

FYI – For Your Information

General Information About Colorado Enterprise Zones

WHAT IS A STATE ENTERPRISE ZONE?

An enterprise zone is defined as an economically distressed area of Colorado in which special tax incentives are offered to businesses that expand or locate in the zone. The purpose of the tax incentives is to create new jobs and investments in the zone. [§39-30-102, C.R.S.]

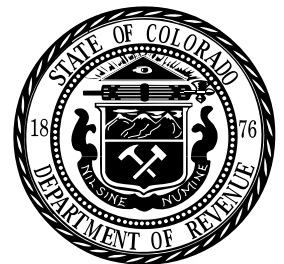
The enterprise zone program was created by the Colorado legislature as of July 1, 1986. Since that time, Colorado has designated 16 areas as Colorado enterprise zones. See page 6 of this FYI for the current list. **Contact the local zone administrators for detailed information concerning zone boundaries. Contact the Department of Revenue for more information about the tax incentives.**

WHAT ARE THE TAX INCENTIVES/ CREDITS AVAILABLE IN THE ENTERPRISE ZONES?

Colorado enterprise zones provide state tax incentives to businesses located in the zone, particularly for new or expanding businesses.

Not all businesses qualify for all the tax incentives. Please refer to the following individual FYI publications. The tax credits are:

1. Investment Tax Credit for businesses located in a Colorado enterprise zone. See FYI Income 11 for more information about this credit.
2. New Business Facility Jobs Credits for new or expanding business facilities located in an enterprise zone that create new jobs. See FYI Income 10 for more information about these credits.
3. State Sales and Use Tax Exemption for Manufacturing and Mining Equipment used in an enterprise zone. This exemption is for equipment used directly in the manufacturing or mining (including oil and gas) process. It applies to state sales and use tax and some state-collected local sales tax. See FYI Sales 10 for more information on the manufacturing equipment exemption and FYI Sales 69 for more information on the mining equipment exemption.
4. Research and Development Tax Credit for research and development carried on in an enterprise zone. See FYI Income 22 for more information about this credit.
5. Tax Credit for Private Contributions to Enterprise Zone Administrators. See FYI Income 23 for more information about this credit.
6. Tax Credit for the Rehabilitation of Vacant Commercial Buildings located in an enterprise zone. See FYI Income 24 for more information about this credit.
7. Qualified Job Training Program Investment Credit for taxpayers who invest in a training program. See FYI Income 31 for more information about this credit.



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

Forms and other services:
(303) 238-FAST (3278)
Assistance:
(303) 238-SERV (7378)
www.taxcolorado.com

Insurance companies are eligible for enterprise zone credits. Although insurance companies pay premium tax instead of income tax, they may claim enterprise zone credits to the same extent that corporations, which pay income tax, can claim the credits. For additional information, contact the Colorado Insurance Commissioner at (303) 894-7499.

The zone administrator will issue certification to each business located within the zone that such business is in the zone. The business must attach a copy of the "Enterprise Zone Certification of Qualified Business" form (DR 0074) to its Colorado income tax return if the business is claiming an enterprise zone credit. A copy of this form is included in this publication. Businesses should also contact local governments to determine if city or county tax credits are available to businesses in Colorado enterprise zones.

FURTHER INFORMATION

FYIs, commonly used forms and additional tax information are available on the Web at www.taxcolorado.com

More information on Colorado Enterprise Zones is available through the Colorado Office of Economic Development, 1625 Broadway, Room 1700, Denver, CO 80202; (303) 892-3840; www.state.co.us/oed/ez

For additional tax information visit the "Tax Information Index" which covers a variety of topics including links to forms, publications, regulations, statutes and general questions and answers. The "Tax Information" Index is located at www.taxcolorado.com

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having authority to bind the Department, has not formally reviewed and/or approved these FYIs.

Certification of Qualified Enterprise Zone Business

For tax years beginning after August 6, 2002, this certification is public record and copies will be available from the enterprise zone administrator.

Check here if this certification is for an earlier tax year and is a confidential tax document: Tax year beginning date _____, 200__

This form certifies that your facility is located within the boundaries of a Colorado Enterprise Zone, and collects information required by 39-30-103(4), C.R.S.

To claim the Colorado Enterprise Zone income tax benefits:

- Calculate your Colorado Enterprise Zone Tax Credits, following the instructions on Form 112CR (Corporation), 106CR (Partnership/S Corp), or 104CR (Individual).
- Submit or mail this **completed** form (signed by an authorized company official or owner and dated) to the local Enterprise Zone Administrator for the zone where your facility is located for signature. **ENCLOSE A SELF-ADDRESSED STAMPED ENVELOPE.**
- **DO NOT SEND THIS FORM TO THE DEPARTMENT OF REVENUE OR OFFICE OF ECONOMIC DEVELOPMENT FOR CERTIFICATION.**
- Attach a copy of the **CERTIFIED** form to your Colorado Income Tax return. (**Do not** send the form independently of your return). Certification is not required for an Enterprise Zone Investment Tax Credit of less than \$450. A new form is required each year you claim Colorado Enterprise Zone Tax Credits.
- **Note to "S" Corporation and Partnership filers:** Please provide to all appropriate partners and shareholders a copy of the certificate along with a calculation of their proportionate share of any enterprise zone credits claimed.

TO BE COMPLETED BY AN AUTHORIZED COMPANY OFFICIAL/OWNER

All claimants must complete this information.	INFORMATION IS FOR TAX YEAR ENDING _____, 20 _____		Check here if a certification has been filed for this facility in a prior year: <input type="checkbox"/>		
	Enterprise Zone		Type of Bus. (retail, mfg, farm, etc)		
	Business Name		SIC Code (See Attached List)		
	Address - Actual Location of Facility - (street, city, ZIP)		Business Telephone Number ()		
	Date facility began operations at this location				
	Did this facility relocate from another Colorado location? <input type="checkbox"/> Yes <input type="checkbox"/> No				
	The following information is required of all taxpayers claiming enterprise zone credits, regardless of whether or not any jobs credits are being claimed. For statistical purposes, self-employed owners and partners working in the business should be counted here, even if they do not qualify as "employees" for other tax purposes.				
	Number of owners/workers/employees at facility beginning of tax year		Number at end of tax year	Change in total (end of year – beginning)	
	Number of employees transferred from another Colorado facility owned by taxpayer to this facility				
	NOTE: The following section on average compensation is not required if it will reveal the compensation paid to any individual employee.				
Average annual compensation <i>per employee</i> including benefits for:		Number of Employees in category	Average Annual Compensation per employee	Average Hourly Compensation per employee	
Full-time employees					
Part-time employees					
Temporary employees					
Contract employees					

INVESTMENT TAX CREDIT (ITC)

* If this was an in-state relocation, no ITC or job training credit is allowed unless the new facility meets the criteria in New Business Facility "Qualified Expansion" section (2) below.

Total capital investment in zone during year \$	Capital investment qualifying for ITC during year \$	Amount of 3% EZ Investment Tax Credit claimed \$
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JOB TRAINING TAX CREDIT	Number of employees trained	Amount of 10% EZ Job Training Tax Credit claimed \$
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NEW BUSINESS FACILITY JOBS CREDITS

Number of qualifying new business facility jobs	Amount of new business facility jobs tax credit claimed \$	
Amount of agricultural processing new business facility jobs tax credit claimed \$	Amount of health insurance new business facility jobs tax credit claimed \$	
Enhanced Rural EZ credits: Qualified County _____ (Available for tax years beginning on or after 1/1/03)	Enhanced new business facility jobs tax credit claimed \$	Enhanced agricultural processing NBF jobs tax credit claimed \$

To claim new jobs credits, you must qualify under ONE of the following three criteria

(1) IF QUALIFYING NEW BUSINESS FACILITY, GIVE DATE FACILITY WAS ESTABLISHED

(2) IF QUALIFYING EXPANSION NEW BUSINESS FACILITY:

(a) Give date of qualification	(b) Was qualification a result of		
	<input type="checkbox"/> \$1,000,000 investment	<input type="checkbox"/> 10 employee increase over preceding 12 month average	
	<input type="checkbox"/> 100% investment increase	<input type="checkbox"/> 10 percent employment increase over preceding 12 month average	

(3) IF QUALIFYING REPLACEMENT NEW BUSINESS FACILITY:

(a) Give date of qualification	(b) Was qualification a result of		
	<input type="checkbox"/> \$3,000,000 investment or		
	<input type="checkbox"/> 300% investment increase		

TAXPAYER SIGNATURE

I declare that all of the above information is true and correct to the best of my knowledge and belief.

Signature of Authorized Company Official/Owner		Colo. I.D. Number or Social Security Number	
Print Name	Title	Date	
Tax Preparer or other contact for follow up information (please print)			Phone ()

CERTIFICATION BY ZONE ADMINISTRATOR

I, the duly authorized administrator of the above-mentioned Enterprise Zone, hereby certify to the State of Colorado, Department of Revenue that the above named facility is entirely within the designated Enterprise Zone.

Effective Date of Zone for this Location

Signature of Zone Administrator	Date
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FOR MORE INFORMATION ABOUT ENTERPRISE ZONES CONTACT THE AGENCIES LISTED BELOW:

- Colorado Department of Revenue, Denver, CO 80261-0005. Phone: 303-238-SERV(7378). See "FYI" Publications for additional information: www.taxcolorado.com
- Colorado Office of Economic Development, 1625 Broadway, Room 1700, Denver, CO 80202. Phone: 303-892-3840. www.state.co.us/oed/ez

STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODES

Please select the two-digit classification code from the list below which best describes the *predominant* activity at this facility and enter the code in the "SIC Code" box on the certification form.

Division A: Agriculture, Forestry, and Fishing

- 01: Agricultural Production Crops
- 02: Agricultural Production Livestock and Animal Specialties
- 07: Agricultural Services
- 08: Forestry
- 09: Fishing, Hunting, and Trapping

Division B: Mining

- 10: Metal Mining
- 12: Coal Mining
- 13: Oil and Gas Extraction
- 14: Mining and Quarrying of Nonmetallic Minerals, Except Fuels

Division C: Construction

- 15: Building Construction General Contractors and Operative Builders
- 16: Heavy Construction Other Than Building Construction Contractors
- 17: Construction Special Trade Contractors

Division D: Manufacturing

- 20: Food and Kindred Products
- 21: Tobacco Products
- 22: Textile Mill Products
- 23: Apparel and Other Finished Products Made from Fabrics and Similar Materials
- 24: Lumber and Wood Products, Except Furniture
- 25: Furniture and Fixtures
- 26: Paper and Allied Products
- 27: Printing, Publishing, and Allied Industries
- 28: Chemicals and Allied Products
- 29: Petroleum Refining and Related Industries
- 30: Rubber and Miscellaneous Plastics Products
- 31: Leather and Leather Products
- 32: Stone, Clay, Glass, and Concrete Products
- 33: Primary Metal Industries
- 34: Fabricated Metal Products, Except Machinery and Transportation Equipment
- 35: Industrial and Commercial Machinery and Computer Equipment
- 36: Electronic and Other Electrical Equipment and Components, Except Computer Equipment
- 37: Transportation Equipment
- 38: Measuring, Analyzing, and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks
- 39: Miscellaneous Manufacturing Industries

Division E: Transportation, Communications, Electric, Gas, and Sanitary Services

- 40: Railroad Transportation
- 41: Local and Suburban Transit and Interurban Highway Passenger Transportation

- 42: Motor Freight
- 43: United States Postal Service
- 44: Water Transportation
- 45: Transportation by Air
- 46: Pipelines, Except Natural Gas
- 47: Transportation Services
- 48: Communications
- 49: Electric, Gas, and Sanitary Services

Division F: Wholesale Trade

- 50: Wholesale Trade-Durable Goods
- 51: Wholesale Trade-Non-durable Goods

Division G: Retail Trade

- 52: Building Materials, Hardware, Garden Supply, and Mobile Home Dealers
- 53: General Merchandise Stores
- 54: Food Stores
- 55: Automotive Dealers and Gasoline Service Stations
- 56: Apparel and Accessory Stores
- 57: Home Furniture, Furnishings, and Equipment Stores
- 58: Eating and Drinking Places
- 59: Miscellaneous Retail

Division H: Finance, Insurance, and Real Estate

- 60: Depository Institutions
- 61: Non-depository Credit Institutions
- 62: Security and Commodity Brokers, Dealers, Exchanges, and Services
- 63: Insurance Carriers
- 64: Insurance Agents, Brokers, and Service
- 65: Real Estate
- 67: Holding and Other Investment Offices

Division I: Services

- 70: Hotels, Rooming Houses, Camps, and Other Lodging Places
- 72: Personal Services
- 73: Business Services
- 75: Automotive Repair, Services, and Parking
- 76: Miscellaneous Repair Services
- 78: Motion Pictures
- 79: Amusement and Recreation Services
- 80: Health Services
- 81: Legal Services
- 82: Educational Services
- 83: Social Services
- 84: Museums, Art Galleries, and Botanical and Zoological Gardens
- 86: Membership Organizations
- 87: Engineering, Accounting, Research, Management, and Related Services
- 88: Private Households
- 89: Services Not Elsewhere Classified

Colorado Enterprise Zones

Enterprise Zone Administrators

Adams County Enterprise Zone

Kevin Tilson, Enterprise Zone Adm.
Adams County Econ. Develop., Inc.
12050 N. Pecos St., #220
Westminster, CO 80234
303-450-5106; FAX 303-252-8230
email: ktilson@adamscountyed.com

Arapahoe County Enterprise Zone

Nancy Fenton, Enterprise Zone Adm.
Community Development
City of Englewood
1000 Englewood Pkwy.
Englewood, CO 80110
303-762-2347; FAX 303-783-6895
email: nfenton@englewoodgov.org

Denver Enterprise Zone

Mary Jeffreys, Enterprise Zone Mgr.
Office of Economic Development
City & County of Denver
201 W. Colfax, Dept 1005
Denver, CO 80202
720-913-1646; FAX 720-913-1802
email: mary.jeffreys@ci.denver.co.us

East Central-Northeast Enterprise Zone

Cheyenne, Elbert, Kit Carson, and
Lincoln Counties
Maryjo Downey, Executive Director
East Central COG
P.O. Box 28
Stratton, CO 80836
719-348-5562; FAX 719-348-5887
email:
jdowney@prairiedevelopment.com

Logan, Morgan, Phillips, Sedgwick,
Washington, and Yuma Counties

Larry Worth, Executive Director
NE Colo. Assoc. of Local Govts.
231 Main St., #211
Fort Morgan, CO 80701
970-867-9409; FAX 970-867-9053
email: lworth@necalg.com

El Paso County Enterprise Zone

DeAnne McCann, EZ Manager
Economic Develop. & Pub. Finance
El Paso County
27 E. Vermijo Ave., 5th Floor
Colorado Springs, CO 80903
719-520-6480; FAX 719-520-6486
email: deannemccann@elpasoco.com

Greeley/Weld County Enterprise Zone

Cathy Schulte, Sr. Vice President
Upstate Colorado Economic Devel.
822 7th St., #550
Greeley, CO 80631
970-356-4565; FAX 970-352-2436
email: cschulte@gwedap.org

Jefferson County Enterprise Zone

Neil Marciniak, EZ Administrator
Jefferson Economic Council
1667 Cole Blvd., #400
Golden, CO 80401-3219
303-202-2965; FAX 303-202-2967
email: nmarciniak@jeffco.org

Larimer County Enterprise Zone

Lew Wymisner, Enterprise Zone Admin.
Larimer County Workforce Center
200 W. Oak St. 5000
Fort Collins, CO 80522
970-498-6605; FAX 970-498-6673
email: lwymisner@larimer.org

Mesa County Enterprise Zone

Pat Duran, Enterprise Zone Admin.
Western Colorado Business
Development Center
2591 B 3/4 Rd.
Grand Junction, CO 81503
970-243-5242; FAX 970-241-0771
email: pduran@gjincubator.org

Northwest Enterprise Zone

Aron Diaz, Executive Director
Assoc. Govts. of Northwest Colorado
P.O. Box 351
Rifle, CO 81650
970-625-1723; FAX 970-625-1147
email: jane.whitt@agnc.org

Pueblo Enterprise Zone

Aimee Tihonovich, EZ Administrator
Pueblo County Enterprise Zone
215 W. 10th St.
Pueblo, CO 81003
719-583-6542; FAX 719-583-4597
email:
bbevel@co.pueblo.co.us

Region 10 Enterprise Zone

Paul Gray, Executive Director
Region 10 LEAP
P.O. Drawer 849
Montrose, CO 81402
970-249-2436; FAX 970-249-2488
email: info@region10.net

San Luis/Upper Arkansas Valley Enterprise Zone

Chaffee, Custer, Fremont, and Lake
Counties
Jeff Ollinger, Enterprise Zone Adm.
Upper Arkansas Area COG
P.O. Box 1212
Buena Vista, CO 81211
719-395-2602
email: jeffolli@chaffee.net

Alamosa, Conejos, Costilla, Mineral, Rio
Grande, and Saguache Counties
Michael Wisdom, Executive Director
San Luis Valley Devel. Resources Grp.
P.O. Box 300 / 626 4th St.
Alamosa, CO 81101
719-589-6099; FAX 719-589-6299
email: wisdom@sldvrg.org

South Central Enterprise Zone

Huerfano and Las Animas Counties
Priscilla Fraser, Executive Director
South Central COG
300 S. Bonaventure Ave.
Trinidad, CO 81082
719-845-1133; FAX 719-845-1133
email: pfraser@sccog.net

Otero County
Val Manweiler, EZ Coordinator
Otero County
P.O. Box 511
La Junta, CO 81050
719-383-3000; FAX 719-383-3090
email: oterorlf@otero.gov.org

Southeast Colorado Enterprise Zone

Dan Tate, Exec. Director
Southeast Colo. Enterprise Zone
112 W. Elm St./P.O. Box 1600
Lamar, CO 81052
719-336-3850; FAX 719-336-3835
email: seced@seced.net

Southwest Enterprise Zone

Ed Morlan, Executive Director
Region 9 Economic Development
District of SW Colorado
295A Girard St.
Durango, CO 81301
970-247-9621; FAX 970-247-9513
email: ed@scan.org

11/03/06

FYI – For Your Information

Statute of Limitations

GENERAL INFORMATION

The statute of limitations defines the time period during which a refund claim may be filed, an assessment may be initiated, or a collection activity may occur. The statute of limitations varies by tax type. The income tax and wage withholding statute of limitations are primarily based on the federal statute of limitations while the statute of limitations for other taxes are defined solely in Colorado law.

The statute of limitations begins running when a tax return is filed. If a tax return is filed prior to the due date of the return, then the return is considered to have been filed on the due date for purposes of the statute of limitations. If a return is not filed, the statute of limitations does not begin running until an assessment is made. The statute of limitations can also be extended beyond the normal time frame if a false or fraudulent return is filed with intent to evade tax.

INCOME TAX

The statute of limitations for Colorado income tax refunds and assessments is generally four years from the due date of the return. A return filed prior to the due date is considered filed on the due date. The Colorado statute of limitations is the federal statute of limitations plus one year. Therefore, the federal statute of limitations and any activity that affects the federal time frame will impact the Colorado statute of limitations. [§§39-21-107(2) and 39-21-108, C.R.S.]

Extended returns

If the federal income tax return is filed under extension, then the statute of limitations is extended by the length of the extension. (Example: If the 2005 federal return is filed under extension on August 10, 2006, then the Colorado statute of limitations will expire on August 10, 2010.)

C Corporations

Because federal C corporation income tax returns are due on the 15th day of the third month after the close of the tax year (as opposed to Colorado's due date of the 15th day of the fourth month), the statute of limitations for Colorado C corporations is generally three years and eleven months from the due date of the return. (Example: If a C corporation files its 2005 calendar year federal return on March 15, 2006 and its Colorado return on April 15, 2006. The Colorado statute of limitations will expire on March 15, 2010.)

Federal waiver

If there is a federal waiver of the statute of limitations, the Colorado statute of limitations is extended by the period of the federal waiver. [§39-21-108(1), C.R.S.]

Late payment of tax

The federal statute of limitations may be extended beyond the usual three year time frame when a payment of income tax is made after the due date. The federal statute of limitations is two years from the date of the payment of tax if this date is after the three-year statute of limitations date. Colorado extends the statute of limitations to three years from the date of last payment (the federal two-year time frame plus one year).



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Fuel Tax: (303) 205-8205
www.taxcolorado.com

Any refund or credit claim under this extended statute of limitations is limited to the amount of tax paid within the three-year period, not previous payments or tax issues. If the refund claim is not filed within the original statute of limitations period, the refund may not exceed the tax paid within three years preceding the filing of the claim. Estimated tax payments, wage withholding credits and refundable credits are deemed paid on the due date of the return for purposes of determining whether a refund is available under the statute of limitations. (Example: Additional 2001 tax of \$100 is reported and paid on an amended return on November 15, 2005. On December 10, 2007, the taxpayer realizes that the taxable income for 2001 should have been \$0 and wants to amend the return. Because the four-year statute of limitations expired on April 15, 2006, the taxpayer can not receive a refund of the tax paid with the original return. However, because the \$100 in additional tax was paid within the last three years, a refund of the \$100 is still available under the statute of limitations.)

False, Fraudulent or No Return Filed

When a taxpayer fails to file an income tax return or files a false or fraudulent return with intent to evade the tax, the tax may be assessed and collected at any time. [§39-21-107(4), C.R.S.]

Colorado waivers

The Colorado statute of limitations can be extended beyond the federal statute of limitations plus one year in the following situations:

- When there is a written agreement between the taxpayer and the executive director to extend the statute of limitations. [§39-21-107(5), C.R.S.]
- When the taxpayer fails to notify the executive director in writing within 30 days of any final determination from the federal IRS. [§39-22-601(6)(c), C.R.S.]
- When the taxpayer fails to file an amended Colorado income tax return to notify the executive director of the filing of an amended federal income tax return reflecting any change in income reportable to the state of Colorado. [§39-22-601(6)(d), C.R.S.]
- When a written proposed adjustment (e.g. a notice of deficiency or assessment) of the tax liability has been issued by the Department, the limitation is extended one year after the final determination of assessment is made. [§39-21-107(1), C.R.S.]

Net operating loss/Investment tax credit carryback

The statute of limitations for an income tax refund from a carryback adjustment is determined using the year the loss or credit was generated. Whether the tax year to which a loss or credit is carried back is in statute is not a factor in determining whether a refund can be issued.

Applying a refund to a balance due

An overpayment for an income tax year closed under the statute may not be applied to a balance of tax due for another tax year open under the statute for assessment or, if the assessment was timely made, open under the statute for collection. Such application would be in effect allowing a refund to be made for a closed year.

Reissued refunds

Income tax refunds issued on or after June 30, 2001 are not affected by the statute of limitations. These refunds, if not cashed, are sent to the Colorado State Treasury Unclaimed Property Office (www.treasurer.state.co.us), where a taxpayer can claim the refund at any time.

The Department of Revenue can reissue refunds originally issued prior to June 30, 2001 that were not cashed, but only if the refund is generated by a credit other than wage withholding. Refunds of wage withholding are no longer available. [§39-22-604(12), C.R.S.] If a refund consists of both wage withholding and other prepayment or refundable credits, the refund that may be reissued will be reduced ratably. Example: A 1997 income tax refund of \$200 was not cashed in 1998 when it was issued. The applicable credits on the 1997 return in determining the refund were \$250 wage withholding, \$100 estimated tax, and \$37 state sales tax refund. The portion of the refund that can be issued now is \$71 ($137/387 \times \200).

Collections

The statute of limitations for collecting an income tax (or wage withholding) balance due is six years from the date of the final determination or assessment. [§39-21-107(2), C.R.S.]

WAGE WITHHOLDING

The Colorado statute of limitations for wage withholding refunds and assessments follows the statute of limitations for income tax, the federal statute of limitations plus one year. The statute of limitations is generally four years from the due date of the return or three years from the date of last payment, whichever is later. A return filed prior to the due date is considered filed on the due date. Like income tax, the applicable extensions and waivers referenced in the income tax section above affect the statute of limitations for wage withholding assessments or refunds. [§§39-21-107(2) and 39-21-108, C.R.S.]

SALES AND USE TAX

The statute of limitations for state and state-collected local sales or use tax refunds and assessments is generally three years from the due date of the return or the date the sales or use tax return was filed, whichever is later. This also applies to any special district sales or use tax. [§39-21-107(1), C.R.S.]

Refund of disputed tax paid with a purchase
Should a dispute arise between the purchaser and the seller as to whether or not the sales tax was correctly charged, the purchaser may submit an application for refund. The application must be filed with the Colorado Department of Revenue within sixty days after the purchase of the item upon which an exemption is claimed. [§39-26-703(2), C.R.S.]

False, Fraudulent or No Return Filed

When a taxpayer fails to file a return or files a false or fraudulent return with intent to evade the tax, the tax may be assessed and collected at any time. [§§39-21-107(4) and 39-26-125, C.R.S.]

Colorado waivers

The Colorado statute of limitations can be extended when there is a written agreement between the taxpayer and the executive director to extend the statute of limitations. Also, when a written proposed adjustment (e.g. a notice of deficiency or assessment) of the tax liability has been issued by the Department, the limitation is extended one year after the final determination of assessment is made. [§39-21-107(5), C.R.S.]

Reissued refunds

There is no statute of limitations limiting the length of time the Department of Revenue can reissue sales and use tax refunds that were timely issued but not cashed.

Collections

The statute of limitations for collecting a sales or use tax balance due is the later of:

- three years from the due date of the return or the date the return is filed, whichever is later, or
- one year from the date of the final determination or assessment (extended statute of limitations). [§§39-21-107(1) and 39-26-125, C.R.S.]

OTHER TAXES

Severance, Gasoline and Special Fuel, Aviation Fuel, IFTA, Cigarette, Tobacco Products, Oil & Gas Withholding, Liquor Excise, Estate Tax

The Colorado statute of limitations for other tax refunds and assessments follows the statute of limitations for sales and use tax, which is generally three years. A return filed prior to the due date is considered filed on the due date. Like sales and use tax, the statute of limitations for other tax assessments or refunds is affected by the applicable extensions and waivers referenced in the sales and use tax section above. [§39-21-107(1), C.R.S.]

Tax Refunds for Exempt Use of Fuel

A refund of the Colorado fuel tax paid may be allowed on the fuel purchased and used in Colorado for tax exempt purposes. A claim for refund must be submitted within twelve months after the date of purchase of the fuel. For additional information see FYI Excise 7 "Tax Refunds for Exempt Use of Fuel." [§39-27-103(3)(d), C.R.S.]

Reissued Severance Tax Refunds

The Department of Revenue can reissue refunds that were not cashed if the refund is generated by a credit other than oil and gas or oil shale withholding. However, any request to reissue a refund of withholding must be filed within four years of the due date of the return. [§39-29-112(3), C.R.S.] If a refund consists of both withholding and other prepayment or refundable credits, the refund that may be reissued after the four year period will be reduced ratably.

PTC REBATE

The property tax/rent/heat (PTC) rebate statute of limitations requires the application be filed within two years of the end of the calendar year for which the rebate is being claimed. (Example: The 2005 rebate application must be received no later than December 31, 2007.) [§§39-31-102(4) & (6), C.R.S.]

Any assessment must be made within three years of the filing of the PTC rebate application, except when there is a written agreement between the taxpayer and the executive director to waive the statute of limitations or when a written proposed adjustment (e.g. a notice of deficiency or assessment) has been issued prior to the expiration of the three year period.

Reissued rebates

There is no statute of limitations limiting the length of time the Department of Revenue can reissue PTC rebates that were timely issued but not cashed. Rebates issued on or after June 30, 2001, if not cashed, are sent to the Colorado State Treasury Unclaimed Property Office (www.treasurer.state.co.us), where a taxpayer can claim the rebate at any time.

Collections

The statute of limitations for collecting a PTC balance due is the later of:

- three years from the date the application is filed, or
- one year from the date of the final determination or assessment (extended statute of limitations). [§39-21-107(1), C.R.S.]

FURTHER INFORMATION

FYIs and commonly used forms are available on the Web at www.taxcolorado.com

For additional tax information visit the "Tax Information Index" which covers a variety of topics including links to forms publications, regulations, statutes and general questions and answers. The "Tax Information Index" is located at www.taxcolorado.com

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.

FYI – For Your Information

Research and Development Income Tax Credit for Enterprise Zones

Taxpayers who make expenditures on research and experimental activities in an enterprise zone qualify for an income tax credit. The 3 percent credit is based on the increase of a company's research and experimental expenditures within an enterprise zone over the average of such expenditures conducted in the same enterprise zone during the previous **two** income tax years. The expenditures must meet the research and experimental activities as defined in section 174 of the federal Internal Revenue Code of 1986, as amended. [§39-30-105.5, C.R.S.]

CRITERIA

Qualified research must satisfy three criteria:

- It must be technological in nature.
- It must be useful in the development of a new or improved product or component of the business.
- It must utilize the process of experimentation.

In-house research expenses may include:

- Wages, excluding fringe benefits.
- Supplies.
- Payments for the right to use computers.

Contract research expenses may include the amount paid for research done by a third party for the benefit of the contracting firm.

The following types of expenses **do not** qualify:

- Land or improvements to land.
- Depreciable equipment.
- Management surveys.
- Costs incurred to adapt a product to a particular customer's needs.
- Research funded by any government entity.

HOW TO CALCULATE THE CREDIT

The total amount of the calculated credit must be divided equally over four years. The taxpayer may claim 25 percent of the tax credit in the year the expenditure is made and 25 percent in each of the following three years.

The taxpayer must submit a certification from the enterprise zone administrator (DR 0077) showing that the business is located in an enterprise zone.

EXAMPLE: During 2005, the Smith Company spent \$325,000 for research in an enterprise zone. During 2003, the company spent \$100,000 in research in the same enterprise zone. During 2004, the company spent \$200,000 on research in the same enterprise zone. The company's 2005 research and experimental income tax credit is computed as follows:



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Taxpayer Service Division
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Denver, Colorado 80261

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2005 enterprise zone research expenditures	\$325,000
2004 enterprise zone research expenditures	\$200,000
2003 enterprise zone research expenditures	\$100,000
Total 2003 and 2004	\$300,000
Average of 2003 and 2004	\$150,000
Qualifying expenditures (\$325,000 - \$150,000)	\$175,000
Allowable credit at 3 percent	\$5,250
Credit allowed in 2005 (25 percent of credit)	\$1,313
Credit allowed in 2006 (25 percent of credit)	\$1,313
Credit allowed in 2007 (25 percent of credit)	\$1,313
Credit allowed in 2008 (25 percent of credit)	\$1,313

If the Smith Company's 2006 research expenditures in the enterprise zone were the same or less than the average of the 2004 and 2005 expenditures, there would be no additional tax credit for 2006. However, if the company's 2006 research expenditures increased, the credit would be computed in this way:

2006 enterprise zone research expenditures	\$600,000
2005 enterprise zone research expenditures	\$325,000
2004 enterprise zone research expenditures	\$200,000
Total 2004 and 2005	\$525,000
Average of 2004 and 2005	\$262,500
Qualifying expenditures (\$600,000 - \$262,500)	\$337,500
Allowable credit at 3 percent	\$10,125
Credit allowed in 2006 (25 percent of credit)	\$2,531
Credit allowed in 2007 (25 percent of credit)	\$2,531
Credit allowed in 2008 (25 percent of credit)	\$2,531
Credit allowed in 2009 (25 percent of credit)	\$2,531

Since the Smith Company is still carrying the 2005 credit forward, the total 2006 credit would be calculated as follows:

2005 research expenditure credit	\$	1,313
2006 expenditure credit	+	\$ <u>2,531</u>
2006 total income tax credit	\$	3,844

If the taxpayer's tax liability is **less than** the research and experimental credit, the remaining amount may be carried forward to the subsequent tax years. There is no limit on the number of years this credit can be carried forward.

EXAMPLE: The Smith Company's 2006 tax liability is \$3,000. This is less than the company's total 2006 research credit of \$3,844. Therefore, the Smith Company may carry forward the \$844 to the 2007 tax return.

Common Questions:

How is the average research and experimental expenditures amount computed for the last two years when a company had no such expense in one or both of those years?

If there was no research and experimental expenditures in one or both of the previous two income tax years, then the average expenditure should be computed using zero for that year(s).

Does the federal limitation of 65% of contract research expenses apply to the enterprise zone research and development credit?

No. The Colorado statute refers only to section 174 of the federal code for determining qualified expenditures.

How is the credit computed if the taxpayer moves from one enterprise zone to another?

The credit is computed by comparing expenses in a particular enterprise zone as compared to expenses from the prior two years in the same zone. If the company moves to a different zone, then the computation of the credit starts over by comparing qualified expenses to the prior two years' expenses within the new enterprise zone.

Must third party research be performed within an enterprise zone?

Yes.

FURTHER INFORMATION

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Certification of Qualified Enterprise Zone Research & Development Expenditures

This information regarding expenditures on research and development is a confidential tax document.

This form certifies that your facility is located within the boundaries of a Colorado Enterprise Zone, and collects information required by 39-30-103(4), C.R.S.

To claim the Colorado Enterprise Zone income tax benefits:

- Calculate your Colorado enterprise zone tax credit following the instructions on Form 112CR or FYI Income 22.
- Submit or mail this **completed** form (signed by an authorized company official or owner and dated) to the local Enterprise Zone Administrator for the zone where your facility is located for signature. **ENCLOSE A SELF-ADDRESSED STAMPED ENVELOPE.**
- **DO NOT SEND THIS FORM TO THE DEPARTMENT OF REVENUE OR DEPARTMENT OF LOCAL AFFAIRS FOR CERTIFICATION.**
- Attach a copy of the **CERTIFIED** form to your Colorado income tax return. (**Do not** send the form independently of your return).
- **Note to "S" Corporation and Partnership filers:** Please provide to all appropriate partners and shareholders a copy of the certificate along with a calculation of their proportionate share of any enterprise zone credit claimed.

TO BE COMPLETED BY AN AUTHORIZED COMPANY OFFICIAL/OWNER

INFORMATION IS FOR TAX YEAR ENDING _____, 200____		Check here if a certification has been filed for this facility in a prior year: <input type="checkbox"/>	
Enterprise Zone		Type of Bus. (retail, mfg, farm, etc)	
Business Name		SIC Code (See list attached to DR 0074)	
Address - Actual location of facility - (street, city, ZIP)		Business Telephone Number ()	
Research and development expenditures in zone during year \$	Amount of EZ research and development tax credit claimed \$		
TAXPAYER SIGNATURE			
I declare that all of the above information is true and correct to the best of my knowledge and belief.			
Signature of Authorized Company Official/Owner		Colorado I.D. Number or Social Security Number	
Print Name	Title	Date	
Tax Preparer or other contact for follow up information (please print)		Phone	
CERTIFICATION BY ZONE ADMINISTRATOR			
I, the duly authorized administrator of the above-mentioned Enterprise Zone, hereby certify to the State of Colorado Department of Revenue that the above named facility is entirely within the designated Enterprise Zone.			
Effective Date of Zone for this Location	Signature of Zone Administrator	Date	

FOR MORE INFORMATION ABOUT ENTERPRISE ZONES CONTACT THE AGENCIES LISTED BELOW:

- **Colorado Department of Revenue, Denver, CO 80261-0005. Phone: (303) 238-SERV (7378). See Department of Revenue "FYI" Publications for additional information: www.taxcolorado.com**
- **Colorado Office of Economic Development, 1625 Broadway, Room 1700, Denver, CO 80202. Phone: (303) 892-3840. www.state.co.us/oed/ez**

Adams County Enterprise Zone

Kevin Tilson, Enterprise Zone Adm.
Adams County Econ. Develop., Inc.
12050 N. Pecos St., #220
Westminster, CO 80234
303-450-5106; FAX 303-252-8230
email: ktilson@adamscountyyed.com

Arapahoe County Enterprise Zone

Nancy Fenton, Enterprise Zone Adm.
Community Development
City of Englewood
1000 Englewood Pkwy.
Englewood, CO 80110
303-762-2347; FAX 303-783-6895
email: nfenton@englewoodgov.org

Denver Enterprise Zone

Mary Jeffreys, Enterprise Zone Mgr.
Office of Economic Development
City & County of Denver
201 W. Colfax, Dept. 1005
Denver, CO 80202
720-913-1646; FAX 720-913-1802
email: mary.jeffreys@ci.denver.co.us

East Central-Northeast Enterprise Zone

Cheyenne, Elbert, Kit Carson, and
Lincoln Counties
Maryjo Downey, Executive Director
East Central COG
P.O. Box 28
Stratton, CO 80836
719-348-5562; FAX 719-348-5887
email:
jdowney@prairiedevelopment.com

Logan, Morgan, Phillips, Sedgwick,
Washington, and Yuma Counties

Larry Worth, Executive Director
NE Colo. Assoc. of Local Govts.
231 Main St., #211
Fort Morgan, CO 80701
970-867-9409; FAX 970-867-9053
email: lworth@necalg.com

El Paso County Enterprise Zone

DeAnne McCann, EZ Manager
Economic Develop. & Pub. Finance
El Paso County
27 E. Vermijo Ave., 5th Floor
Colorado Springs, CO 80903
719-520-6480; FAX 719-520-6486
email: deannemccann@elpasoco.com

Greeley/Weld County Enterprise Zone

Cathy Schulte, Sr. Vice President
Upstate Colorado Economic Devel.
822 7th St., #550
Greeley, CO 80631
970-356-4565; FAX 970-352-2436
email: cschulte@gwedap.org

Jefferson County Enterprise Zone

Neil Marciniak, EZ Administrator
Jefferson Economic Council
1667 Cole Blvd., #400
Golden, CO 80401-3219
303-202-2965; FAX 303-202-2967
email: nmarciniak@jeffco.org

Larimer County Enterprise Zone

Low Wymisner, Enterprise Zone Admin.
Larimer County Workforce Center
200 W. Oak St. 5000
Fort Collins, CO 80522
970-498-6605; FAX 970-498-6673
email: lwymisner@larimer.org

Mesa County Enterprise Zone

Pat Duran, Enterprise Zone Admin.
Western Colorado Business
Development Center
2591 B 3/4 Rd.
Grand Junction, CO 81503
970-243-5242; FAX 970-241-0771
email: pduran@gjincubator.org

Northwest Enterprise Zone

Aron Diaz, Executive Director
Assoc. Govts. of Northwest Colorado
P.O. Box 351
Rifle, CO 81650
970-625-1723; FAX 970-625-1147
email: jane.whitt@agnc.org

Pueblo Enterprise Zone

Aimee Tihonovich, EZ Administrator
Pueblo County Enterprise Zone
215 W. 10th St.
Pueblo, CO 81003
719-583-6542; FAX 719-583-4597
email: bbevel@co.pueblo.co.us

Region 10 Enterprise Zone

Paul Gray, Executive Director
Region 10 LEAP
P.O. Drawer 849
Montrose, CO 81402
970-249-2436; FAX 970-249-2488
email: info@region10.net

**San Luis/Upper Arkansas Valley
Enterprise Zone**

Chaffee, Custer, Fremont, and Lake
Counties
Jeff Ollinger, Enterprise Zone Adm.
Upper Arkansas Area COG
P.O. Box 1212
Buena Vista, CO 81211
719-395-2602
email: jeffolli@chaffee.net

Alamosa, Conejos, Costilla, Mineral,
Rio Grande, and Saguache Counties
Michael Wisdom, Executive Director
San Luis Valley Devel. Resources Grp.
P.O. Box 300 / 626 4th St.
Alamosa, CO 81101
719-589-6099; FAX 719-589-6299
email: wisdom@slvdr.org

South Central Enterprise Zone

Huerfano and Las Animas Counties
Priscilla Fraser, Executive Director
South Central COG
300 S. Bonaventure Ave.
Trinidad, CO 81082
719-845-1133; FAX 719-845-1133
email: pfraser@sccog.net

Otero County
Val Manweiler, EZ Coordinator
Otero County
P.O. Box 511
La Junta, CO 81050
719-383-3000; FAX 719-383-3090
email: oterorlf@otero.gov

Southeast Colorado Enterprise Zone

Dan Tate, Exec. Director
Southeast Colo. Enterprise Zone
112 W. Elm St./P.O. Box 1600
Lamar, CO 81052
719-336-3850; FAX 719-336-3835
email: seced@seced.net

Southwest Enterprise Zone

Ed Morlan, Executive Director
Region 9 Economic Development
District of SW Colorado
295A Girard St.
Durango, CO 81301
970-247-9621; FAX 970-247-9513
email: ed@scan.org

FYI – For Your Information

Enterprise Zone New Business Facility Employee Credits

This FYI contains information on the three "new business facility" employee credits available to qualified businesses located in an enterprise zone. They are:

- The new business facility employee credit.
- The new business facility agricultural processing employee credit.
- The employer-sponsored health insurance credit.

See FYI General 6, "General Information About Colorado Enterprise Zones" for information about other enterprise zone credits.

THE NEW BUSINESS FACILITY EMPLOYEE CREDIT

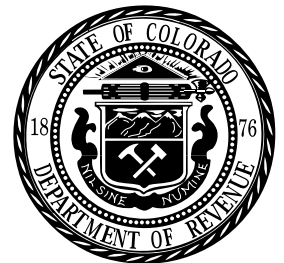
Any taxpayer who establishes a new business facility in an enterprise zone can claim an income tax credit of \$500 for each new business facility employee who is working within the zone prorated according to the number of months of employment during the tax year. For subsequent tax years, a credit of \$500 shall be allowed for any increase in the average number of new business facility employees working in the zone in excess of the maximum number employed in any prior tax year. [§39-30-105, C.R.S.]

For tax years beginning on or after January 1, 1993, the excess credit is not refundable but may be carried forward for a period of up to 5 years.

For tax years beginning on or after January 1, 2003, an additional \$2,000 credit for each new business facility employee is available to businesses located in an enhanced rural enterprise zone. The enhanced portion of the new business facility employee credit not used to offset tax can be carried forward for a period of up to 7 years.

Example 1: The Brown Corporation, a calendar year income taxpayer, established a new business facility in an enterprise zone on March 18, 2001. The number of new business facility employees as of the end of each calendar month were: January-0, February-0, March-6, April-8, May-9, June-12, July-15, August-18, September-24, October-26, November-25, and December-41. The average number of new business facility employees during 2001 was 15.33 (184 divided by 12). The basic enterprise zone new business facility employee credit the Brown Corporation may claim for 2001 is: the average number of new business facility employees (15.33) times the credit rate (\$500), or \$7,665.

Example 2: If the Brown Corporation's average number of enterprise zone new business facility employees during 2002 were 43.25 the allowable 2002 credit would be: increase in average number of new business facility employees [27.92(43.25-15.33)] times \$500 or \$13,960.



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Example 3: If the Brown Corporation were to change to a fiscal year ending October 31, the credit computation for the period January 1 - October 31, 2003 would be: average number of employees 60 (assumed) minus 43.25 equals 16.75 multiplied by \$500 times 10/12 equals \$6,979.

Example 4: Assume the average number of employees of the Brown Corporation decreases in fiscal year ending 10/31/04 then increases in the subsequent two years. The credit will be computed using the prior highest annual average number of employees as a base year as follows:

Fiscal Year Ending
Oct. 31, 2004
Average number of employees
50
Increase in number of employees
50-60 = - 10
Credit available
\$0

Fiscal Year Ending
Oct. 31, 2005
Average number of employees
55
Increase in number of employees
55-60 = - 5
Credit available
\$0

Fiscal Year Ending
Oct. 31, 2006
Average number of employees
62
Increase in number of employees
62-60 = 2
Credit available
\$1,000

***THE NEW BUSINESS FACILITY
AGRICULTURAL PROCESSING
EMPLOYEE CREDIT***

If a new business facility established by a taxpayer in an enterprise zone on or after January 1, 1989 is engaged in a business which adds value through manufacturing or processing to agricultural commodities, an additional credit of \$500 per new business facility employee is allowed. The enterprise zone new business facility agricultural processing employee credit is computed the same as is the enterprise

zone basic new business facility employee credit and is allowed in addition thereto. [§39-30-105 (3), C.R.S.]

The credit is available for all employees working at the agricultural processing facility, including employees who are not themselves directly engaged in the agricultural processing operation.

The enterprise zone new business facility agricultural processing employee credit is available **only** to businesses that are directly engaged in manufacturing or processing agricultural commodities into some form other than that which enters normal agricultural commodity marketing channels. Harvesting, cleaning, packaging, storing, transporting, wholesaling, retailing, or otherwise distributing products without changing their form does not qualify. Businesses that package and ship commodities as well as restaurants or food retailers do not qualify for this credit.

For tax years beginning on or after January 1, 1993, the excess credit is not refundable but may be carried forward for a period of up to 5 years.

For tax years beginning on or after January 1, 2003, an additional \$500 credit for each new business facility agricultural processing employee is available to businesses located in an enhanced rural enterprise zone. The enhanced portion of the new business facility employee credit not used to offset tax can be carried forward for a period of up to 7 years.

Example: TTT Corporation qualifies as an agricultural processing new business facility and is located in an enhanced rural enterprise zone. In 2002 the company's base number of employees for computing employee credits was 23. In 2003, the average number of employees increases to 24.2. The employee credits are computed as follows:

Standard employee credit:

$$\$500 \times 1.2 = \$600$$

Enhanced employee credit:

$$\$2,000 \times 1.2 = \$2,400$$

Standard agricultural employee credit:

$$\$500 \times 1.2 = \$600$$

Enhanced agricultural employee credit:

$$\$500 \times 1.2 = \$600$$

Total 2003 employee credit is \$4,200

Agricultural commodity means a commodity resulting from the application of agricultural or horticultural techniques. Insofar as the term refers to products of the soil, it means commodities that are planted and cultivated by man such as grains, forage crops, fruits, vegetables, nuts, sugar crops, fiber crops, tobacco, and nursery products. The term also includes domesticated animals and some of their products such as milk, wool, eggs, and honey. The term does not include commodities produced by industrial techniques, by exploitation of mineral wealth or other natural resources, by uncultivated natural growth, or other natural resources such as timber or wood products and peat moss.

Can an existing agricultural processing business claim this credit for adding employees?

Yes. An agricultural processing new business facility employee is a type of new business facility employee. Therefore, all of the qualifying rules for new business facility employees generally apply to agricultural processing new business facility employees.

Is this credit in addition to the basic new business facility employee tax credit?

Yes. A qualifying agricultural processing business in an enterprise zone may claim a total credit of \$1,000 per new business facility employee.

THE EMPLOYER SPONSORED HEALTH INSURANCE CREDIT

For the first two full income tax years while located in an enterprise zone, taxpayers are allowed a credit of \$200 for each new business facility employee insured under a health insurance plan or program at least 50% of the cost of which is paid by the taxpayer. Such plan or program may be any health insurance, health maintenance organization or pre-paid health plan that is approved by the State Insurance Commissioner for sale in Colorado or it may be a self-insurance program. The program must be reduced to writing and it must be legally enforceable against the taxpayer. [§39-30-105 (1)(b), C.R.S.]

For tax years beginning on or after January 1, 1996, the excess credit is not refundable but may be carried forward for a period of up to 5 years.

If the same taxpayer opens a separate new business facility in the zone, the separate facility would have its own two-year health insurance qualifying period.

In the case of an existing facility that qualifies as a new business facility due to expansion, the health insurance credit can be claimed for the first two full income tax years they operate in the enterprise zone as a new business facility. However, the credit is only available for the new business facility employees as computed for an expansion facility. The employees employed at the facility prior to expansion will not qualify for the insurance credit.

Example: The Lincoln Corporation, a calendar year taxpayer, established a new business facility in a Colorado enterprise zone on September 1, 2003. The Lincoln Corporation paid the entire cost of a health maintenance plan for its employees. The average number of covered employees during 2004 was 41 and during 2005 it was 62.5. The allowable credits, limited to the corporation's tax liability for such years, are \$8,200 for 2004 and \$12,500 for 2005. No credit would be allowed for 2003 or 2006.

Is this credit in addition to the basic new business facility employee tax credit?

Yes. A qualifying business in an enterprise zone may claim a total credit of \$700 (\$1,200 for agricultural processing businesses) per new business facility employee covered under employer-sponsored health insurance.

WHAT QUALIFIES AS A NEW BUSINESS FACILITY?

A new business facility is a newly acquired, constructed or leased facility used by the taxpayer to operate a revenue-producing enterprise. This includes any factory, mill, plant, refinery, warehouse, feedlot, building or complex of buildings, including land, buildings, machinery and equipment located at the facility and used in connection with the operation of the facility. [§39-22-508.2 (2)(a), C.R.S.]

Purchase of an existing business facility

If a business that is not yet qualified as a new business facility is purchased or leased and the business continues the same or substantially identical revenue producing enterprise at such facility, then there is no "new business facility" as there is no "new business." However, if a business is closed for reasons other than the sale of the business and a new owner revives the business, it may qualify as a new business facility as there is not a continuation of the old business.

Moving, expanding or selling a new business facility

In general, once a business facility qualifies as a "new business facility" it never loses that classification.

1. If a new business facility moves from one location in an enterprise zone to another location in the same or a different zone, it will not be considered to be a qualified replacement facility and cannot requalify as a new business facility in order to claim additional employee credits.
2. If a new business facility expands, even if it meets the qualified expansion criteria listed below, it will not requalify as a new business facility in order to claim additional employee credits.
3. If a new business facility is sold and the business continues to operate the same or substantially identical business, it will not requalify as a new business facility in order to claim additional employee credits.

In all of these situations, the moved/expanded/sold business continues to be a new business facility and, except to the extent it adds additional employees over its previous base, cannot claim employee credits as if it had just qualified as a new business facility.

Leased Facility

The facility must be used by the taxpayer in the operation of a revenue-producing enterprise. A facility shall not be considered a new business facility in the hands

of the taxpayer if the taxpayer's only activity with respect to the facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of a revenue-producing enterprise and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of a revenue-producing enterprise, only the portion employed by the taxpayer in the operation of a revenue-producing enterprise may qualify as a new business facility.

Construction Site

A construction site does not qualify as a new business facility.

HOW AN EXISTING BUSINESS FACILITY CAN BECOME A NEW BUSINESS FACILITY

An existing business facility that has not previously qualified as a new business facility can qualify as a "new business facility" if it expands to qualify as a "qualified replacement facility" or a "qualified expansion facility."

Qualified Replacement Facility

A "qualified replacement facility" is a replacement business facility located in an enterprise zone in which the taxpayer's investment exceeds \$3 million or, if less, 300 percent of the investment in the old facility. [§39-22-508.2 (8) (b), C.R.S.]

A replacement business facility is a facility located in an enterprise zone that replaces an old facility located in Colorado but only if the taxpayer (or related taxpayer) operated the old facility for more than three full tax years of the five tax years **immediately** preceding the opening of the new facility. The taxpayer must continue operation of the same or a substantially identical revenue-producing enterprise at the newly acquired facility. [§39-22-508.2 (8) (a), C.R.S.] Generally, replacement business facilities do not qualify for the new business facility employee credits. The exception is a "qualified replacement facility."

Example 1: Mr. Mason operated a restaurant from January 1, of 1988 until October 15, of 2005 when he closed it down. He opened a new restaurant in an enterprise zone on April 16, 2006. The new restaurant is a replacement facility and does not qualify for any of the enterprise zone new business facility employee credits.

Example 2: Mary Walker operated a pet grooming business from May 6, 2002 to October 18, 2005 when she lost her lease and went out of business. She opened a new pet grooming business in an enterprise zone on March 11, 2006. The new business is not a replacement facility as she did not operate the old business for more than three full taxable years of the five taxable years immediately preceding 2006.

Qualified Expansion Facility

An expansion of an existing nonqualified facility may qualify as a new business facility. The expansion may be either by new investment or by an increase in the number of persons employed at the facility.

Expansion by investment. If a facility, which is not a new business facility is expanded by the taxpayer, the expansion shall be a new business facility if the expansion otherwise meets the definition of a new business facility and the taxpayer's investment in the expansion exceeds \$1,000,000 or, if less, 100% of its investment in the original facility prior to expansion. The investment in the original facility shall be the total investment in the facility not reduced by depreciation, and not including inventory, as of the close of business of the day preceding the designation of the enterprise zone. The investment in the expansion shall be the total investment in the expansion not reduced by depreciation, and not including inventory, beginning with the date of designation of the enterprise zone. [§39-22-508.2 (2)(b)(I)(A), C.R.S.]

Expansion by number of employees. An expansion facility can be created by the employment of ten or more new business facility employees over and above the average number of employees employed in the enterprise zone by the taxpayer during the twelve months immediately prior to the expansion. [§39-22-508.2 (2)(c)(I), C.R.S.]

Example: The following chart reflects the employment record of the Hometown Department Store, which became a new business facility in October 2006. The company started with 10 employees in June 2004 and increased its number of employees 5% a month.

	<u>Net Increase in Employees</u>	<u>Number of Employees</u>	<u>Average # of Employees During Prior 12 Mo. Period</u>	<u>Excess</u>
May 31, 2006	2	31	22.75	8.25
June 30, 2006	1	32	23.917	8.083
July 31, 2006	2	34	25.083	8.917
Aug. 31, 2006	2	36	26.333	9.667
Sept. 30, 2006	1	37	27.667	9.333
Oct. 31, 2006	2	39	29.0	10.0

This company would become an expansion new business facility in October, 2006. This example was made by starting with 10 employees in June of 2004 and increasing the number of employees by 5% a month (rounded to the nearest employee). This example illustrates that it is not necessary to hire 10 new employees in one month to qualify as an expansion facility. The 10 qualifying employees in this example were hired over a six-month period.

10% expansion in number of employees. For tax years beginning on or after January 1, 1996, a 10% increase in the number of employees (such increase must be at least one full-time employee) at a facility over and above the average number of persons employed at the facility by the taxpayer for the preceding twelve months will constitute an expansion facility.

Example: The following chart reflects the employment record of the Widget Mfg. Company.

	<u>Net Increase in Employees</u>	<u>Number of Employees</u>	<u>During Prior 12 Mo. Period Average # of Employees</u>	<u>Excess</u>	<u>Percentage Increase</u>
June 30, 2006	0	40	40	0	0.0%
July 31, 2006	1	41	40	1	2.5%
August 31, 2006	1	42	40.083	1.917	4.8%
September 30, 2006	1	43	40.25	2.75	6.5%
October 31, 2006	2	45	40.5	4.5	11.1%
November 30, 2006	2	47	N/A	6.5	N/A
December 31, 2006	1	48	N/A	7.5	N/A

Effective in October 2006, due to the 10% expansion of employees, the company's location becomes a new business facility. To compute the new business facility employee credit for 2006, take the average number of new business facility employees for the year in excess of the base number of employees (40.5) for the prior 12 month period. The qualifying new business employees are counted as follows: Jan-Sept (0), Oct. (4.5), Nov. (6.5), and Dec. (7.5). The average for the year is 18.5/12, or 1.54. The credit for 2006 is computed by multiplying the average number of new business facility employees by the credit rate (1.54 times \$500), or \$770. Assuming that the company averages 52 employees for all of 2007, the 2007 credit is calculated by taking the 9.96 increase in average employees for 2007 (52 minus 42.04) times \$500, or \$4,980.

***NEW BUSINESS FACILITY
EMPLOYEE***

New business facility employee means a person employed by the taxpayer in the operation of a new business facility. A person shall be deemed to be so engaged if he performs duties in connection with the operation of the new business facility on: a regular, full-time basis; a part-time basis if such person is customarily performing such duties at least twenty hours per week throughout the taxable year; or a seasonal basis if such person performs such duties for substantially all of the season customary for the position in which such person is employed.

A new business facility employee who works in and outside of the enterprise zone shall be counted as a partial enterprise zone new business facility employee in the ratio of his time spent working in the zone to his total working time.

Leased Employees: Leased employees or employees from a temporary service do not qualify as new business facility employees for the company leasing the employees. The lessor company may claim the credit if its office is a new business facility located in an enterprise zone and the leased employees represent net new jobs (as opposed to replacing employees of the company leasing the employees, of replacing employees or another lessor.)

Part-time employees: For a part-time employee to be included as a new business facility employee, the employee must work at least 20 hours per week for the majority of the weeks in the tax year. In the case of a part-time seasonal worker, the employee must work at least 20 hours per week for the majority of the weeks in the season customary for that position.

Truck Drivers: For taxable years beginning on or after January 1, 1994, a new business facility employee whose primary duties consist of operating a commercial motor vehicle with a commercial driver's license shall be deemed to be working one hundred percent within the zone if the employee spends no more than five percent of his or her total time at any facility of the employer other than the facility within the zone.
[§39-30-105 (1)(a)(I), C.R.S.]

Computing the number of new business facility employees

The number of new business employees at a new business facility during a year is the average of the number of new business employees at the end of each month during the tax year.

Example: XYZ Company starts a new business facility in March 2006. The number of employees at the end of each month is as follows: Jan-0, Feb-0, March-17, April-20, May-19, June-21, July-21, Aug-30, Sept-26, Oct-26, Nov-31, Dec-32. The number of new business facility employees for 2006 is 20.25 (243/12).

Qualified replacement facility. In the case of a qualified replacement facility, the number of qualifying enterprise zone new business facility employees shall not include the average number of individuals employed in the operation of the facility that the new business facility replaces during the three taxable years preceding the taxable year in which commencement of commercial operations occur at such new business facility.

Qualified expansion facility. In the case of a qualified expansion facility, the number of qualifying enterprise zone new business facility employees shall not include the average number of individuals employed in the operation of the facility during the 12 months preceding the expansion.

ENHANCED RURAL ENTERPRISE ZONES

Any part of a rural county that lies within an enterprise zone is designated as an enhanced rural enterprise zone. For tax years beginning on or after January 1, 2003, any new business facility located in an enhanced rural enterprise zone will be eligible for an additional new business employee credit and new business facility agricultural processing employee credit [§39-30-103.2, C.R.S.].

The Department of Local Affairs designated 32 counties as enhanced rural enterprise zones in November 2006. The designation is reviewed every two years. These counties meet at least two of the following criteria:

- County unemployment rate is at least 50% above the state average,
- County population growth rate is less than 25% above the state average,
- County average per capita income is less than 75% of the state average,
- County assessed value of nonresidential value ranks in bottom half of all Colorado counties,
- County population is 5,000 or less.

Enhanced Rural Enterprise Zone Counties			
County	2003-2004	2005-2006	2007-2008
Alamosa	x	x	x
Archuleta	x	x	x
Baca	x	x	x
Bent	x	x	x
Chaffee	x		x
Cheyenne	x	x	x
Clear Creek			x
Conejos	x	x	x
Costilla	x	x	x
Crowley	x	x	x
Custer	x	x	x
Delta	x	x	x
Dolores	x	x	x
Hinsdale	x	x	x
Huerfano	x	x	x
Jackson	x	x	x
Kiowa	x	x	x
Kit Carson		x	x
Lake	x	x	x
Las Animas	x		
Lincoln	x	x	x
Logan			x
Mineral	x	x	x
Moffat			x
Otero	x	x	x
Ouray	x	x	x
Phillips	x	x	x
Prowers	x	x	x
Rio Grande	x		x
Saguache	x	x	x
San Juan	x	x	x
Sedgwick	x	x	x
Washington	x	x	x
Yuma		x	

DEFINITIONS

Related Taxpayer. Related taxpayer means a corporation, partnership, trust, or association controlled by the taxpayer; an individual, corporation, partnership, trust, or association under the control of the taxpayer; or a corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association under the control of the taxpayer.

Control of a corporation means the ownership, directly or indirectly, of stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of all other classes of stock of the corporation. Control of a partnership or association means ownership of at least 80% of the capital or profits interest in such partnership or association. Control of a trust means ownership, directly or indirectly, of at least 80% of the beneficial and equitable interest in the principal or income of such trust.

Revenue-producing enterprise means:

- The production, assembly, fabrication, manufacturing, or processing of any agricultural, mineral, or manufactured product;
- The storage, warehousing, distribution, or sale of any products of agriculture, mining, or manufacturing;
- The feeding of livestock at a feedlot;
- The operation of laboratories or other facilities of scientific, agricultural, animal husbandry, or industrial research, development, or testing;
- The performance of services of any type;
- The administrative management of any of the activities listed above.

Same or substantially identical revenue-producing enterprise. Same or substantially identical revenue-producing enterprise means a revenue-producing enterprise in which the products produced or sold, the services performed, or the activities conducted are the same in character and use and are produced, sold, performed, or conducted in the same manner and to or for the same types of customers as the products, services, or activities produced, sold, performed, or conducted in another revenue-producing enterprise.

Commencement of Commercial Operations. Commencement of commercial operations shall be deemed to occur during the first taxable year for which the new business facility is first available for use by the taxpayer, or first capable of being used by the taxpayer, in the revenue-producing enterprise in which the taxpayer intends to use the new business facility.

FURTHER INFORMATION

FYIs, commonly used forms and additional tax information are available on the Web at www.taxcolorado.com

Additional Enterprise Zone FYIs are available on the Web under ""FYI Tax Publications."

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FYI – For Your Information

Manufacturing Equipment Exemption

GENERAL INFORMATION

Purchases of machinery or machine tools and parts thereof are exempt from state sales and use tax when the machinery will be used in manufacturing. [§39-26-709 C.R.S].

To qualify the machinery must:

- Be used in Colorado,
- Be used directly and predominantly to manufacture tangible personal property for sale or profit.
- Be of a nature that would have qualified for the federal investment tax credit under the definition of section 38 property found in the Internal Revenue Code of 1954, as amended¹. This includes tangible personal property with a useful life of one year or more and limits qualifying purchases of used equipment to a maximum of \$150,000 annually²,
- Be included on a purchase order or invoice totaling more than \$500,
- Be capitalized.

Directly

Each individual component of a system is considered to act directly on the manufacture of a product if it is a constituent part of machinery that acts upon and has a positive effect on the product. Bins, racks, fixtures, tanks, pipes, and valves do not qualify as items that act directly in the manufacturing process as they simply contain and protect the product from loss. Ductwork, electrical and plumbing materials are components that precede the manufacturing process and therefore are

not exempt as manufacturing machinery. Testing and transport machines qualify only if used during the actual manufacturing process.³

Direct use also includes (1) Machinery which cleans or prepares raw or prepared materials for production on the manufacturing line, after manufacturing has begun and before it has stopped; (2) machinery which performs testing of a particular product tested during the manufacturing process, or testing as a step in a continuous manufacturing line process; and (3) loader, fork lift or conveyor belt machinery integral to the manufacturing line process, moving material from inventory on the contiguous plant site, through the manufacturing line steps, and such machines moving material through the final alternation or packaging.

Predominantly

“Predominantly” means more than 50%. All non-manufacturing use will be compared to all direct manufacturing use in determining this percentage. Maintenance and repair down time is not included in the computation. If an item is used for repair, maintenance, or research and development it does not qualify as direct manufacturing use, and if these uses prevent the machine from being predominantly used in manufacturing, the machine is disqualified from this exemption.



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Example: A lathe is used to repair molds and perform other miscellaneous functions 55% of the time, while it is used in manufacturing new molds 45% of the time. The lathe would not be considered to be used predominantly in manufacturing.

Machinery

“Machinery” means any apparatus consisting of interrelated parts used to produce an article of tangible personal property. The term includes both the basic unit and any adjunct or attachment necessary for the basic unit to accomplish its intended function.

Manufacturing

“Manufacturing” means the operation of producing an item of tangible personal property different from and having a distinctive name, character, or use from raw materials. Manufacturing begins at the point raw material stored at a location contiguous to the plant site is picked up to be moved directly to the first machine, and ends at the point alteration of the product is complete. Packaging can be a completion step in the manufacturing process.

ENTERPRISE ZONES

When machinery is used solely and exclusively in an enterprise zone, the manufacturing/machinery exemption is broader. However, the equipment that is used both within and outside an enterprise zone only qualifies for the regular statewide exemption, as does equipment used at a location prior to that location’s designation as an enterprise zone. [§39-30-106(1) C.R.S.]

- Machinery used solely and exclusively in a designated enterprise zone does not have to be capitalized to qualify for the exemption.
- Materials for construction or repair of machinery or machine tools are exempt from the state sales and use tax if the machinery is used exclusively in an enterprise zone.
- Mining operations are included in the definition of manufacturing when performed in an enterprise zone. For further information, see FYI Sales 69, “Enterprise Zone Exemption for Machinery and Machine Tools used in Mining.”

SPECIAL CASES

Special Mobile Equipment (SME)

SMEs usually do not qualify for the manufacturing exemption because construction activity is not manufacturing. However, if the SME is used directly and predominantly in manufacturing, state and applicable local sales and use taxes will not be collected when the SME is registered at the county Motor Vehicle office and a completed DR 1191 is presented.

Leased Equipment

The manufacturing exemption also applies to all state and applicable local sales and use taxes that would normally be charged on the lease of eligible manufacturing equipment.

LOCAL TAXES

Cities, counties and special districts may or may not exempt manufacturing equipment from local sales taxes. Refer to publication DRP1002 for a list of localities that exempt this equipment from local tax. The Regional Transportation District, Cultural District, and Football District (RTD/CD/FD) may impose a sales tax on machinery used in manufacturing, but may not impose a use tax on machinery used in manufacturing.⁴

CLAIMING THE EXEMPTION

Complete a copy of Form DR 1191 Sales Tax Exemption on Purchases of Machinery and Machine Tools. Give one copy of the completed form to the seller of the machinery and a second copy to the Department of Revenue. The exemption can only be claimed when the purchase order/invoice totals more than \$500. Combining several invoices of less than that amount to reach the \$500 threshold is not allowed unless the items purchased were originally on one purchase order that totaled more than \$500.

If a taxpayer makes more than 100 purchases each year that qualify for the exemption, the taxpayer may complete Form DR 1192 Machine Tools State Sales Tax Exemption Agreement instead of preparing Form DR 1191 for each purchase.

ENDNOTES

¹

Ball Corporation, v. Colorado Department of Revenue, 51 P3d 1053, (Colo. App. 2001)
The machinery exemption is available for equipment that qualifies as recovery property as provided by section 38 of the "Internal Revenue Code of 1954" as amended. [§39-26-709 C.R.S.]

²

Colorado Department of Revenue, v. Cray Computer Corporation; 18 P3d 1277, (Colo. 2001)

Confirmed that the \$150,000 limitation on a purchase of used business property is consistent with the purpose and language of the enterprise zone sales tax exemption and applies to used manufacturing equipment whether used inside or outside an enterprise zone.

³

Coors Brewing Co. v. Fagan, 949 P.2d 110 (Colo. App. 1997)

See for further information regarding the scope of the machinery exemption.

⁴Local jurisdictions such as state-collected cities, counties, and special districts may specifically choose whether to adopt the state's machinery/manufacturing exemption. Most of the local jurisdictions have not adopted the exemption. See publication DRP 1002 for a list of cities and counties that have adopted the exemption. The RTD/CD/FD has not adopted the state's machinery/manufacturing exemption. Thus, purchases of machinery used in manufacturing are **not** exempt from RTD/CD/FD sales tax. However, the Colorado Court of Appeals has ruled that purchases of machinery used in manufacturing are exempt from any RTD/CD/FD use tax. See Ball Corporation v. Colorado Dept of Revenue, 51 P3d 1053 (Colo. App. 2001).

FURTHER INFORMATION

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SALES TAX EXEMPTION ON PURCHASES OF MACHINERY AND MACHINE TOOLS

Seller		Colorado Sales Tax Account Number	
Address			
City		State	ZIP
Purchaser		Colorado Sales Tax Account Number	
Address			
City		State	ZIP
Date of Purchase	Amount of Purchase	Is Equipment <input type="checkbox"/> Leased <input type="checkbox"/> Purchased	
Description of Item(s) Including Machine Parts			
How Used in Manufacturing			
End Product	How Sold <input type="checkbox"/> Wholesale <input type="checkbox"/> Retail <input type="checkbox"/> New <input type="checkbox"/> Used		
THIS SECTION IS FOR BUSINESSES LOCATED IN ENTERPRISE ZONES (SEE INSTRUCTIONS ON REVERSE SIDE)			
Amount of Purchase for Machinery, Machine Tools and Parts			
Materials used in the construction of machinery and machine tools (after 06/07/89)			
<i>I hereby certify that _____ is</i> <div style="text-align: center; font-size: small;">(Name of Purchasing Firm or Person)</div> <i>entitled to the exemption on purchases of machinery or machine tools.</i>			
By (Authorized Signature of Purchasing Firm)		Title	

DR 1191 Instructions

GENERAL INFORMATION

Purchases of machinery or machine tools and parts thereof are exempt from state sales and use tax when the machinery will be used in manufacturing. [C.R.S. 39-26-709].

To qualify the machinery must:

- Be used in Colorado,
- Be used directly and predominantly to manufacture tangible personal property for sale or profit.
- Be of a nature that would have qualified for the federal investment tax credit under the definition of section 38 property found in the Internal Revenue Code of 1954, as amended. This includes tangible personal property with a useful life of one year or more and limits qualifying purchases of used equipment to a maximum of \$150,000 annually,
- Be included on a purchase order or invoice totaling more than \$500,
- Be capitalized.

ENTERPRISE ZONES

The manufacturing exemption is expanded to exempt additional purchases from sales and use tax when machinery is used solely and exclusively in an enterprise zone. Equipment that is used both within and outside an enterprise zone only qualifies for the regular statewide exemption, as is equipment used at a location prior to that location's designation as an enterprise zone. [C.R.S. 39-30-106(1)]

- Machinery used solely and exclusively in a designated enterprise zone may be capitalized or expensed to qualify for the exemption.
- Materials for construction or repair of machinery or machine tools are exempt from the state sales and use tax if the machinery is used exclusively in an enterprise zone.
- Mining operations are included in the definition of manufacturing when performed in an enterprise zone. For further information, see FYI Sales 69, "Enterprise Zone Exemption for Machinery and Machine Tools Used in Mining."

LOCAL TAXES

Cities, counties and special districts may or may not exempt manufacturing equipment from local sales taxes. Refer to publication DRP1002 for a list of localities that exempt this equipment from local tax. Special districts that impose sales tax on manufacturing equipment cannot impose use tax on the equipment.

CLAIMING THE EXEMPTION

Complete Form DR 1191 Sales Tax Exemption on Purchases of Machinery and Machine Tools. Give one copy of the completed form to the seller of the machinery and a second copy to the Department of Revenue. The purchaser must also keep a copy. An exemption cannot be claimed for sales tax paid in another state which is credited against Colorado sales or use tax. NOTE: Acceptance of this certificate by the seller removes any sales tax liability from the seller and the purchaser is liable for any subsequent sales or use tax liability for the purchase.

FYI – For Your Information

Enterprise Zone Exemption for Machinery and Machine Tools Used in Mining

GENERAL INFORMATION

Purchases of machinery or machine tools and parts thereof are exempt from state sales and use tax when the machinery will be used in manufacturing. [§39-26-709(1)(a)(II) C.R.S.] For businesses in an enterprise zone, the statewide sales and use tax manufacturing exemption is expanded to include the purchase of machinery and machine tools used in certain mining or oil and gas operations.

The machine, tool or part must also meet all other qualifications as required for the statewide manufacturing exemption. As such, the information in this FYI is intended to supplement the information provided in FYI Sales 10 "Manufacturing Equipment Exemption."

EXPANDED EXEMPTION

For purposes of this enterprise zone exemption, the definition of manufacturing has been expanded to include "mining" as follows:

"refining, blasting, exploring, mining and mined land reclamation, quarrying for, processing and beneficiation, or otherwise extracting from the earth or from waste or stockpiles or from pits or banks any natural resource."
[§ 39-30-106(1)(b) C.R.S.]

To qualify for this exemption, the machine, tool or part must be used directly in the mining process. Using a machine in the mine is not sufficient evidence by itself of exemption.

Oil and Gas Operations

Refining is exempt under the definition of manufacturing found in §39-26-709 C.R.S. The machines in a refinery that are necessary to add value or protect the value of the products are exempt. The associated pipes, holding tanks, structures, electrical work and other non-machines are not exempt. The mining exemption stated under the "general information" section, page 1, broadens the exemption for oil and gas operations only within enterprise zones to include machinery, machine tools and parts that are directly and exclusively used in exploring and extraction.

Examples of Exempt and Nonexempt Machines

In general, any machine that facilitates removing the mined article from the ground is exempt.

- Trucks used to carry ore from the mine site to a crusher would not be exempt. Trucks used to carry ore to a storage area awaiting shipping would not be exempt. Trucks designed and predominantly used for hauling explosives would be exempt.
- Repair parts for an exempt truck would be exempt only if the parts meet all other requirements.
- Safety equipment required by state, federal or other government agencies or union contracts is exempt only if it meets all other requirements. Examples of non-exempt safety equipment would include ventilation units, machines to move miners in and out of the mine, gas detectors and fire suppression units.



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PAGE 1 OF 2
SALES 69 (06/05)

- Tools used in the repair of machines are taxable. Machines used in maintenance are taxable. Repair and maintenance tools and machinery are not directly a part of the mining process.
- Machines to install shoring are exempt, but the shoring itself is taxable. Roof bolts are taxable, but the roof bolter is exempt. Bolts and shoring are not integral parts of the mining machinery itself.
- Monitoring devices directly controlling mining machines are exempt. Monitoring devices that merely give an alarm are not.
- Downhole pumps, sucker rods, etc. used to extract oil or gas would be exempt. The pipeline used to carry the oil or gas would be taxable, as would the compressors used to move gas through a pipeline.

LOCAL TAXES

Cities, counties and special districts may or may not exempt manufacturing equipment from local sales taxes. Refer to publication DRP 1002 for a list of localities that exempt this equipment from local tax. Special districts that impose sales tax on manufacturing equipment cannot impose use tax on the equipment.

FURTHER INFORMATION

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For additional sales tax information visit the "Tax Information Index" at www.taxcolorado.com

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FYI – For Your Information

Enterprise Zone Qualified Job Training Program Investment Credit

Colorado taxpayers are allowed to claim a credit of ten percent of their total current year investment in a qualified job training program. [§39-30-104(4) C.R.S.]

“Qualified job training program” means a structured training or basic education program conducted on-site or off-site by the taxpayer or another entity to improve the job skills of employees who are employed by the taxpayer. These employees must be working predominantly within an enterprise zone. (On the job training is not a qualified job training program.)

Expenses incurred in training employees leased by the taxpayer do not qualify for the credit.

“Total investment” means

- 1) Land, building, real property improvement, leasehold improvement, or space lease costs and the cost of any capital equipment purchased or leased by the taxpayer and used entirely within an enterprise zone primarily for qualified job training program purposes or to make a training site accessible to the extent such investments or costs do not qualify for the enterprise zone investment tax credit; and
- 2) Expenses for a qualified job training program, whether incurred within or outside of an enterprise zone, including expensed equipment, supplies, training staff wages or fees,

training contract costs, temporary space rental, travel expenses, and other expense costs of qualified job training programs for employees working predominantly within an enterprise zone. (Wages of employees being trained are not includible expenses.)

Excess credits may be carried forward for up to twelve years.

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FYI – For Your Information

Investment Tax Credit

This publication includes information on three Colorado investment tax credits (ITC) available that relate to the federal business investment tax credit:

- Enterprise zone investment tax credit,
- New investment tax credit,
- Old investment tax credit.

ENTERPRISE ZONE INVESTMENT TAX CREDIT

The enterprise zone investment tax credit is three percent of any qualified investment in section 38 property:

- acquired and placed in service or constructed during the tax year, and
- used exclusively (100%) in a Colorado enterprise zone for the first year of its ownership by the taxpayer. [§39-30-104 (1) C.R.S.]

Limitations

The credit is not computed on the full value of 3-year recovery property or on non-recovery property with a useful life of less than seven years. See “Qualified Investments” for details.

The enterprise zone investment tax credit with respect to any qualified investment is in lieu of any old investment tax credit otherwise allowed with respect to the same expenditure. [§39-22-507.5 C.R.S.]

Relocation

Generally, no enterprise zone investment tax credit shall be allowed if the investment resulted from the relocation of a business operation from within the state to an enterprise zone. This is regardless of whether the original location of the operation was within an enterprise zone.

Once the new location is established, additional qualified investments will once again qualify for the investment tax credit. This restriction also applies to assets purchased during the relocation of a portion of a facility. [§39-30-104(6) C.R.S.]

However, if the relocation meets the criteria for a “qualified expansion facility” for the enterprise zone new business facility credit, then the investments that result from the relocation will qualify for the enterprise zone investment tax credit. (This is the case even if the business was qualified as a new business facility prior to the relocation.) To qualify, the taxpayer must have invested at least \$1 million or, if less, 100 percent of the investment in the old facility, or increased employment by 10 employees or 10 percent over the previous 12-month average.

Tax Liability Limitation

For years beginning on or after Jan. 1, 1996, the credit is allowed to the extent of the first \$5,000 of tax liability, plus 50 percent of the liability in excess of \$5,000.

For tax years beginning prior to Jan. 1, 1996, the Enterprise Zone Investment Tax Credit could be claimed to the extent of the first \$5,000 of tax liability plus 25 percent of the liability in excess of \$5,000.

If you have more ITC than you can claim based on the limits of your tax liability in a particular year, you can carry the unused amount of your ITC back three years and forward up to twelve years (seven years for credits earned in taxable years beginning prior to Jan. 1, 1996).



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PAGE 1 OF 6
INCOME 11 (07/06)

Motor Vehicles

A vehicle that operates out of an enterprise zone facility will *not* qualify for the enterprise zone investment tax credit if it is driven outside the zone at any time during the first year of service.

Documentation

If you claim an enterprise zone investment tax credit of \$450 or more, attach a copy of Form DR 0074 "Certification of Qualified Enterprise Zone Business" signed and certified by the zone administrator to your Colorado income tax return. If you file electronically, keep a copy of Form DR 0074 with your tax records. You must provide a copy to the Department of Revenue if requested.

NEW INVESTMENT TAX CREDIT

The new Colorado investment tax credit is allowed in an amount equal to 1% of the total qualified investment as determined under section 46(c) of the internal revenue code in qualified property as defined in section 48 of the internal revenue code as such sections existed prior to the Revenue Reconciliation Act of 1990. The new ITC is basically 10% of what the federal regular percentage ITC would be if it were still in effect. This credit was implemented in 1988 to provide an ITC on equipment that no longer qualified for the old ITC that was reduced by federal law changes in 1986. [§39-22-507.6 C.R.S.]

Limitations

The new investment tax credit is limited to \$1,000 reduced by the amount of the old investment tax credit claimed for the same tax year. Any excess new investment tax credit remaining may be carried forward for a period of three years. It may not be carried back to an earlier year.

The new Colorado investment credit is allowed only with respect to assets located within Colorado. If qualifying property is located both within and without Colorado during the tax year, the credit shall be apportioned based on the time of usage of such property in Colorado during the tax year as compared with the total time of usage of such property everywhere during the tax year unless the taxpayer can justify a more equitable apportionment method.

The credit is available only to C corporations.

All Internal Revenue Code section 46 (as such section existed prior to 1990) restrictions on qualified investment apply for purposes of the new ITC. For example, only a fraction of the basis or cost of assets that have a useful life of less than seven years qualifies for the credit, only \$150,000 of used property may qualify for the credit, and any amounts expensed under section 179 of the Internal Revenue Code do not qualify.

OLD INVESTMENT TAX CREDIT

The old investment tax credit is 10% of the current year federal investment credit, which includes the rehabilitation, energy and reforestation investment credits on assets located in Colorado. [§39-22-507.5 C.R.S.]

Limitations

The current year credit is the sum of the old investment tax credit carryforward, the current year old investment tax credit and the old investment tax credit carryback. The credit is limited to the first \$5,000 of tax liability plus 25% of the tax in excess of \$5,000. The credits must be utilized in the order they were created. Excess credit may be carried back three years and forward seven.

The credit is available only to C corporations.

QUALIFIED INVESTMENTS

The value of investments must be reduced before the three- percent enterprise zone ITC rate or one- percent new ITC rate is applied if the depreciable life of the asset falls into certain categories.

In the case of section 38 recovery property, the amount of qualified investment is computed as follows:

- 1) 60 percent of the basis for new 3-year recovery property.
- 2) 100 percent of the basis for all other new property in recovery classes of more than 3 years.
- 3) 60 percent of the cost of used 3-year recovery property and/or 100% of the cost of all other used recovery property up to a maximum of \$150,000.

In the case of section 38 property that is not recovery property, the cost or other basis (including up to \$150,000 of used property) that qualifies is limited if the property has a useful life of less than seven years. Only two-thirds of the basis or cost is taken into account if the useful life is at least five and less than seven years. Only one-third is taken into account where the useful life is at least three and less than five years. No credit is allowed if the useful life is less than three years.

Under certain circumstances the taxpayer may claim the credit on leased property. See "Leased Property" later in this publication for details.

All other Internal Revenue Code section 46 (as such section existed prior to 1990) restrictions on qualified investment also apply for purposes of the Colorado enterprise zone investment tax credit. For example, any amounts expensed under section 179 of the Internal Revenue Code do not qualify.

Example: PQR Company, a C corporation, purchases two pieces of equipment during the tax year. Item 1 is classified as three-year recovery property with a basis of \$10,000 while item two qualifies as five-year recovery property with a basis of \$7,000. The credit will be computed as follows:

Item 1 $\$10,000 \times 60\% = \$6,000$

Item 2 $\$7,000 \times 100\% = \$7,000$

Total value of investments for ITC computation \$13,000

$\$13,000 \times 3\% = \390 enterprise zone investment tax credit.

$\$13,000 \times 1\% = \130 new investment tax credit.

SECTION 38 PROPERTY

"Section 38 property" is defined in section 48 of the Internal Revenue Code as that section existed prior to 1990.

Section 38 property is either federal recovery property or other depreciable or amortizable property having a useful life of three years or more that qualifies under one of the following eight categories:

1) Tangible personal property.

a. In general, tangible personal property

used in a taxpayer's trade or business is section 38 property. This includes items such as machinery, furniture, appliances, law books or vehicles. (Remember, vehicles and other mobile property must be used solely and exclusively within an enterprise zone for at least the first 12 months of service to qualify for this credit.)

Three specific items of tangible personal property excluded from the definition of section 38 property are:

i. air conditioning units,
ii. heating units, and
iii. certain boilers fueled by petroleum or petroleum product that fail to meet special qualifications (old federal code section 48(a)(10)).

b. Livestock. Depreciable livestock (not including horses) is section 38 property if it has at least a three-year useful life. However, if within a one-year period starting six months before the date of acquisition, substantially identical livestock is disposed of without any federal investment tax credit recapture, the credit will be allowed only on the excess of the cost of the acquired livestock over the amount realized on the disposition. The age and sex of the livestock, and the use to which it is put, determine whether the livestock disposed of is substantially identical.

c. Lodging. Tangible personal property used predominately to furnish lodging (or in connection with furnishing lodging) is not section 38 property except when such property is used in connection with a hotel or motel furnishing accommodations predominately to transients. However, coin operated vending machines, washing machines and dryers are section 38 property even when they are used in connection with the furnishing of lodging. Tangible personal property used as part of the rehabilitation of certified historic structures is section 38 property even though the structure is used to furnish lodging. Also, non-lodging commercial facilities, such as tangible personal property in a drug store or restaurant situated in an apartment building or hotel, can qualify as section 38 property if they are available to persons not using the lodging facilities.

2) Other tangible property. Other tangible property (including real property but not including a building or its components) is

section 38 property if it is used as an integral part of:

- a. manufacturing,
- b. extraction,
- c. production, or
- d. furnishing of transportation, communications, electrical energy, gas, water, or sewage disposal services.

This category would include such things as blast furnaces, oil and gas pipelines, railroad tracks and signals, telephone poles, broadcasting towers, oil derricks, and fences used to confine livestock.

3) Elevators and escalators. Elevators and escalators are specifically included in the definition of section 38 property.

4) Research facilities and facilities for the bulk storage of fungible commodities. Research facilities and facilities for the bulk storage of fungible commodities (including liquids or gases) are section 38 property but only to the extent they are used in connection with the activities described in category 2) above. Fungibles are commodities, such as oil or grain, that can be mixed together. Later, they can be returned to parties in the mixed state. For example, if two people put grain in a grain silo, they could each pull out the original amount put in, but the grains would be mixed.

5) Single purpose agricultural or horticultural structures. Single purpose agricultural or horticultural structures may be section 38 property. A single purpose agricultural structure is section 38 property if it is designed, constructed, and used for housing, raising and feeding a particular type of livestock, such as cattle, pigs, or poultry, and their produce, and housing the equipment necessary for the particular activity.

A horticultural structure is section 38 property if it is specifically designed, constructed, and used for the commercial production of plants and/or mushrooms. Work space in the structure is permitted if such space is used solely for stocking or caring for livestock or plants, for collecting their produce or for maintaining the structure and equipment or stock housed in it.

6) Qualified rehabilitation expenditures. Qualified rehabilitation expenditures are section 38 property.

7) Qualified timber property. Qualified timber property for which amortization is claimed under Internal Revenue Code

section 194 is section 38 property.

8) Petroleum storage facilities. Storage facilities used in connection with the distribution of petroleum or its primary products are section 38 property.

LEASED PROPERTY

The owner of the property may claim the enterprise zone or new ITC, or elect to pass on the investment credit to the lessee of the property if the leased property is new section 38 property and is qualifying property both to the owner and to the lessee. A lessor cannot pass on the credit for used property to the lessee.

Non-corporate lessors and S Corporation lessors are eligible for the investment credit only if:

- the leased property has been manufactured or produced by lessor, or
- the term of the lease is less than 50 percent of the January 1, 1986 Asset Depreciation Range (ADR) class life for recovery property (useful life for other property) of the leased property,

and also

- the lessor's business expense deductions (other than rental payments and reimbursed expenses) related to the property are more than 15 percent of the rental income from the property for the first year of the lease.

If the lessor is denied the credit under this provision, the lessor may still pass the credit through to the lessee.

Where new section 38 property with an ADR class life of more than 14 years is leased (not a net lease) for a period which is shorter than 80 percent of its class life, the lessor may pass through to the lessee only that portion of the credit which the lease period covers.

The investment tax credit will not be allowed when a tax-exempt organization sells depreciable property to pass the tax benefits to the new owners and then leases back the property.

It is advisable that the lessor and lessee maintain some form of a legal agreement if the credit is passed to the lessee. However, there is no requirement as to what is required and no official form for this purpose.

INVESTMENT TAX CREDIT

RECAPTURE

Enterprise zone ITC

There is no recapture provision for the enterprise zone ITC. If the credit is claimed on property that is not used exclusively in the enterprise zone for at least one year, or if the credit is determined to be claimed in error for any other reason, the income tax return on which the credit was originally claimed must be amended to reduce the ITC claimed to the correct amount.

New ITC

There is no recapture provision for the new ITC. If it is determined that the credit was claimed in error the income tax return on which the credit was originally claimed must be amended to correct the ITC claimed.

Old ITC

Any corporation required to redetermine the federal credit upon which the Colorado old ITC was previously claimed due to provisions of section 50 of the Internal Revenue Code (section 47 for tax years prior to 1991) must redetermine the Colorado credit for the same tax year in accordance with the applicable federal recapture percentage table. If such redetermination results in a reduction of the Colorado credit, such reduction shall constitute an increase in Colorado income tax for the year during which the disposition or reclassification of the nature of the property occurs, and the amount of any unused ITC carryback or carryforward must be recomputed. Such increase shall be reported on the credit recapture line of the Colorado income tax return, but shall not be included as tax liability for purposes of computing the limitations on current year credits.

SPECIAL RULES

In the case of a controlled group of corporations as defined in section 1563(a) of the Internal Revenue Code, the \$1,000, \$5,000 and \$150,000 credit limitations shall be apportioned among the members of the controlled group as they may elect. The election shall apply to the income tax year of the members of the group ending with or including a common December 31. Should such members fail to agree on an

allocation of the limitation amount, it shall be divided equally among all members of the controlled group.

In the case of a regulated investment company or a real estate investment trust, the \$5,000 credit limitation shall be reduced to an amount which shall be \$5,000 multiplied by the taxable income for the income tax year and divided by the taxable income for the income tax year plus the deduction for dividends paid.

No carryforward or carryback of unused investment credit will be allowed in the case of a taxable cooperative as defined in section 1381(a) of the Internal Revenue Code of 1954, as amended.

When a tax-exempt entity sells depreciable property to pass the tax benefits to the new owners and then leases back the property, the investment tax credit will be denied for the property.

No investment tax credit is allowed to the purchaser of used property if the property is used by a person who used it before the purchase or by a related person. This would include a leaseback of used property or a purchase of leased property by the lessee.

No investment tax credit is allowed for Section 38 property to the extent such property is financed with nonqualified nonrecourse financing. This limitation applies to certain closely held corporations engaged in business activities that are subject to the loss limitation at-risk rules of Internal Revenue Code Section 465.

COMMON QUESTIONS

Can the enterprise zone investment tax credit and the new corporate one-percent investment tax credit be claimed for the same property?

Yes. However, only C corporations may claim the new investment credit. The old investment credit and the enterprise zone investment credit may not be claimed on the same property.

Does claiming an investment tax credit reduce my tax basis in the property?

No.

Can tangible property expensed under Section 179 be used to claim an investment tax credit?

No.

Does computer software qualify for the investment tax credit?

Only if the software qualifies as Section 38 property. Generally, software does not qualify for the credit.

A C corporation has an unused investment tax credit available to carry forward from its 2004 return. In 2005 the corporation elects to be taxed as an S Corporation. Can the credit be carried forward and claimed on the S Corporation return in 2005?

No, the credit cannot be carried forward from a C corporation to an S corporation return.

Does the purchase of equipment included in the purchase of a business qualify for the investment tax credit?

Yes, although the total investment in used equipment is limited to \$150,000 per year.

Must a taxpayer deduct the federal "Bonus Depreciation" before calculating the investment tax credit?

No, the federal "Bonus Depreciation" deduction does not affect the investment tax credit computation.

In what tax year should work in progress be claimed for the investment tax credit?

The general rule requires an asset to be placed in service prior to the credit being claimed. However, federal rules provide an exception for certain projects that have a normal construction period of over two years that allows a portion of the credit to be claimed prior to the asset being placed in service. Refer to the IRS rules and code for details on this exception.

FURTHER INFORMATION

FYIs and commonly used forms are available online at www.taxcolorado.com

For additional Colorado income tax information visit the "Tax Information Index" which covers a variety of topics including links to forms, publications, regulations, statutes and general questions and answers. The "Tax Information Index" is located at www.taxcolorado.com

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FYI – For Your Information

Vacant Commercial Building Rehabilitation Credit For Enterprise Zones

The owner or tenant of a building in an enterprise zone that is at least 20 years old and that has been completely vacant for at least two years can claim a tax credit of 25 percent of the cost of rehabilitating such building for commercial use. The credit is limited to \$50,000 per building. [§39-30-105.6, C.R.S.]

This tax credit is intended to encourage building owners and tenants in Enterprise Zones to put these buildings back into use. A taxpayer must submit the DR 0076 certification from the Enterprise Zone administrator and documentation of the qualified expenditure. However, any taxpayer who claims the Historic Preservation Credit or is allowed a credit for costs incurred in the rehabilitation of property through the provisions of section 38 of the Internal Revenue Code of 1986, as amended, shall not be allowed to claim the tax credit for rehabilitation of vacant buildings in an Enterprise Zone. (The taxpayer is allowed to claim the enterprise zone investment tax credit for such rehabilitation.)

If the amount of the credit exceeds the amount of income taxes owed by the taxpayer, the remaining credit which is not claimed in a tax year may be carried forward up to five years. The credit must be applied to the earliest income tax year possible.

QUALIFIED REHABILITATION EXPENDITURES

“Qualified expenditures” are expenditures associated with any exterior improvements, structural improvements, mechanical improvements, or electrical improvements necessary to rehabilitate a building for commercial use.

Qualified expenditures include but shall not be limited to: expenditures associated with demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, sprinkler systems installed for fire protection purposes, roofing and flashing, exterior repair, cleaning, tuckpointing, and cleanup.

Qualified expenditures **do not include:** expenditures commonly referred to as soft costs, which include but are not limited to costs associated with appraisals; architectural, engineering, and interior design fees; legal, accounting, and realtor fees; loan fees; sales and marketing; closing; building permit, use and inspection fees; bids; insurance; project signs and phones; temporary power; bid bonds; copying; and rent loss during construction. Qualified expenditures also do not include: costs associated with acquisition; interior furnishings; new additions except as may be required to comply with building and safety codes; total demolition followed by new construction; excavation; grading; paving; landscaping; and repairs to out-buildings. [§39-20-105.6 (4), C.R.S.].



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

Forms and other services:
(303) 238-FAST (3278)
Assistance:
(303) 238-SERV (7378)

www.taxcolorado.com

CALCULATING THE CREDIT

For example, Mr. Harrison owns an apartment building which has been vacant for three years. The building is 22 years old. During 2006, Mr. Harrison invests \$450,000 in repairing ceilings, fixtures, doors, windows and the roof. Of that amount, Harrison spent \$50,000 on engineering. Since engineering costs do not qualify for the rehabilitation credit, only \$400,000 will be used to calculate the credit.

Total qualified rehabilitation expenditures	\$400,000
25 percent of qualified expenditures	\$100,000
Credit allowed	\$ 50,000

Since the credit for rehabilitation of vacant commercial buildings is limited to \$50,000 per building, Mr. Harrison may take a credit of only \$50,000.

Mr. Harrison's 2006 income tax liability is \$10,000. He may carry forward the remaining \$40,000 credit for as much as five years.

BUILDING REQUIREMENTS

"Building" means any structure built for permanent use as a house, factory, etc., which is valued separately for general property tax purposes. A structure that has been subdivided into multiple ownership units, such as office condominiums, is still considered one building unless the subdivision occurred more than twenty years ago. A single business entity consisting of related structures on the same site, such as an old motor court, that is valued as one unit for property tax purposes will be considered one building. The determination of what constitutes a building is integral in determining the applicability of the \$50,000 limitation on the credit.

"Commercial Building" means any building that produces income.

In order to qualify for the credit, a building must be completely vacant for two years prior to the commencement of remodeling. Any use during the two-year period will disqualify the building from qualifying for the credit. This includes limited uses such as storage, warehouse, or use of only a

small part of the building. It also includes part time uses such as a haunted house or rental for a weekend trade show. Use of the yard outside of a building will not affect the vacant status of the building itself.

COMMON QUESTIONS

How is commercial use defined on a mixed-use project where the ground floor is developed for retail and the upper floor for residential use?

Only the costs directly associated with the commercial portion of the project would qualify for the tax credit.

Is there a minimum length of time that a rehabilitated building must remain in commercial use to qualify for the credit?

There is no time limit that the building must be used commercially. However, if the commercial use is too short, an argument may be made that the building wasn't truly renovated for commercial use and the credit would be disallowed.

FURTHER INFORMATION

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Certification of Qualified Nature of Enterprise Zone Rehabilitation Expenditures

For tax years beginning after August 6, 2002, this certification is public record and copies will be available from the enterprise zone administrator.	
Check here if this certification is for an earlier tax year and is a confidential tax document: <input type="checkbox"/>	Tax year beginning date _____, 20 _____

This form certifies the qualified nature of the expenditures you made to rehabilitate for commercial use a building located in a Colorado enterprise zone. At the time the expenditure was made, the building must have been at least 20 years old and completely vacant for at least two years.

To claim the enterprise zone building rehabilitation credit:

- Complete the section designated for you to complete. Submit this form to the appropriate enterprise zone administrator. Enclose a self-addressed stamped envelope.
- Attach a copy of the certified form to your Colorado income tax return. Also attach copies of receipts, bills or any other documentation you may have that will verify the amount of the qualified expenditures.

QUALIFIED EXPENDITURES MEANS expenditures associated with exterior improvements, structural improvements, mechanical improvements, or electrical improvements necessary to put the building into a proper condition for the operation of a commercial enterprise. Qualified expenditures may include expenditures associated with demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, sprinkler systems installed for fire protection purposes, roofing and flashing, exterior repair, cleaning, tuckpointing and cleanup.

QUALIFIED EXPENDITURES DOES NOT INCLUDE soft costs such as the cost of appraisals; architectural, engineering, and interior design fees; legal, accounting, and realtor fees; loan fees; sales and marketing; closing; building permit, use and inspection fees; bids; insurance; project signs and phones; temporary power; bid bonds; copying; and rent loss during construction. **QUALIFIED EXPENDITURES DOES NOT INCLUDE** costs associated with acquisition; interior furnishings; new additions, except as may be required to comply with building and safety codes; excavation; grading; paving; landscaping; and repairs to outbuildings.

TO BE COMPLETED BY TAXPAYER, OWNER, OR AUTHORIZED COMPANY OFFICIAL

Enterprise Zone — See Reverse			
Taxpayer/Company Name		Telephone Number ()	
Address (street, city, ZIP)		For tax year ending _____, 20 _____	
Address of Building for which Expenditures were Made (street, city, ZIP)			
Year Building was Constructed	Date of Last Occupancy	Current Year Qualifying Expenditures \$	Rehabilitation Tax Credit Claimed
<i>I declare that all of the above information is true and correct to the best of my knowledge and belief.</i>			
Signature of Owner/Authorized Official		Title	Date
CERTIFICATION BY ZONE ADMINISTRATOR			
<i>I, the duly authorized administrator of the designated Enterprise Zone, hereby certify to the Colorado Department of Revenue that the expenditure amount stated was of a nature that qualified for the enterprise zone building rehabilitation for commercial use credit.</i>			
Signature of Zone Administrator			Date

FOR MORE INFORMATION ABOUT ENTERPRISE ZONES CONTACT THE AGENCIES LISTED BELOW:

Colorado Department of Revenue, Denver, CO 80261-0005 Phone: 303-238-SERV(7378). www.taxcolorado.com Refer to FYI Income 24.
 Colorado Office of Economic Development, EDC, 1625 Broadway, Room 1700, Denver, CO 80202 Phone: 303-892-3840. www.state.co.us/oed/ez

Adams County Enterprise Zone

Kevin Tilson, Enterprise Zone Adm.
Adams County Econ. Develop., Inc.
12050 N. Pecos St., #220
Westminster, CO 80234
303-450-5106; FAX 303-252-8230
email: ktilson@adamscountyed.com

Arapahoe County Enterprise Zone

Nancy Fenton, Enterprise Zone Adm.
Community Development
City of Englewood
1000 Englewood Pkwy.
Englewood, CO 80110
303-762-2347; FAX 303-783-6895
email: nfenton@englewoodgov.org

Denver Enterprise Zone

Mary Jeffreys, Enterprise Zone Mgr.
Office of Economic Development
City & County of Denver
201 W. Colfax, Dept. 1005
Denver, CO 80202
720-913-1646; FAX 720-913-1802
email: mary.jeffreys@ci.denver.co.us

East Central-Northeast Enterprise Zone

Cheyenne, Elbert, Kit Carson, and Lincoln
Counties
Maryjo Downey, Executive Director
East Central COG
P.O. Box 28
Stratton, CO 80836
719-348-5562; FAX 719-348-5887
email: jdowney@prairiedevelopment.com

Logan, Morgan, Phillips, Sedgwick,
Washington, and Yuma Counties

Larry Worth, Executive Director
NE Colo. Assoc. of Local Govts.
231 Main St., #211
Fort Morgan, CO 80701
970-867-9409; FAX 970-867-9053
email: lworth@necalg.com

El Paso County Enterprise Zone

DeAnne McCann, EZ Manager
Economic Develop. & Pub. Finance
El Paso County
27 E. Vermijo Ave., 5th Floor
Colorado Springs, CO 80903
719-520-6480; FAX 719-520-6486
email: deannemccann@elpasoco.com

Greeley/Weld County Enterprise Zone

Cathy Schulte, Sr. Vice President
Upstate Colorado Economic Devel.
822 7th St., #550
Greeley, CO 80631
970-356-4565; FAX 970-352-2436
email: cschulte@gwedap.org

Jefferson County Enterprise Zone

Neil Marciniak, EZ Administrator
Jefferson Economic Council
1667 Cole Blvd., #400
Golden, CO 80401-3219
303-202-2965; FAX 303-202-2967
email: nmarciniak@jeffco.org

Larimer County Enterprise Zone

Lew Wymisner, Enterprise Zone Adm.
Larimer County Workforce Center
200 W. Oak St. 5000
Fort Collins, CO 80522
970-498-6605; FAX 970-498-6673
email: lwymisner@larimer.org

Mesa County Enterprise Zone

Pat Duran, Enterprise Zone Adm.
Western Colorado Business
Development Center
2591 B 3/4 Rd.
Grand Junction, CO 81503
970-243-5242; FAX 970-241-0771
email: pduran@gjincubator.org

Northwest Enterprise Zone

Aron Diaz, Executive Director
Assoc. Govts. of Northwest Colorado
P.O. Box 351
Rifle, CO 81650
970-625-1723; FAX 970-625-1147
email: jane.whitt@agnc.org

Pueblo Enterprise Zone

Aimee Tihonovich, EZ Administrator
Pueblo County Enterprise Zone
215 W. 10th St.
Pueblo, CO 81003
719-583-6542; FAX 719-583-4597
email: bbevel@co.pueblo.co.us

Region 10 Enterprise Zone

Paul Gray, Executive Director
Region 10 LEAP
P.O. Drawer 849
Montrose, CO 81402
970-249-2436; FAX 970-249-2488
email: info@region10.net

**San Luis/Upper Arkansas Valley
Enterprise Zone**

Chaffee, Custer, Fremont, and Lake
Counties
Jeff Ollinger, Enterprise Zone Adm.
Upper Arkansas Area COG
P.O. Box 1212
Buena Vista, CO 81211
719-395-2602
email: jeffolli@chaffee.net

Alamosa, Conejos, Costilla, Mineral, Rio
Grande, and Saguache Counties
Michael Wisdom, Executive Director
San Luis Valley Devel. Resources Grp.
P.O. Box 300 / 626 4th St.
Alamosa, CO 81101
719-589-6099; FAX 719-589-6299
email: wisdom@slvdr.org

South Central Enterprise Zone

Huerfano and Las Animas Counties
Priscilla Fraser, Executive Director
South Central COG
300 S. Bonaventure Ave.
Trinidad, CO 81082
719-845-1133; FAX 719-845-1133
email: pfraser@sccog.net

Otero County
Val Manweiler, EZ Coordinator
Otero County
P.O. Box 511
La Junta, CO 81050
719-383-3000; FAX 719-383-3090
email: oterorlf@otero.gov.org

Southeast Colorado Enterprise Zone

Dan Tate, Exec. Director
Southeast Colo. Enterprise Zone
112 W. Elm St./P.O. Box 1600
Lamar, CO 81052
719-336-3850; FAX 719-336-3835
email: seced@seced.net

Southwest Enterprise Zone

Ed Morlan, Executive Director
Region 9 Economic Development
District of SW Colorado
295A Girard St.
Durango, CO 81301
970-247-9621; FAX 970-247-9513
email: ed@scan.org

FYI – For Your Information

GENERAL INFORMATION

For income tax years beginning on or after Jan. 1, 1996, any taxpayer who makes monetary or in-kind contributions to an enterprise zone administrator or to an agent designated by the enterprise zone administrator for the purpose of implementing the economic development plan of the enterprise zone may claim an income tax credit of 25 percent of the value of the contribution up to a maximum credit of \$100,000. [§39-30-103.5 (1), C.R.S.]

Information about taxpayer contributions and their effect on Colorado income tax liabilities may be subject to release to the public [§39-30-103.5(7), C.R.S.]

ELIGIBLE PURPOSES

To qualify for the credit, the contribution must be used for purposes that are directly related to job creation, job preservation, or assistance programs for homeless persons. For tax years beginning on or after Jan. 1, 2003, contributions to promote community development projects will also qualify for the credit.

For a list of organizations and projects approved for the current year, go to www.state.co.us/oed/edc/EZ_projectlist.cfm

No credit shall be allowed to a taxpayer for any contributions that are used for a purpose that directly benefits the contributor. [§39-30-103.5 (4), C.R.S.]

DOCUMENTATION

Credit claims of \$250 or more must be accompanied by a certificate from the enterprise zone administrator attesting to the value and use of the contribution.

Any electronically filed income tax return must include requested information from the certification and the certification form must be submitted to the Department of Revenue upon request.

Your certification form (Form DR 0075) will specify the amount of your contributions that qualify for the 25 percent cash/ 12 1/2 percent in-kind credit.

LIMITATIONS

For any given year, the amount of the credit is limited to the taxpayer's liability. Any excess credit may be carried forward for a period of up to five years. The \$100,000 credit limit can be generated each year whether or not there is any carryover from prior years. [Reg. 39-30-103.5].

Example: The New Company contributes \$50,000 cash to a job creation in an enterprise zone on Aug. 1, 2004. The New Company derives no direct benefit from its contribution. For example, the center will not be located on or attached to a New Company facility, New Company does not sell or lease anything to the center and New Company does not directly benefit from the training of employees at the center.



New Company earns a \$12,500 credit. If New Company's Colorado income tax liability for 2006 is \$10,000, New Company claims \$10,000 of the credit and carries \$2,500 forward to 2007.

Pass-through entities: The \$100,000 limitation is computed at the taxpayer level. A donation made by a pass-through entity is not subject to the \$100,000 credit limitation at the entity level. Each member's share of the donation is passed through to that member, who then computes the allowable credit on their total donations, which is subject to the \$100,000 limitation.

Example: The Old Company Partnership contributes \$500,000 in cash to a qualified enterprise zone contribution project on May 1, 2006. The entity has two partners who hold 80% and 20% shares of the partnership respectively. Partner A computes a \$100,000 credit using their \$400,000 share of the contribution. Partner B computes a \$25,000 credit using their \$100,000 share of the contribution.

IN-KIND CONTRIBUTIONS

Examples of in-kind contributions would include employee labor, materials, desks, computer equipment, or stock.

The credit for in-kind contributions may not exceed 50 percent of the otherwise allowable credit. This means that the amount of the credit for in-kind contributions alone is 12.5 percent of the value of the contribution, up to a maximum credit of \$50,000. For cash and in-kind contributions, the credit is the lowest of the three following amounts: [Reg. 39-30-103.5]

- 1) a basic limitation of 25 percent of the combined value of cash plus in-kind contributions; or
- 2) 100 percent of the cash portion of the contribution plus the smaller of
 - a) 12.5 percent of the combined value of the cash and in-kind contribution or
 - b) \$50,000; or
- 3) \$100,000.

CONTRIBUTION CREDIT COMPUTATION SCHEDULE

1) Amount of cash contributions.	\$ _____
2) Value of in-kind contributions.	\$ _____
3) Total of lines 1 and 2.	\$ _____
4) Smaller of \$100,000 or 25 percent of line 3.	\$ _____
5) Limitation on in-kind credit, 50 percent of line 4.	\$ _____
6) Allowable in-kind credit, smaller of lines 2 or 5.	\$ _____
7) Limitation on cash credit, line 4 minus line 6.	\$ _____
8) Allowable cash credit, smaller of line 1 or line 7	\$ _____
9) Total credit, line 6 plus line 8.	\$ _____

Your current year contribution credit will be the total of line 9, plus any contribution credit carryover you may have from prior years; except that your current year credit cannot exceed \$100,000 or your tax liability remaining after any other credits you have claimed. Excess contribution credits may be carried forward for up to five years.

COMMON QUESTIONS

Are contributions of stock considered in-kind or monetary contributions when computing the credit?

Monetary contribution refers to the contribution of money. Therefore, negotiable securities, no matter how liquid, are considered in-kind contributions, and are eligible for a 12.5% credit based on the market value at the time of contribution.

If a taxpayer contributes more than \$400,000 in cash during a single year, can the excess be carried forward to the next year?

No, the five-year carryforward applies only to credits within the \$100,000 limit that exceeds the tax liability for the year. In effect, cash contributions above \$400,000 in a single year do not earn any enterprise zone credit.

FURTHER INFORMATION

FYIs, commonly used forms and additional tax information are available on the Web at www.taxcolorado.com

For additional Colorado tax information visit the "Tax Information Index" which covers a variety of topics including links to forms, publications, regulations, statutes and general questions and answers. The "Tax Information Index" is located at www.taxcolorado.com

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue nor does it replace, alter or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having authority to bind the Department, has not formally reviewed and/or approved these FYIs.