



FYI Income 65 Wildfire Mitigation Measures Subtraction

GENERAL INFORMATION

For income tax years 2009 through 2013 individuals, estates and trusts may subtract from federal taxable income 50% of the costs incurred in performing wildfire mitigation measures that meet the following qualifications and limitations:

- The taxpayer must own the property upon which the wildfire mitigation measures are performed.
- The property upon which the wildfire mitigation measures are performed must be located in Colorado.
- The property upon which the wildfire mitigation measures are performed must be located in a wild land-urban interface area.
- The wildfire mitigation measures must be authorized by a community wildfire protection plan adopted by a local government within the interface area.
- The total amount of the subtraction cannot exceed \$2,500 or the owner's federal taxable income, whichever is less.

[39-22-104(4)(n), C.R.S.]

MARRIED TAXPAYERS

In the case of two individuals filing a joint return, the amount subtracted from federal taxable income shall not exceed \$2,500 in any taxable year. In the case of two married individuals who file separate returns, only one of the individuals may take a subtraction for wildfire mitigation expenses.

TENANTS IN COMMON

In the case of real property owned by tenants in common, the subtraction can be taken only by one of the individuals in the ownership group.

DEFINITIONS

Community Wildfire Protection Plan

Community wildfire protection plan means a plan that meets the following requirements:

- It must be approved by a local government entity, local fire department and the Colorado State Forest Service in accordance with guidance established by the Wildland Fire Leadership Council.
- It must identify and prioritize areas for hazardous fuel reduction treatments and recommend the types and methods of treatments.
- It must recommend measures to reduce structural ignitability.

Additional information regarding community wildfire protection plans can be found online at www.csfs.colostate.edu

Costs

Costs means any actual out-of-pocket expense incurred and paid by the landowner and documented by receipt for performing wildfire mitigation measures. The following expenses are specifically excluded within statute and do not qualify for this subtraction:

- Inspection or certification fees;
- In-kind contributions;
- Donations;
- Incentives;
- Cost sharing;
- Expenses paid by the landowner from any grants awarded to the landowner for performing wildfire mitigation measures.

Landowner

Landowner means any owner of record of private land located within the state, including any easement, right-of-way or estate in the land and includes the heirs, successors and assignees of such land and shall not include any partnership, S-corporation or other similar entity that owns private land as an entity.

Wildfire Mitigation Measures

Wildfire mitigation measures mean the following activities to the extent that they meet or exceed any Colorado State Forest Service standards or any other applicable state rules:

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

Additional information regarding wildfire mitigation measures can be found online at www.csfs.colostate.edu

Common Questions:

Does the community wildfire protection plan (CWPP) have to be approved before the fire mitigation activities take place? (for example: landowner performed work in the summer of 2011, but the CWPP was not approved until Dec. 2011.)

Yes, the CWPP must be approved before the mitigation measures are performed. The mitigation measures must be performed in a wild urban interface area and authorized by an existing CWPP. [§39-22-104(4)(n)(II), C.R.S.] If the measures were performed on the land before it was designated and the CWPP approved, then the expenses would not qualify for the subtraction.

Can a person who leases real property claim the credit if the lessee performs wildfire mitigation measures?

No. The credit is limited to the owner of the property. However, if the owner / lessor reimburses the lessee for the cost of the mitigation effort, then the owner / lessor can claim the credit.

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.