

Income 11: Investment Tax Credits

Colorado law authorizes three types of investment tax credits (ITC):

- “Old” investment tax credit
- “New” investment tax credit
- Enterprise zone (“EZ”) investment tax credit

The table on page 2 of this FYI contains only an overview of these ITCs. The qualifications, calculations, and limitations applicable to these credits are complex and not covered in detail in this publication. Please see the applicable statutes and regulations, listed below under “Additional Resources”, for additional information regarding these credits.

HOW TO CLAIM INVESTMENT TAX CREDITS

Taxpayers must file a Colorado income tax return and any applicable schedules (e.g. Form 104CR or Form 112CR) in order to claim any investment tax credits. Several additional requirements apply to taxpayers claiming enterprise zone investment tax credits.

Claiming enterprise zone credits

Taxpayers claiming enterprise zone investment tax credits must file electronically, using e-file or Revenue Online, if they are able to do so. The department strongly encourages taxpayers to file electronically to avoid unnecessary delays and problems that can occur when taxpayers file paper return. If a taxpayer files a paper return to claim an enterprise zone credit, the taxpayer must attach to the return a completed Form DR 1366 and the certifications discussed below.

Enterprise zone certification

Any taxpayer that intends to claim an enterprise zone investment tax credit must obtain both a pre-certification and a final certification from the appropriate enterprise zone administrator. The pre-certification must be obtained prior to making any investments for which a credit will be claimed and the final certification must be obtained prior to claiming any credits. Application for pre-certification and final certification can be made online at <http://choosecolorado.com/doing-business/incentives-financing/ez/>.

ADDITIONAL RESOURCES

- Colorado statutes and regulations
 - § 39-22-507.5, C.R.S. and Dept. Rules 39-22-507.5(1), (2), and (12) (“old” investment tax credit)
 - § 39-22-507.6, C.R.S. and Dept. Rule 39-22-507.6 (“new” investment tax credit)
 - Dept. Rules 39-22-507.6(4) and (5) (definition of “Section 38 property” and qualified investment)
 - § 39-30-104, C.R.S. and Dept. Rule 39-30-104 (enterprise zone investment tax credit)
 - § 39-30-103(7), C.R.S. (certification requirements)
 - § 39-30-111, C.R.S. (requirement to file electronically to claim enterprise zone credits)
- Colorado forms, publications, and guidance
 - Form DR 1366 – Enterprise Zone Credit and Carryforward Schedule
 - Form DR 0078A – Pass-Through Entity Enterprise Zone Credit Distribution Report
 - www.colorado.gov/revenueonline (to file electronically)
 - FYI General 6 – General Information About Colorado Enterprise Zones
- Federal laws
 - 26 U.S.C. §§ 38 and 46 (for “old” investment tax credit)
 - 26 U.S.C. §§ 38 and 46, as each existed immediately prior to the enactment of the federal “Revenue Reconciliation Act of 1990 (for “new” and enterprise zone investment tax credits)
- IRS forms, publications, and guidance
 - IRS Form 3468 (federal investment credits eligible for Colorado “old” ITC)
- Other resources
 - <http://choosecolorado.com/doing-business/incentives-financing/ez/> (for EZ certification)

General information regarding "Old", "New", and EZ investment tax credits

	"Old" ITC	"New" ITC	EZ ITC
Taxpayers eligible for the credit:	C corporations	C corporations	All Colorado income tax payers
Qualifying investments:	Investments in property used in Colorado that qualify for certain federal credits: <ul style="list-style-type: none"> rehabilitation credit energy credit qualifying advanced coal project credit qualifying gasification project credit the advanced energy project credit qualifying therapeutic discovery project credit 	Investments in "Section 38 property" used in Colorado - see Dept. Rule 39-22-507.6 for the definition of "Section 38 property" and for limitations pertaining thereto	Investments in "Section 38 property" the taxpayer uses exclusively in a Colorado enterprise zone for the first year of ownership - see Dept. Rule 39-30-104 for additional information and Dept. Rule 39-22-507.6 for the definition of "Section 38 property" and for limitations pertaining thereto
Credit calculation:	10% of the allowable federal credit(s); see Dept. Rule 39-22-507.5(2) for property used both inside and outside of Colorado	10% of federal ITC allowed under IRC Sec. 46 as it existed prior to 1990; see Dept. Rule 39-22-507.6(3) for property used both inside and outside of Colorado	3% of qualifying investments
Limitations on credit usage:	In general, the amount of credit a taxpayer can use for a given tax year is limited to \$5,000 plus 25% of the taxpayer's tax in excess of \$5,000. See § 39-22-507.5, C.R.S. for additional information and for limitations specific to RICs, REITs, and controlled groups of corporations.	In general, the amount of credit a taxpayer can use for a given tax year is limited to \$1,000. This \$1,000 limit is further reduced by any "Old" ITC the taxpayer uses for the same tax year. See § 39-22-507.5, C.R.S. for additional information and for limitations specific to controlled groups of corporations.	In general, the amount of credit a taxpayer can use for a given tax year is limited both to \$750,000 and to \$5,000 plus 50% of the taxpayer's tax in excess of \$5,000. See § 39-30-104, C.R.S. for additional information and for limitations applicable to tax years prior to 2014.
Allowable credit carryforward (or carryback) period:	Excess credits that cannot be used due to the above limitations can generally be carried back up to three tax years and carried forward up to seven tax years.	Excess credits that cannot be used due to the above limitations can generally be carried forward up to three tax years.	Excess credits that cannot be used due to the above limitations can generally be carried back up to three tax years and carried forward up to twelve tax years. See § 39-30-104, C.R.S. for carryforward information for investments made prior to 2014 and renewable energy investments.
Applicable Colo. regulations:	Dept. Rules 39-22-507.5(1), 507.5(2), and 507.5(12)	Dept. Rule 39-22-507.6	Dept. Rules 39-30-104 and 39-22-507.6 (for definition of "Section 38 property")
Authorizing statute(s) and code section(s):	<ul style="list-style-type: none"> § 39-22-507.5, C.R.S. 26 U.S.C. §§ 38 and 46 	<ul style="list-style-type: none"> § 39-22-507.6, C.R.S. 26 U.S.C. §§ 38, 46, and 49 as each existed prior to the federal "Revenue Reconciliation Act of 1990" 	<ul style="list-style-type: none"> § 39-30-104, C.R.S. 26 U.S.C. §§ 38, 46, and 49 as each existed prior to the federal "Revenue Reconciliation Act of 1990"