Colorado-source capital gains deduction

Capital gains result from the sale of a property or investment. There is a federal capital gains tax that treats long-term gains preferentially, but taxes short-term gains at the same level as ordinary income. Several states, including Colorado, have preferential tax treatment for certain capital gains earned on property located in Colorado.

Taxpayers who had certain capital gains from property held for five uninterrupted years, could deduct gains from that property from their Colorado taxable income, up to $100,000 per taxpayer. Taxpayers with tangible personal property (such as boats, furniture, or art, but not real estate like buildings or land or intangible property like stocks or bonds) purchased on or after June 4, 2009 qualify for the deduction even if the property is located outside of Colorado. Real property (property that is not moveable, like land, houses, and buildings) must be located in Colorado and purchased between May 5, 1994 and June 4, 2009 to qualify. Intangible personal property (such as stocks, retirement accounts, or insurance policies) does not qualify for this tax break.

Acquisition date	Real property	Tangible personal property
On or after May 9, 1994, but before June 4, 2009	Must be located in Colorado to qualify for the subtraction	Must be located in Colorado to qualify for the subtraction
On or after June 4, 2009	Does not qualify for the subtraction	May qualify for the subtraction whether located inside or outside of Colorado

The $100,000 cap per taxpayer was implemented to ensure that no one was abusing this deduction, and the provision was extended to apply to gains realized by pass-through businesses. In 2018, due to unclear statutory language, the Department of Revenue began applying the $100,000 cap to each partner or shareholder in a pass-through business, rather than applying it to the business as a whole. Only 6,000 Coloradans benefit from this deduction, partly because this deduction has been narrowed over the years.

For more information, please contact:

Caroline Nutter
Colorado Fiscal Institute
nutter@coloradofiscal.org
703-713-2466

Joshua Mantell
The Bell Policy Center
mantell@bellpolicy.org
202-510-0634

Meghan Raynes Matthews
Siegel Public Affairs
meghan@sielgelpa.com
303-898-1716