

2016



COLORADO

Department of Revenue

Colorado Pass-Through Entities and Composite Filing for Nonresidents Income Tax Filing Guide

File your return for free using Revenue Online at www.Colorado.gov/RevenueOnline or using private e-file software. Only mail the paper form if you are not able to electronically file the return for any reason. Please note that filing on paper can increase return errors. All forms in this booklet may be photocopied.

Partnerships, S corporations, LLCs, LPs, LLPs, LLLPs, and Associations with nonresident members can opt to file a composite return for those members. Complete lines 11-31 of Form 106 to pay the tax on the Colorado source income.

- No other forms must be completed.
- No special election or signature is required by the member for inclusion.
- Members do not have to file a Colorado individual return.

In lieu of a composite return, there are two other options that pass-through entities can use to meet the nonresident member filing requirements. However, these options require additional forms and cannot be used if the member will not be filing a Colorado individual return.



Official State of
Colorado Publication

Booklet Includes:

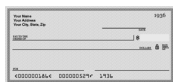
Instructions
Form 106
Related Forms



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www.Colorado.gov/RevenueOnline

If you are filing this return:

With
A
Payment



Mail To:

COLORADO DEPARTMENT OF REVENUE
Denver, CO 80261-0006

Without
A
Payment



Mail To:

COLORADO DEPARTMENT OF REVENUE
Denver, CO 80261-0005

Form 106 Instructions

This filing guide will assist you with completing this Colorado Income Tax Return. Once you finish the form, file it with a computer, smartphone or tablet at www.Colorado.gov/RevenueOnline, our free and secure Revenue Online service. Or, you may file using private e-file software or with a tax preparer. If you cannot file electronically for any reason, mail the enclosed forms as instructed.

Please read through this guide before starting your return. All Colorado forms and publications referenced in this guide are available for download at www.TaxColorado.com, the official Taxation Web site.

Any partnership, joint venture, common trust fund, limited association, pool or working agreement, limited liability company or any other combination of persons or interests that is required to file a federal partnership return of income must file a Colorado Form 106 if any of the partnership income is from Colorado sources.

An S corporation must file Form 106 for any year it is doing business in Colorado. An S corporation will be deemed to be doing business in Colorado if it is engaged in any activities in Colorado which are beyond the protection afforded by Public Law 86-272.

An S corporation is a corporation for which a valid election is in effect under section 1363(a) of the Internal Revenue Code. If a corporation is an S corporation for federal income tax purposes, it is an S corporation for Colorado income tax purposes. S corporations are not subject to Colorado income tax.

A change or correction on your return must be reported on a corrected Form 106 on Revenue Online. If filing on paper, mark the Amended Return box at the top of the corrected Form 106. The corrected form must include all required schedules even if the schedule was submitted with the original return and has not changed.

When used in this instruction booklet or on the partnership forms, the term "partnership" includes limited liability companies filing as partnerships for federal income tax purposes, and the term "partner" includes members of such limited liability companies.

Due Dates For Filing Return

The return is due to be filed the fifteenth day of the fourth month after the close of the tax year, or after the automatic six-month extension if applicable. See the extension payment instructions for further information. Calendar year 2016 returns are **due on April 18, 2017**.

Nonresident Partners/Shareholders/ Members

The pass-through entity is required to ensure that its nonresident partners, shareholders or members satisfy their Colorado income tax liabilities resulting from the Colorado-source income earned by the pass-through entity. This is accomplished in one of three ways:

- File a composite return on behalf of the nonresident members. The tax due on the composite filing shall be 4.63% of the Colorado-source income of the partners, shareholders or members included in the composite return.
- Provide a completed Form DR 0107 for each nonresident partner, shareholder or member establishing that they will file a Colorado income tax return. The partnership or S corporation is responsible for collecting each Form DR 0107 and submitting them to the Department.
- Provide a completed Form DR 0108 for each nonresident partner, shareholder or member. Withhold 4.63% of each nonresident partner, shareholder or member's Colorado source income and submit the payment with Form DR 0108. A separate Form DR 0108 must be submitted for each partner, shareholder or member for whom a payment is made.

You must indicate in Column 4 of Part III which of these three filing requirements has been elected by each nonresident partner, shareholder or member. Refer to publication FYI Income 54 for additional information on composite filing, the agreement to file Form DR 0107, and the withholding Form DR 0108.

Information, FYI Publications and forms are available at www.TaxColorado.com.

Declaration of Estimated Tax

Estimated payments are required if the tax attributable to any partner, shareholder or member included in a composite return is expected to exceed \$1,000. Such estimated payments should be remitted with Form 106EP.

Distributions

Colorado modifications and credits from Form 106CR, if any, may be distributed to shareholders on their stock ownership percentage and to partners on their distributive share percentage. Advise each Colorado resident partner, shareholder or member of their share of the pass-through entity modifications and credits. Advise each resident shareholder of their share of any income tax paid to other states by the corporation so they can compute the credit for tax paid other states.

Apportionment of Income

A pass-through entity doing business in more than one state must apportion its Colorado source income to any states in which the entity is doing business. This ensures income is reported to the state in which the income is earned and taxable. See publication FYI Income 59 for details regarding the following apportionment methods.

Partnerships

Income is generally apportioned in one of two ways:

- Single—sales factor
- Colorado—source income of nonresident individuals method

S Corporations

Income is generally apportioned using the single-sales method.

Not Apportioning Income — A pass-through entity doing business only in Colorado will source 100% of its income to Colorado.

Single-Sales Factor — All business income must be apportioned using the single-sales factor. Nonbusiness income may either be directly allocated to the appropriate state or treated as business income, subject to the single-sales factor apportionment. Complete and attach Part IV to your return if you are apportioning income using the single-sales factor apportionment method.

Colorado-Source Income of Nonresident — Colorado-source income apportioned under §39-22-109, C.R.S., is computed by including income that is determined to be from Colorado sources. Attach a schedule to Form 106 explaining how Colorado-source income was determined. Modifications may be sourced to Colorado only to the extent that the income to which they relate is sourced to Colorado.

Completing Form 106

Income

Line 1 Enter the ordinary income or (loss) from line 1 of federal Schedule K.

Line 2 Enter the total of all other income listed on federal Schedule K. For partnerships, this would be the total of the amounts entered on lines 2, 3, 4, 5, 6a, 7, 8, 9a, 10 and 11 of federal Schedule K. For S corporations, this would be the total of the amounts entered on lines 2, 3, 4, 5a, 6, 7, 8a, 9 and 10 of federal Schedule K. Also include any gain from the sale of assets subject to section 179 that is not reported on Schedule K.

Modifications and Deductions

Line 3 Enter the Colorado modifications that increase federal income.

Enter any interest income (net of premium amortization) from state or municipal obligations subject to tax by Colorado. Do not include interest from obligations issued by the State of Colorado or a subdivision thereof.

Line 5 Enter the allowable deductions from federal Schedule K. For partnerships, this would be the total of lines 12, 13c(2), and 13d of federal Schedule K; and for S corporations, this would be the total of lines 11, 12c(2), and 12d of federal Schedule K. Do not include amounts provided for informational pass-through purposes only (for example: domestic production activities deduction amounts).

Charitable contributions (line 13a, Schedule K, Form 1065, or line 12a, Schedule K, Form 1120S) and investment interest expense (line 13b, Schedule K, Form 1065, or line 12b, Schedule K, Form 1120-S) may be included on line 5

of Form 106, but only if a composite return is being filed for the 4.63% tax of the nonresident partners or shareholders. Report deductions that are directly related to business operations. Deductions that are not directly related to business operations (e.g., charitable deductions) may not be deducted as part of the composite return. Partners that wish to calculate and claim the benefit of these deductions must do so by filing individual Colorado income tax returns and may not be included in the composite return.

Line 6 Colorado Marijuana Business Deduction

For Colorado-licensed marijuana businesses, list any expenditure that is eligible to be claimed as a federal income tax deduction but is disallowed by section 280E of the Internal Revenue Code because marijuana is a controlled substance under federal law.

To calculate this deduction, you must create pro forma federal schedule(s) for Business Profit or Loss as if the federal government would have allowed the expenditures from the marijuana business. The Colorado deduction shall be the difference between the profit/loss as calculated on the ACTUAL schedule(s) filed with the federal return and the pro forma schedule(s) described above. You must attach both the pro forma schedule(s) and the actual schedule(s) to your Colorado return to receive this deduction.

Line 7 To the extent of that which was included in the federal taxable income on line 4 of Form DR 106, enter the sum of the following:

- Any interest income earned on obligations of the United States government and any interest income earned on obligations of any authority, commission, or instrumentality of the United States to the extent such obligations are exempt from state tax under federal law.
- The modification for foreign source income of an export taxpayer. For purposes of this modification, an "export taxpayer" means any partnership which sells 50% or more of its products which are produced in Colorado in states other than Colorado, or in foreign countries, or if the gross receipts of such partnership are derived from the performance of services, such services are performed in Colorado by a partner or employee of the partnership and 50% or more of such services provided by the partnership are sold or provided to persons outside of Colorado. If a partnership qualifies as an export taxpayer, it may exclude for Colorado income tax purposes any income or gain which constitutes foreign source income for federal income tax purposes.
- To the extent included in federal taxable income, the excludable Colorado capital gain income for property acquired on or after May 9, 1994 and held for five or more years. See publication FYI Income 15 for information on which capital gains qualify for this subtraction.

Neither the C corporation foreign income exclusion or the partnership export taxpayer foreign source income modification may be claimed by an S corporation or passed through to its shareholders.

Colorado–Source Income

Line 10 Enter the Colorado-source income. If part of the income is not Colorado-source income, see the instructions for Apportionment of Income. The Colorado income tax statute provides that in determining the source of a nonresident partner's income, no effect shall be given to a provision in the partnership agreement which characterizes payments to the partner as being for services or for the use of capital. Thus payments to partners, whether salaries or interest, shall be construed to be from Colorado sources and taxable by Colorado in the same ratio as is the ordinary income of the partnership.

The partnership will not normally determine income from Colorado sources for any corporate partner as the corporation will include its share of the partnership's income and factors in its own income and factors subject to allocation and apportionment.

Composite Return

Complete lines 11 through 31 of Form 106 only if a composite return is being filed for nonresident partners/shareholders/members.

Line 11 Enter the Colorado-source income of the nonresident partners/shareholders/members who are included in the composite return.

Line 12 Enter 4.63% of the Colorado-source income reported on line 11.

Line 13 Enter the tax credits from Form 106CR that are allocated to the nonresident partners/shareholders/members included in the composite return. Do not include any gross conservation easement credit (line 19), refundable or non-refundable Enterprise Zone credits (line 22 or line 30, respectively), certified auction group license fee credit (line 21), business personal property tax credit (line 31) or refundable innovative motor vehicle credit (line 30), which must be reported separately.

Line 14 Enter non-refundable Enterprise Zone Credits from line 87 from the Form DR 1366.

Line 15 Enter 20% of the portion of the purchase price that the license plate auction group has certified as exceeding the fair market value of the registration number.

Line 18 Carefully review payment records before completing this line. Use Revenue Online (www.Colorado.gov/RevenueOnline) to verify estimated taxes paid on the account. Enter the amount of credit for prepayments. Include the sum of the following on line 18:

- estimated tax payments for 2016; and
- any overpayment from 2015 that was carried forward to 2016; and
- extension payment(s); and
- payments remitted with Form DR 1079 to satisfy withholding requirements for the sale of Colorado real estate.

Line 19 Enter the amount of withholdings reported on Form W-2G made on lottery or gambling winnings. This is rare and will not apply to most taxpayers.

Line 20 Enter the gross conservation easement credit available to the nonresident partners/shareholders included in the composite return from form DR 1305G line 33.

Line 21 Enter the innovative motor vehicle credit generated in 2016 from line 20 Form 106CR that was allocated to the nonresident partners/shareholders included in the composite return. This credit is refundable when generated in 2016 (can exceed the net tax on line 17). This credit is not refundable for credits carried forward from 2009 and earlier. If the pass-through entity is carrying forward any alternative fuel vehicle or innovative motor vehicle credits, enter the amount on line 18 of the Form 106CR. We suggest that you read publication FYI Income 67.

Line 22 Enter the amount of refundable renewable energy tax credit as calculated or from Form DR 1366 line 88.

Line 23 Business Personal Property Credit for composite return business owners.

This credit is only available if business personal property tax was paid to a Colorado county in 2016 and the business had business personal property of \$15,000 or less.

Submit a copy of the assessor's statement with your return.

Table 1 – Match your taxable income amount from line 9 of the Form DR 106.

Amount from Form 106 line 9	Credit rate
\$0 - \$9,275	.8537
\$9,276 - \$37,650	.8037
\$37,651 - \$91,150	.7037
\$91,151 - \$190,150	.6737
\$190,151 - \$413,350	.6237
\$413,351 - \$415,050	.6037
\$415,051 and up	.5577

Business personal property credit calculation worksheet:

Enter the amount of business personal property tax paid in 2016. (Enter only the pro rata amount of tax paid by the composite members).	A
Enter the Credit Rate from Table 1 that corresponds with your Federal Taxable Income.	B
Multiply line A times line B to calculate the credit allowed. Enter on Form 106 line 23.	

Line 25 If 90% of the tax is not paid by the due date, you must add a delinquent payment penalty. The penalty is 5% of the additional tax due for the first month of delinquency and ½% for each additional month up to a maximum of 12%.

Line 26 Interest is due on any unpaid tax balance paid after the due date. The interest rate is 4%, but increases to 7% for any amount unpaid after 30 days.

Line 27 The estimated tax penalty is computed for each partner or shareholder on Form DR 0204. This penalty applies only when the tax due for an individual included in the composite filing is more than \$1,000. If this penalty is

due, submit Form DR 0204 for each individual who owes the penalty and enter the total penalty on line 28.

Line 28 Enter the balance due, including any penalty or interest due from lines 25, 26, and 27.

Line 29 If the credits on line 24 exceed the tax due on line 17, enter the amount of the overpayment on line 29.

Line 30 Enter the amount from line 29 you want to credit to next year's estimated tax.

Line 31 Enter the amount from line 29 you wish to have refunded at this time.

Direct Deposit – You have the option of authorizing a transaction by the Department to directly deposit these funds into your bank account. Otherwise, a refund check will be mailed to the address you have designated on this return.

Enter the routing and account numbers and account type. The routing number is 9 digits. Account numbers can be up to 17 characters (numbers and/or letters). Include hyphens, but do NOT enter spaces or special symbols. We recommend that you contact your financial institution to ensure you are using the correct information and that they will honor a direct deposit.

Intercepted Refunds – The Department will intercept your refund if you owe back taxes or if you owe a balance to another Colorado government agency or the IRS.

Paid Preparer Authorization

Designate whether the paid preparer can discuss this return with the Department. By completing this area of the return, you are granting the designee the ability to:

- Provide any missing information needed for the processing of your return; and
- Call the Department for information about your return, including the status of your refund or processing time; and
- Receive upon request copies of notices, bills, or transcripts related to your return; and
- Respond on your behalf to notices about math errors, intercepts, and questions about the preparation of your return.

This designation does not allow the third party to receive your refund check, bind you to anything (including any additional tax liability), or otherwise represent you before the Colorado Department of Revenue. If you would like to expand the designee's authorization, complete Form DR 0145, Power of Attorney for Department Administered Tax Matters.

The authorization will automatically end no later than the due date (without regard to extensions) for filing the pass-through entity's 2016 tax return.



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