this tax.

This FYI is not intended to provide information on the generation-skipping transfer tax or to determine whether a United States Estate (and Generation-Skipping Transfer) tax return is required to be filed. For an explanation of this tax and the credit allowable to be paid to Colorado, please refer to the Internal Revenue Code, the Regulations and other appropriate IRS publications.

Domiciliary and non-domiciliary

The Colorado Revised Statutes (Title 39, Article 23.5) define the property of a domiciliary and the property of a non-domiciliary, and they describe the calculation of the tax.

For example, if the decedent was a Colorado domiciliary at the time of death and the decedent did not own any real property in another state or any tangible personal property in another state, the Colorado estate tax would be the maximum amount of the state death tax credit allowable on the federal return.

WHEN TO FILE AND PAY

The "Colorado Estate Tax Return" (DR 1210) is due on the same date the federal Form 706 or Form 706NA is due.

Extension to File or Pay

Colorado has no separate extension provisions for filing or for payment of estate tax but does honor extensions approved by the IRS.

Submit a copy of the federal application for extension of time to file and/or pay (Form 4768) to the Colorado Department of Revenue at the time the federal extension is requested.

If an estimated payment of the federal estate tax is submitted with the federal extension application, a corresponding estimated payment of the Colorado estate tax must be submitted with the copy of the federal extension application sent to the Department of Revenue. Within 30 days after the estate receives notification from the Internal Revenue Service of the action taken on the application for extension of time to file and/or pay, send a copy of the approval/denial to the Department of Revenue.

Any tax not paid within nine months after the date of the decedent's death shall bear penalty and interest at the applicable rate from nine months after such death until the tax is paid. The interest shall apply regardless of any extension of time to pay the tax or of any election to use an installment method for payment of the tax.

Interest will accrue from the due date of the federal additional estate tax return (regardless of any federal extension of time for payment) when the following provisions are applicable:

- if a special use valuation election was made in a federal return and a federal additional estate tax return is required, resulting in Colorado estate tax. For rules regarding special valuation, refer to section 2032A of the internal revenue code.
- if a qualified family-owned business deduction election was made in a federal return and thereafter additional Colorado estate tax is due as a result of failure to materially participate in the business, disposition of interests, or other noncompliance with the requirements of Section 2057 of the Internal Revenue Code.
- if a qualified conservation easement election was made in a federal return and thereafter additional Colorado estate tax is due as a result of any failure to implement the agreement described in Section 2031 of the Internal Revenue Code.

NOTICE: This FYI is intended to provide general information about the Colorado Estate Tax Law. References should be made to the official versions of the Colorado Revised Statutes and the Code of Colorado Regulations for detailed information.

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed, and/or approved these FYIs.