Colorado allows an income tax subtraction for wildfire mitigation measures performed on property located in Colorado. For tax years 2023 through 2025, an income tax credit is also allowed for performing wildlife mitigation measures. Both the subtraction and the credit are allowed to qualifying taxpayers who incur actual out-of-pocket expenses for wildfire mitigation measures on their property. A taxpayer who meets all applicable requirements may claim both the subtraction and the credit for the costs they incur in performing wildfire mitigation measures.

This publication is designed to provide general guidance regarding the wildfire mitigation measures subtraction and credit and to supplement guidance provided in the *Colorado Individual Income Tax Guide*. Nothing in this publication modifies or is intended to modify the requirements of Colorado's statutes and regulations. Taxpayers are encouraged to consult their tax advisors for guidance regarding specific situations.

Qualifying taxpayers

The subtraction and credit for wildfire mitigation measures are allowed only to a landowner who is an owner of record of the private land located in Colorado on which the mitigation measures are performed.[1] The landowner's interest in the property may include an easement, right-of-way, or estate in the land.[2] The taxpayer's interest in the property may be held solely, jointly, or in common.[3] However, in the case of real property owned as tenants in common, the subtraction and the credit are each allowed to only one of the individuals of the ownership group.[4]

In general, the subtraction and the credit are not allowed to any partnership, S corporation, or other similar entity that owns private land as an entity and its partners, shareholders, and members cannot claim either the subtraction or the credit for any costs the partnership, S corporation, or other similar entity incurs.[5] Please see the sections about pass-through entities, later in this publication, for additional information.

Qualifying ownership interests[6]

A landowner's interest in the property may be a fee interest, an easement, a right-of-way, or some other form of ownership in real property.

Fee interest[7]

A fee interest is an absolute and unconditional ownership interest in real property.

Easements and rights-of-way[8]

An easement is a non-possessory interest in real property to enter on to land and use the land, or to restrict the use of such land, for an indefinite or specific period of time, such as a right-of-way to travel across land or to use the land for recreational purposes (e.g., fishing, hunting, camping). A right-of-way typically is a type of easement.

Leases[9]

A lease is an estate in land and, therefore, a lessee is a landowner for purposes of credit and the subtraction, provided that evidence of the lease is properly recorded. The lessor is also a landowner as either the owner of a fee interest in the land or as a lessee who is acting in the capacity of a sublessor.

Non-qualifying property

Neither the subtraction nor the credit is allowed for wildfire mitigation measures performed on any publicly owned land, regardless of whether a taxpayer holds an easement, right-of-way, lease, or other estate in that land.[10] For example, an individual who owns or leases a building on land owned by the government or who has an easement or right-of-way, which includes fencing, bridging, buildings, or fixtures owned by the individual, on land owned by the government cannot claim either the subtraction or the credit for wildfire mitigation measures performed on that land.

Wildfire mitigation measures

Wildfire mitigation measures are any of the following activities, so long as such activities meet or exceed any applicable standards established by the Colorado State Forest Service or the Division of Fire Control Prevention and Control:[11]

- the creation of a defensible space around structures;
- the establishment of fuel breaks;
- the thinning of woody vegetation for the primary purpose of reducing risk to structures from wildland fire; or
- the secondary treatment of woody fuels by lopping and scattering, piling, chipping, removing from the site, or prescribed burning.

Information about standards established by the Colorado State Forest Service and the Division of Fire Prevention and Control can be found online at:

- *csfs.colostate.edu/wildfire-mitigation/*
- *dfpc.colorado.gov/sections/wildfire-information-resource-center*

A landowner may claim the subtraction or the credit only for wildfire mitigation measures performed on the property in which the landowner holds an ownership interest.[12] Please see *Qualifying ownership interests*, earlier in this publication, for information about different types of ownership interests.

As an example, an individual who is a lessee of land owned by someone else can claim the subtraction and credit for the costs they incur for wildfire mitigation measures performed on the property because they have an ownership interest (the lease) in the land on which the work was performed, even though a third party owns the underlying fee interest in the land.[13] If the lessor separately incurs costs for wildfire mitigation measures performed on the same property, they may also claim a subtraction for the costs they pay.[14] However, if the lessor and lessee share the costs of the wildfire mitigation measures, neither can claim a subtraction or credit for the shared costs.[15] Please see *Cost sharing*, later in this publication, for additional information.

A taxpayer who pays for wildfire mitigation measures on a neighboring landowner's land for the purpose of protecting the taxpayer's property cannot claim the subtraction or the credit for the costs incurred unless the taxpayer owns a qualifying interest in the neighboring landowner's land.[16]

Qualifying costs[17]

The calculations of both the wildfire mitigation measures subtraction and credit are based on the actual out-of-pocket expense incurred and paid by the landowner, documented by receipt, for performing wildfire mitigation measures. An actual out-of-pocket expense is incurred by a landowner who hires and pays a third-party contractor to perform wildfire mitigation measures on their property.[18] Additionally, a landowner incurs an actual out-of-pocket expense by purchasing a chainsaw, if it is purchased primarily for wildfire mitigation measures.[19] However, the labor of a landowner who personally performs wildfire mitigation measures on their property is not an out-of-pocket expense.[20]

Non-qualifying expenses and amounts[21]

Various expenses and amounts related to wildfire mitigation measures are not considered in the calculation of either the credit or the subtraction. The purchase price for any property or service not used primarily for wildfire mitigation measures does not qualify for either the credit or the subtraction.[22] Qualifying costs also do not include any inspection or certification fees, in-kind contributions, donations, incentives, or cost sharing associated with performing wildfire mitigation measures. Additionally, qualifying costs do not include expenses paid by the landowner from any grants awarded to the landowner for performing wildfire mitigation measures.

Property not used primarily for wildfire mitigation[23]

Purchases of an all-terrain vehicle, truck, tractor, or trailer are not eligible for the credit or the subtraction, even though the landowner may use these items to perform wildfire mitigation measures, because these items are not primarily used for wildfire mitigation measures. However, rental charges for these types of vehicles may be eligible for the credit and the subtraction if the landowner primarily uses the rented items to perform wildfire mitigation measures.

Costs incurred by the landowner for landscaping performed primarily for aesthetic purposes, such as installation of a patio, lawn, garden or similar landscaping, but also serve as a fire break or other wildfire mitigation measure, are not eligible for the credit or the subtraction because the costs were not incurred primarily for wildfire mitigation measures.

In-kind contributions and donations[24]

In-kind contributions and donations of time, labor, materials, or equipment made either by or to the landowner do not qualify for either the credit or the subtraction.

Cost sharing[25]

A landowner may not claim either the subtraction or the credit for any arrangement by which participants, which may include landowners and non-landowners, agree to share the cost of performing wildfire mitigation measures. For example, if neighboring landowners agree to share the costs of purchasing or renting equipment or for hiring a third-party contractor to perform wildfire mitigation measures, they cannot claim either a credit or a subtraction for the shared costs.

Grants and incentives[26]

Any cost paid by a landowner from, or reimbursed by, an incentive or grant does not qualify for either the credit or the subtraction.

Income tax subtraction[27]

A landowner may claim an income tax subtraction for the actual out-of-pocket expenses they incur for wildfire mitigation measures performed in that tax year on their real property located within a wildland-urban interface area in Colorado.[28] A wildland-urban interface area is an area where structures and other human developments meet or intermingle with wildland vegetation.[29]

Subject to the limits described below, the allowable subtraction is a percentage, which varies depending on the tax year, of the actual out-of-pocket expenses the landowner incurs for wildfire mitigation measures.

Tax years	Percentage
2017-2019	100%
2020-2025	50%

The amount of the subtraction a landowner claims in any income tax year may not exceed either $2,500 or the total amount of the landowner's federal taxable income for the income tax year, whichever is less.[30] The subtraction claimed by two taxpayers filing a joint return may not exceed $2,500.[31] If two taxpayers who may legally file a joint return file separately, only one of the taxpayers may claim the subtraction.[32] In the case of real property owned as tenants in common, the subtraction is allowed only to one of the individuals of the ownership group.[33]

Pass-through entities

The subtraction is not allowed to any partnership, S corporation, or other similar entity that owns private land as an entity.[34] Partners, shareholders, and members cannot claim the subtraction for any costs incurred by a partnership, S corporation, or other similar entity. However, an individual who holds an easement, leasehold, right-of-way, or estate in real property owned or leased by a legal entity may be able to claim the subtraction for any costs they incur for wildfire mitigation measures performed on the property.[35]

Claiming the subtraction

Landowners must complete and submit a *Subtractions from Income Schedule* (DR 0104AD) with their *Colorado Individual Income Tax Return* (DR 0104) to claim the subtraction. They must also submit copies of receipts documenting the actual out-of-pocket expenses incurred for wildfire mitigation measures either along with their return or by using the E-Filer Attachment function online at *Colorado.gov/RevenueOnline*.

Income tax credit[36]

For tax years 2023 through 2025, landowners may claim a credit for wildfire mitigation measures if their federal taxable income does not exceed the following limit, depending on the tax year. The taxable income limit for tax years after 2023 are adjusted for inflation.

Tax year	Federal taxable income limit
2023	$120,000
2024	$126,258

Subject to the limits described below, the credit a landowner may claim is equal to 25% of up to $2,500 of actual out-of-pocket expenses they incur for wildfire mitigation measures performed in that tax year on their real property located in Colorado.

In the case of real property owned by tenants in common or joint tenants, the credit is allowed to only one of the individuals of the ownership group.[37]

Limitations

The maximum credit a landowner may claim in for any tax year is $625.[38] In the case of two taxpayers filing a joint return, the total credit they may claim on their return cannot exceed $625.[39] In the case of two taxpayers who may legally file a joint return but actually file separate returns, only one of the taxpayers may claim the credit.[40]

Additionally, if the amount of a credit exceeds a taxpayer's actual tax liability for the income tax year, the excess amount that is not used to offset the taxpayer's income tax liability cannot be either refunded to the taxpayer or carried forward to any subsequent tax year.[41]

Pass-through entities

In general, the credit is not allowed to any partnership, S corporation, or other similar entity that owns private land as an entity.[42] Except as discussed below, partners, shareholders, and members cannot claim the credit for any costs incurred by a partnership, S corporation, or other similar entity. However, an individual who holds an easement, leasehold, right-of-way, or estate in real property owned or leased by a legal entity may be able to claim the subtraction or credit, or both, for any costs they incur for wildfire mitigation measures performed on the property.[43]

A partnership, S corporation, or other similar entity that owns private land as an entity may qualify for the credit only if the following requirements are met:

- there must be a dwelling on that land that is designated for residential occupancy;[44] and
- the federal taxable income of the pass-through entity, as determined under the applicable provisions of the Internal Revenue Code, does not exceed the federal taxable income limit discussed earlier in this publication.[45]

If a partnership, S corporation, or other similar entity qualifies for the credit, the total credit allowed to entity cannot exceed $625, as discussed in *Limitations*, earlier in this publication.[46] Each partner or shareholder who is an individual, estate, or trust may claim their share of the credit allowed to the partnership or S corporation only if the partner or shareholder meets all applicable requirements for the credit, including the limit on federal taxable income.[47]

Claiming the credit

Landowners must complete and submit an *Individual Credit Schedule* (DR 0104CR) with their *Colorado Individual Income Tax Return* (DR 0104) to claim the credit. They must also submit copies of receipts documenting the actual out-of-pocket expenses incurred for wildfire mitigation measures either along with their return or by using the E-Filer Attachment function online at *Colorado.gov/RevenueOnline*.

Additional resources

The following is a list of statutes, regulations, forms, and guidance pertaining to the wildfire mitigations measures subtraction and credit. This list is not, and is not intended to be, an exhaustive list of authorities that govern the tax treatment of every situation. Individuals and businesses with specific questions should consult their tax advisors.

Statutes and regulations

- § 39-22-104(4)(n.5), C.R.S. Wildfire mitigations measures
- § 39-22-543. Credit for wildfire hazard mitigation expenses.
- Rule 39-22-104(4)(n.5). Wildfire mitigation measures subtraction.
- Rule 39-22-543. Wildfire Mitigation Measures Credit.

Forms and guidance

- *Tax.Colorado.gov/individual-income-tax-forms*
- *Colorado Individual Income Tax Return* (DR 0104)
- *Subtractions from Income Schedule* (DR 0104AD)
- *Individual Credit Schedule* (DR 0104CR)
- *csfs.colostate.edu/wildfire-mitigation/*
- *dfpc.colorado.gov/sections/wildfire-information-resource-center*