

INSTRUCTIONS FOR COMPLETING FORM 106

WHO MUST FILE FORM 106

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

An S corporation must file Form 106 for any year it is doing business in Colorado. Doing business in a state is defined as having income arising from the activity of one or more employees located in the state; or arising from the fact that real or personal property is located in the state for business purposes. A corporation will be deemed to be doing business in Colorado if it is engaged in any activities in Colorado which are beyond the protection afforded by Public Law 86-272.

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

A change or correction on your return must be reported on a corrected Form 106. Check the box at the top of the corrected Form 106. Include prior payments on line 16 of the corrected form.

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

DUE DATES FOR FILING RETURN

The return is due to be filed three and one-half months after the close of the tax year plus an automatic six-month extension. See the extension payment instructions for further information. Calendar year 2010 returns are due on April 18, 2011.

NONRESIDENT PARTNERS/ SHAREHOLDERS/MEMBERS

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

- File a composite return on behalf of the nonresident members. The tax due on the composite filing shall be 4.63% of the Colorado-source income of the partners, shareholders or members included in the composite return.
- Provide a completed form DR 0107 each year for each nonresident partner, shareholder or member establishing that he/she will file a Colorado income tax return, or
- Provide a completed form DR 0108 for each nonresident partner, shareholder or member. Withhold 4.63% of each nonresident partner, shareholder or member's Colorado source income and submit the payment with form DR 0108. A separate DR 0108 must be submitted for each partner, shareholder or member for whom a payment is made.

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

ADDITIONAL INFORMATION AVAILABLE

All forms, FYIs and other information are available through the Tax Information Index at: www.TaxColorado.com or you can call for information at (303) 238-SERV(7378).