

# ***FYI – For Your Information***

---

## ***State Income Tax Refund Subtraction***

### **GENERAL INFORMATION**

Beginning with the 1992 tax year, Colorado individual, estate and trust taxpayers were not allowed to claim a deduction on the Colorado income tax return for state income tax paid during the taxable year (via withholding or otherwise). Thus, any 1992 or later year Colorado or other state income tax refund would not be subject to tax by Colorado and, to the extent included in federal taxable income, such refunds may be subtracted from federal taxable income in determining Colorado taxable income. [§39-22-104(4)(e) C.R.S.] The modification is to be claimed on the Colorado Individual Income Tax Form 104; or on the fiduciary form, Form 105.

**Example:** On his 1997 federal income tax return, Taxpayer John Garcia had itemized deductions of \$6,811 including Colorado income tax withheld of \$1,352. He had to add the \$1,352 back to his federal taxable income of \$23,452 in determining his 1997 Colorado taxable income of \$24,804. During 1998, John got a \$503 refund from Colorado which he must report as income on his 1998 federal income tax return. Since he got no benefit on his 1997 Colorado return for the tax that was refunded, he may subtract the \$503 from his 1998 federal taxable income in determining his 1998 Colorado taxable income.

**NOTE:** Beginning with the 1997 tax year, any portion of the refund that is a result of:

- 1) the state sales tax refund credit or
- 2) that part of a refundable credit, such as the child care/child tax credit or earned income credit, that exceeds the net tax liability

should not be reported as income on the federal tax return since it is not a refund of income tax. Therefore, that portion of the refund would not be included in the amount subtracted from the taxable income either.

### **FOR TAX YEARS 1987-1991**

Colorado allowed taxpayers to claim a deduction for state income taxes included in their federal itemized deductions for the tax years 1987 through 1991. Therefore, any refunds of 1987, 1988, 1989, 1990 or 1991 Colorado income tax received during 1993 or later years may not be subtracted from federal taxable income in determining Colorado taxable income.

### **REFUND OF OTHER STATE INCOME TAX FOR YEARS PRIOR TO 1992**

Whether or not a taxpayer may subtract out a pre-1992 income tax refund from another state on a 1993 or later year Colorado income tax return would depend on whether or not the taxpayer received a



Colorado Department  
of Revenue  
Taxpayer Service Division  
1375 Sherman St.  
Denver, Colorado 80261

Sales Tax: (303) 232-2416  
Withholding Tax: (303) 232-2416  
Income Tax: (303) 232-2446  
Severance Tax: (303) 232-2446  
Fuel Tax: (303) 205-5967

Colorado income tax benefit for the deduction of the tax in the year it was originally paid.

**Example A:** Taxpayer Jim Smith, a 1993 Colorado resident, received a 1990 Minnesota income tax refund during 1993 which he had to report as income for federal income tax purposes. Jim was not required to file a 1990 Colorado income tax return and thus got no Colorado tax benefit from the 1990 Minnesota tax payment. Jim may subtract out the Minnesota tax refund on his 1993 Colorado income tax return.

**Example B:** Taxpayer Jane Jones was a part-year resident of Colorado during 1991. Her 1991 Colorado tax was 40 percent of what it would have been were she a full-year resident. She got a 1991 New York income tax refund of \$400 during 1993 which she reported as federal taxable income. Since she got a Colorado income tax benefit for 40 percent of her 1991 state income tax deduction, 40 percent of her refund is taxable and 60 percent is not. Jane could claim a Colorado income tax modification of 60 percent of the \$400 refund, or \$240.

### ***FURTHER INFORMATION***

There are two additional FYIs listed below that deal with the “addback” provision upon which this subtraction is based. For more information on this and related topics, consult the following:

- FYI General 1 “Department of Revenue Publications”;
- FYI General 8 “The FYI Program — Index and General Information”;
- FYI Income 3 “The Colorado Addback for High-Income Taxpayers”;
- FYI Income 4 “The Colorado Income Tax Deduction Addback.”

Single FYIs are free from the Taxpayer Service Division. They may be obtained at any statewide Taxpayer Service Center; or by writing to the Colorado Department of Revenue, 1375 Sherman St., Denver, CO 80261; or by calling the DOR Forms Hotline at (303) 232-2414. Please use the FYI number (General 1, Sales 9, etc..) when ordering FYI publications. FYIs and commonly used forms are available on the Web at [www.revenue.state.co.us](http://www.revenue.state.co.us)

For a complete set of FYIs (approximately 130 on sales, income, excise and withholding taxes), you may purchase ***The Complete Book of FYIs*** at low cost from the State Forms Center, Division of Correctional Industries, 4200 Garfield St., Denver, CO 80216. An order form is contained in FYI General 1, or call the State Forms Center, (303) 321-4164, for ordering information.