FYI For Your Information

Income 6: Part-Year Resident and Nonresident Individuals

HOW IS COLORADO RESIDENCY DETERMINED?

A person is considered a "Colorado resident" for income tax purposes if Colorado is the person's state of domicile or the person qualifies as a "statutory" resident. When evaluating whether a person's state of domicile is Colorado, the Department of Revenue will consider, among other factors, Colorado voter registration, Colorado vehicle registration, Colorado driver's license, school registration, property ownership, and residence of spouse and children. A person is a "statutory" resident of Colorado if the person maintains a permanent place of abode in Colorado and spends, in aggregate, more than six months of the tax year in Colorado. For a more complete discussion of domicile and statutory residency see Department Regulation 39-22-103(8)(A).

See FYI Income 21 for special residency rules that apply to military servicepersons and their spouses.

WHO IS A COLORADO PART-YEAR RESIDENT?

A part-year resident is an individual who was a Colorado resident for only part of the tax year. This includes a person who moved into Colorado during the tax year with the intention of making it their home and a Colorado resident who moved out of Colorado during the tax year with the intention of making their home elsewhere. A part-year Colorado resident is required to file a Colorado income tax return if they:

- are required to file a federal income tax return, **and**
- had taxable income during that part of the year they were a Colorado resident, or had taxable Colorado-source income when they were not a Colorado resident.

WHO IS A COLORADO NONRESIDENT?

A nonresident is an individual who was not a Colorado resident at any time during the tax year. However, the person may have temporarily lived and/or worked in Colorado. A nonresident is required to file a Colorado income tax return if they:

- are required to file a federal income tax return, **and**
- had taxable Colorado-source income.

COLORADO SOURCE INCOME

Income earned by an individual while they are not a resident of Colorado will be taxed in Colorado only if it is considered Colorado-source income and is included in their modified federal adjusted gross income. For Colorado purposes, the modified adjusted gross income is the federal adjusted gross income plus or minus the applicable additions and subtractions to federal taxable income that are reported on the Colorado Form 104.

The following types of income are Colorado-source income.

1. *Income from a business, trade, profession or occupation carried on in Colorado*. This includes income from any business conducted in Colorado and payments, including wages, received for work performed in Colorado, either as an independent contractor or as an employee.
2. *Income from the ownership of any interest in real or tangible personal property in Colorado*. This includes rents and royalties from real or tangible personal property located in Colorado and the gain or loss from the sale or other disposition of such property.
3. *Pass-through income attributable to sources in Colorado.* This includes income earned, received, or realized as a partner, member, or shareholder in a partnership, limited liability company, or S corporation, to the extent such income is from Colorado sources.
4. *Beneficiary income attributable to sources in Colorado.* This includes income earned, received, or realized as a beneficiary of an estate or trust, to the extent such income is from Colorado sources.
5. *Income from the use of intangible property in Colorado.* This includes income from intangible property to the extent such property is employed in a trade, business, profession or occupation carried-on in Colorado. Examples of such income include interest income from a finance business located in or active in Colorado, or royalty income from the use of a patent, trademark, or copyright employed in the active conduct of a Colorado business operation.
6. *Income from gambling and games of chance conducted in Colorado.* This includes limited stakes gambling, bingo, raffle, Colorado Lottery, sweepstakes, door prizes and other games of change conducted in Colorado.

TAX COMPUTATION FOR PART-YEAR RESIDENTS AND NONRESIDENTS

Part-year residents and nonresidents calculate their Colorado income tax liability by first calculating a "tentative" Colorado income tax liability as if they were a full year Colorado resident. The "tentative tax" is then multiplied by the ratio of their modified Colorado adjusted gross income to their total modified adjusted gross income. A part-year resident or nonresident of Colorado must fill out Colorado Form 104 and Form 104PN Part-Year Resident/Nonresident Tax Calculation Schedule, which will guide you through this calculation.

Four steps to complete a Colorado income tax return for a part-year resident or nonresident

1. Complete Form 104 as if the taxpayer is a full-year resident of Colorado up to the point that the Colorado taxable income is calculated. This means that the entire federal taxable income is reported on line 1 of Form 104 and any Colorado additions or subtractions to taxable income must be figured to determine the Colorado taxable income. Do not enter on the Other Subtractions line of Form 104 or on Form 104AD income attributable to other states. Instead, the Colorado taxable income calculated on Form 104 will include income from all states and Form 104PN will then be used to apportion Colorado and non-Colorado income.
2. Use the Colorado taxable income calculated in step 1 to determine the full-year tax (see the tax table in the instructions for Form 104). This is the "tentative tax", which usually is more than the tax that is actually due. Do not enter the "tentative tax" on Form 104. Instead, enter the "tentative tax" on line 35 of Form 104PN.
3. Complete Form 104PN to determine what percentage of the total modified adjusted gross income is taxable to Colorado. Round the calculated percentage to four decimal places. Multiply this percentage by the "tentative tax" calculated in step 2. The result will be the Colorado tax that is actually due. This Colorado tax amount is entered on both Form 104PN and Form 104.
4. Complete Form 104 using the apportioned Colorado tax. Calculate any Colorado credit amounts to compute the refund or balance due.

How does Form 104PN work?

Form 104PN consists of two columns. The first column is the federal column and the second column is the Colorado column. Enter in the federal column all income reported on your federal income tax return, regardless of where it was earned. The federal adjusted gross income on line 24 of the form will be modified by the Colorado additions and subtractions entered on lines 26 and 30. The resulting modified federal adjusted gross income, reported on line 32, is the gross income that would be taxed by Colorado if the taxpayer were a full-year resident. **NOTE**: The federal itemized deductions, standard deduction, and personal exemption are not entered on the Form 104PN because the purpose of the form is to apportion gross income and not to determine taxable income. Your taxable income is calculated on your federal return and on Form 104.

Enter in the Colorado column of Form 104PN income that was:

- earned in Colorado,
- received while the taxpayer was a Colorado resident, or
- derived from Colorado sources.

Income will only be included on a line of the Colorado column to the extent it was included on the corresponding line in the federal column. In the case of a joint return when one spouse is a full-year resident and the other is not, the resident spouse will enter their entire income and adjustments in the Colorado column along with the Colorado income and adjustments of the nonresident spouse. Report on lines 27 and 31 of the Colorado column only those additions and subtractions that apply to income reported in the Colorado column. The modified Colorado adjusted gross income reported on line 33 is the part of the modified adjusted gross income that will be effectively taxed by Colorado.

The modified Colorado adjusted gross income reported on line 33 is divided by the modified adjusted gross income reported on line 32 to determine the percentage of gross income that is subject to Colorado taxation. The percentage should be rounded to four decimal places and entered on line 34. In certain cases, particularly if there is a business loss or other loss from a non-Colorado source, this percentage can exceed 100%. The tax from the tax table entered on line 35 will be multiplied by this percentage to determine the apportioned tax for the part-year resident or nonresident. The apportioned tax is reported on line 36 and entered on Form 104 in order to calculate the taxpayer's refund or balance due.

Example 1: Ann is 57 years old and moved to Colorado on May 1. She earned $7,000 in wages in another state prior to moving to Colorado and earned $16,000 in wages in Colorado after moving. Ann had interest income of $3,000 during the year, $2,000 of which was earned while she was a Colorado resident. She also had pension income of $2,200 per month for a total of $26,400 of pension income for the year. Ann's federal taxable income is $34,850. Ann qualifies for a pension/annuity subtraction of $20,000 resulting in Colorado taxable income of $14,850.

Ann's Form 104PN would be completed as follows:

	Federal Column	Colorado Column
4. Wages	$23,000	
5. Colo Wages		$16,000
6. Interest	$3,000	
7. Colo Interest		$2,000
12. Pension	$26,400	
13. Colo Pension		$17,600
20. Total Income	$52,400	
21. Total Colo Income		$35,600
24. AGI	$52,400	
25. Colo AGI		$35,600
30. Subtractions	$20,000	
31. Colo Subtractions		$17,600
32. Modified AGI	$32,400	
33. Modified Colo AGI		$18,000
34. Percentage		55.56%
35. Tentative Tax		$688
36. Apportioned Tax		$382

Example 2: Billy is a full-year resident of Missouri. He has wages of $50,000, interest income of $1,600, and rental income from two homes of $18,000. Billy's only Colorado-source income is $10,000 from a rental home in Colorado His federal taxable income is $55,000.

Billy's Form 104PN would be completed as follows:

	Federal Column	Colorado Column
4. Wages	$50,000	
6. Interest	$1,600	
16. Rental Income	$18,000	
17. Colo rental income		$10,000
20. Total Income	$69,600	
21. Total Colo Income		$10,000
24. AGI	$69,600	
25. Colo AGI		$10,000
26. Additions	$0	
27. Colo Additions		$0
30. Subtractions	$0	
31. Colo subtractions		$0
32. Modified AGI	$69,600	
33. Modified Colo AGI		$10,000
34. Percentage		14.37%
35. Tentative Tax		$2,547
36. Apportioned Tax		$366

FEDERAL FORM 1040NR

Form 104PN provides the federal line references from forms 1040, 1040A and 1040EZ needed to complete the federal column. Taxpayers who complete a federal form 1040NR or 1040NR-EZ can use the following chart to complete the federal column of Form 104PN.

104PN line	from 1040NR line	from 1040NR-EZ line
4	8	3
6	9a and 10a	N/A
8	20	N/A
10	14 and 15	N/A
12	16b and 17b	N/A
14	13 and 19	N/A
16	18	N/A
18	11, 12 and 21	4 and 5
20	23	7
22	35	8 and 9
24	36	10

FEDERAL ADJUSTMENTS

Form 104PN requires federal adjustments reported on line 22 to be apportioned to Colorado on line 23. Use the following chart to apportion federal adjustments.

Federal adjustment on line 22	Apportionment method for line 23
IRA deduction, educator expenses, self-employment tax, self-employed health insurance deduction, SEP and SIMPLE deductions, HSA deduction, MSA deduction, 501(c)(18)(D) pension plan contributions, 403(b) contributions, business expenses of reservists, performing artists, and fee-basis government officials	Deductions allowed in the ratio of Colorado wages and/or self-employment income to total wages and/or self-employment income.
Student loan interest deduction, alimony deduction, tuition and fees deduction, reforestation amortization, repayment of supplemental unemployment benefits, deductible attorney's fees	Deductions allowed in ratio of Colorado gross income to federal gross income (line 21 / line 20).
Penalty paid on early withdrawals.	Deduction allowed if penalty paid while the taxpayer was a Colorado resident.
Jury pay deduction, PPR deductible expenses.	Deduction allowed if related to jury duty pay or related rental income reported on line 19 of Form 104PN.
Moving expenses.	Deduction allowed if you are moving into Colorado. Deduction not allowed if you are moving out of Colorado.
Domestic Production Activities Deduction	Deduction allowed in the ratio of Colorado Qualified Production Activities Income (QPAI) to Federal QPAI.

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ADDITIONS TO COLORADO ADJUSTED GROSS INCOME

Form 104PN requires additions to AGI reported on line 26 to be apportioned to Colorado on line 27. Use the following chart to apportion the additions on line 27.

Addition on line 26	Apportionment method for line 27
Non-Colorado state and local bond interest	Reported on line 27 if earned while you are a Colorado resident.
Lump-sum distributions from a pension or profit sharing plan	Reported on line 27 if received while you are a Colorado resident.
Dependent child income addition	Reported on line 27 if earned in Colorado or received while you are a Colorado resident.
Conservation easement addback	Conservation easement addbacks are never included on either line 26 or 27 of Form 104PN
Recapture of prior year tuition program contribution, ineligible withdrawals from a Colorado medical savings account, expenses paid to a club that restricts membership in a discriminatory manner	Always reported on line 27
Federal net operating loss of a non-resident of Colorado sourced to another state	Never reported on line 27
Fiduciary adjustment, partnership modification	Refer to specific addition.
Unauthorized Alien Labor Services	Reported on line 27 if the expenses were paid for a Colorado business or while you are a Colorado resident.

SUBTRACTIONS FROM COLORADO ADJUSTED GROSS INCOME

Form 104PN requires subtractions from AGI reported on line 30 to be apportioned to Colorado on line 31. Use the following chart to apportion the subtractions on line 31.

Subtraction on line 30	Apportionment method for line 31
Pension/annuity subtraction, PERA/DPSRS subtraction, railroad retirement subtraction	Reported on line 31 to the extent the retirement income is included on line 13 of Form 104PN.
State income tax refund subtraction	Reported on line 31 to the extent the refund is included on line 19 of Form 104PN.
Federal interest subtraction	Reported on line 31 to the extent the interest is included on line 7 of Form 104PN.
Colorado capital gain subtraction	Reported on line 31 to the extent the gain is included on line 11 of Form 104PN.
Tuition program contribution subtraction, medical savings account contribution subtraction, wildfire mitigation measures subtraction, adult learner contribution subtraction, marijuana business subtraction, military family relief subtraction I.R.C. 1341 credit	Always reported on line 31.
Qualifying charitable contribution	Charitable contributions are never included on either line 30 or 31 of Form 104PN.
Qualified reservation income, compensation for exonerated individuals	Reported on line 31 to the extent the income is included on line 25 of Form 104PN.
Fiduciary adjustment, partnership modification, S corporation modification	Refer to specific subtraction.

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MARRIED COUPLES FILING A JOINT FEDERAL RETURN

A taxpayer's Colorado filing status must match their federal filing status. Consequently, taxpayers who file a joint federal income tax return and are required to file a Colorado return must file a joint Colorado income tax return, even if one spouse is a Colorado resident and the other is not. See FYI Income 13 for additional information regarding the filling of a joint Colorado return when the included taxpayers have different filing statuses.

CREDIT FOR TAX PAID TO ANOTHER STATE

A Colorado resident whose income from another state is taxed by that other state may claim a credit for tax paid to that state. This credit mitigates double taxation when Colorado and another state tax the same income.

A nonresident of Colorado may never claim a credit on their Colorado return for tax paid to another state. They may be eligible for a similar credit in their state of residency.

A part-year resident of Colorado usually cannot claim this credit because no part of their income is taxed by both Colorado and another state. Normally, the Form 104PN excludes a part-year resident's non-Colorado income from Colorado taxation. However, if income is earned and/or received from sources in the other state while the taxpayer is a resident of Colorado, this income may be subject to taxation in both Colorado and the other state. For information on computing the credit for tax paid to another state for a part-year resident, please see FYI Income 17.

CHILD CARE/CHILD TAX CREDITS AND EARNED INCOME CREDITS

Child care/child tax credits and earned income credits claimed by a part-year resident are allowed in the percentage calculated on line 34 of Form 104PN. However, the credit is not allowed in a percentage in excess of 100%. Nonresidents of Colorado are not eligible to claim these credits.

SEVERANCE PAY/STOCK OPTIONS

It is becoming more common for employees to receive a W-2 reporting wages from a company a year or more after the employee left that company. This income is often a result of a severance agreement or redeemed stock options. If the employee worked in another state, but is now a resident of Colorado when the income is received, the entire amount will be taxable in Colorado. A credit for taxes paid to another state may be claimed if the income is also taxed by the state in which the income was earned.

If the employee worked in Colorado, but recognized the income after moving to another state, the income will be considered Colorado source income as it is compensation for services performed in Colorado. This income should be reported on line 5 in the Colorado column of Form 104PN. Nonresidents who performed services for the employer both within and outside of Colorado must allocate to Colorado that portion of the income that was earned in Colorado. The most common method of allocation is based on time worked in Colorado versus time worked outside of Colorado.

PART-YEAR RESIDENT CORPORATE SHAREHOLDER

In the case of a part-year resident who is a shareholder in an S corporation shareholder, the S corporation income shall be further apportioned between the resident and nonresident portions of the shareholder's taxable year based on the number of days of the S corporation taxable period during which the shareholder was a Colorado resident over the total number of days in such period.

COLORADO ALTERNATIVE MINIMUM TAX FOR PART-YEAR AND NONRESIDENTS

Please see FYI Income 14 for information about Colorado alternative minimum tax.

ADDITIONAL RESOURCES

- Colorado statutes and regulations
  - § 39-22-103(8), C.R.S. and Dept. Rule 39-22-103(8)(A) (determination of Colorado residency)
  - § 39-22-109, C.R.S. and Dept. Rule 39-22-109 (determining source of income and nonresident tax)
  - § 39-22-110, C.R.S. and Dept. Rule 39-22-110 (apportioning tax for part-year residents)
  - § 39-22-203, C.R.S. (determining source of partnership income)
  - § 39-22-404, C.R.S. (determining source of beneficiary income from an estate or trust)
  - § 39-22-601(1), C.R.S. (determining an individual's filing requirement)
- Colorado forms, publications, and guidance
  - FYI Income 13 (joint filing for spouses with different residency statuses)
  - FYI Income 17 (calculation of credit for taxes paid to another state)
  - FYI Income 21 (determination of residency for military servicepersons)
- Federal laws
  - 4 U.S.C. 114 (state taxation of retirement benefits)