



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 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,³ 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 thus, neither do Colorado statutory references to "federal taxable income").⁴ 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 filed⁵ unless the original return reflected federal adjustments allowed by the act.⁶ Some taxpayers may need to adjust federal taxable income reported to Colorado for tax years ending before

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 make changes to federal taxable income reportable to Colorado.

⁶ 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 will be required to file an amended Colorado return.

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 for purposes of complying with federal law. Taxpayers should consult their tax advisors for guidance on federal tax laws.

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

³ See section 39-22-103(5.3), C.R.S. (defining "Internal Revenue Code" to mean the provisions of the federal "Internal Revenue Code of 1986" as amended).

⁴ Section 39-22-103(5.3), C.R.S.; 1 CCR 201-2, Rule 39-22-103(5.3).

⁵ Although section 39-22-601(6)(a), C.R.S., generally requires an amended return to be filed after a taxpayer files an amended return with the Internal Revenue Service, such returns are only required when the federal



March 27, 2020 when preparing their original return.

This publication addresses various tax situations applicable to individuals, estates and trusts, and C corporations. This publication does not cover changes to the Colorado Revised Statutes made by *HB20-1420*, passed by the Colorado General Assembly and, as of publication, pending signature by the Governor.

Individuals⁷

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.⁸ 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.

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

⁷ 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) 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.

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.⁹ The CARES Act suspended the 80 percent limitation for net operating loss deductions claimed for tax years beginning before January 1, 2021.¹⁰

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

0104) will similarly apply to line 1 of the Colorado fiduciary income tax return (form DR 0105).

⁸ CARES Act, Pub. L. 116-136, section 2303(b).

⁹ IRC section 172(a)(2); Pub. L. 115-97, section 13302.

¹⁰ CARES Act, Pub. L. No. 116-136, section 2303(a).



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

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.¹¹ 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 2020.¹²

For partnerships, the increased limit does not apply for tax years beginning prior to January 1, 2020.¹³

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).

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

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

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

¹³ CARES Act, Pub. L. 116-136, section 2306(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.

Election to Use 2019 Adjusted Taxable Income in 2020

For any tax year beginning in 2020, taxpayers may elect to substitute their adjusted taxable income from their last tax year beginning in 2019 for their adjusted taxable income in the 2020 tax year in applying the limits of section 163(j) of the Internal Revenue Code.¹⁴ For partnerships, the election must be made at the partnership level.

Federal taxable income reported to Colorado will reflect this election without adjustment.

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).¹⁵ 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).

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 Act¹⁶ to retroactively treat certain interior, non-load-bearing building improvements (so-called

¹⁴ CARES Act, Pub. L. 116-36, section 2306(a).

¹⁵ CARES Act, Pub. L. 116-136, section 2304.

¹⁶ See CARES Act, Pub. L. 116-136, section 2307.



“qualified improvement property”) as 15-year property under the Modified Accelerated Cost Recovery System.¹⁷ This class life accordingly makes qualified improvement property eligible for the additional first-year depreciation allowed by section 163(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.¹⁸

Taxpayers that change depreciation methods or make late elections, and file related amended returns or administrative adjustment requests, pursuant to Revenue Procedure 2020-025¹⁹ 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. That section 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.

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.²⁰ 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.²¹ Colorado net

¹⁷ CARES Act, Pub. L. 116-136, section 2307(a)(1)(A).

¹⁸ CARES Act, Pub. L. 116-136, section 2307(a)(2).

¹⁹ 2020-19 I.R.B. (Apr. 17, 2020).

²⁰ CARES Act, Pub. L. 116-136, section 2303(b).

²¹ Section 39-22-504(3), C.R.S.



operating losses may be carried forward to the extent allowed by statute.²²

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.²³ The CARES Act suspended the 80 percent limitation for net operating loss deductions claimed for tax years beginning before January 1, 2021.²⁴

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.

Business Interest Expense Limitation

The CARES Act made temporary changes to section 163(j) of the Internal Revenue Code.²⁵ 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 2020.²⁶

For partnerships, the increased limit does not apply for tax years beginning prior to January 1, 2020.²⁷ 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.

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).

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

²³ IRC section 172(a)(2); Pub. L. 115-97, section 13302.

²⁴ CARES Act, Pub. L. No. 116-136, section 2303(a).

²⁵ CARES Act, Pub. L. 116-136, section 2306.

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

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



Election to Use 2019 Adjusted Taxable Income in 2020

For any tax year beginning in 2020, taxpayers may elect to substitute their adjusted taxable income from their last tax year beginning in 2019 for their adjusted taxable income in the 2020 tax year in applying the limits of section 163(j) of the Internal Revenue Code.²⁸ For partnerships, the election must be made at the partnership level.

Federal taxable income reported to Colorado will reflect this election 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. 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 Act²⁹ 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.³⁰ This class life accordingly makes qualified improvement property eligible for the additional first-year depreciation allowed by section 163(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.³¹

Taxpayers that change depreciation methods or make late elections, and file related amended returns or administrative adjustment requests, pursuant to Revenue Procedure 2020-025³² 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 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.

²⁸ CARES Act, Pub. L. 116-36, section 2306(a).

²⁹ See CARES Act, Pub. L. 116-136, section 2307.

³⁰ CARES Act, Pub. L. 116-136, section 2307(a)(1)(A).

³¹ CARES Act, Pub. L. 116-136, section 2307(a)(2).

³² 2020-19 I.R.B. (Apr. 17, 2020).



Future-Year Subtractions Not Allowed

Section 39-22-304(2), 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 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.

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 C corporations: No