Wildfire Mitigation Deduction

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OFFICE OF THE STATE AUDITOR
COLORADO

The Wildfire Mitigation Deduction allows owners of private property in a wildland-urban interface area to claim an income tax deduction for 50 percent of costs of performing wildfire mitigation, up to a maximum deduction of $2,500 per tax year. Per statute [Section 39-22-104(4)(n.5)(III)(D), C.R.S.], wildfire mitigation is defined as "the creation of a defensible space around structures; the establishment of fuel breaks; the thinning of woody vegetation for the primary purpose of reducing risk to structures from wildland fire; or the secondary treatment of woody fuels by lopping and scattering...or prescribed burning...".

We found that the Wildfire Mitigation Deduction provides landowners with a relatively small financial benefit relative to the cost of wildfire mitigation.

- At most, the deduction provides a $110 tax benefit and covers 2.2 percent of project costs. If a landowner spends more than $5,000 on mitigation, the tax benefit would represent an even smaller percentage of the total cost of the mitigation work. For example, if a landowner spends $10,000 on mitigation work, the tax benefit would only cover 1.1 percent of the cost.

- Other tax credits and programs in the state provide a greater financial benefit to landowners who perform wildfire mitigation activities. For example, the Wildfire Hazard Mitigation Expenses Credit, starting in Tax Year 2023, provides an income tax credit worth up to $625 to landowners who perform wildfire mitigation on their property and have a federal taxable income at or below $120,000.

Policy Consideration

The General Assembly may want to review the eligibility requirements for the Wildfire Mitigation Deduction and the Wildfire Hazard Mitigation Credit to determine if they are consistent with legislative intent.

Tax Type:	**Income**	Year Enacted:	**2008**
Expenditure Type:	**Deduction**	Repeal/Expiration date:	**2026**
Statutory Citation:	**Section 39-22-104(4)(n.5), C.R.S.**	Revenue Impact (2020):	**$103,000**

Purpose given in statute or enacting legislation? **No**

Wildfire Mitigation Deduction

Background

The Wildfire Mitigation Deduction allows owners of private property in a wildland-urban interface area to claim an income tax deduction for 50 percent of costs of performing wildfire mitigation, up to a maximum deduction of $2,500 per tax year.

The deduction is available to individuals, estates, and trusts that are landowners, but not C-corporations, partnerships, S-corporations, or similar entities that own private land as an entity. The deduction was created in 2008, and the only substantial change that has occurred was with House Bill 16-1286, which increased the percentage of landowners' costs eligible for the deduction from 50 to 100 percent for Tax Years 2017 through 2019. The total deduction was still capped at $2,500 per landowner during this time. In addition, House Bill 22-1007, passed in 2022, extended the deduction's expiration date to January 1, 2026.

Per statute [Section 39-22104(4)(n.5)(III)(D), C.R.S.], wildfire mitigation is defined as "the creation of a defensible space around structures; the establishment of fuel breaks; the thinning of woody vegetation for the primary purpose of reducing risk to structures from wildland fire; or the secondary treatment of woody fuels by lopping and scattering…or prescribed burning..." The Colorado State Forest Service (CSFS) and the Division of Fire Prevention and Control, within the Department of Public Safety, establish the minimum standards for the mitigation measures in order for the costs to be eligible for the deduction. Qualifying costs include paying contractors or purchasing equipment to perform wildfire mitigation measures. Costs that are not eligible include a landowner's own time and labor, donations in-kind, grants, and inspection or certification fees. Taxpayers claim the deduction when they file their income tax return and submit receipts for eligible expenses.

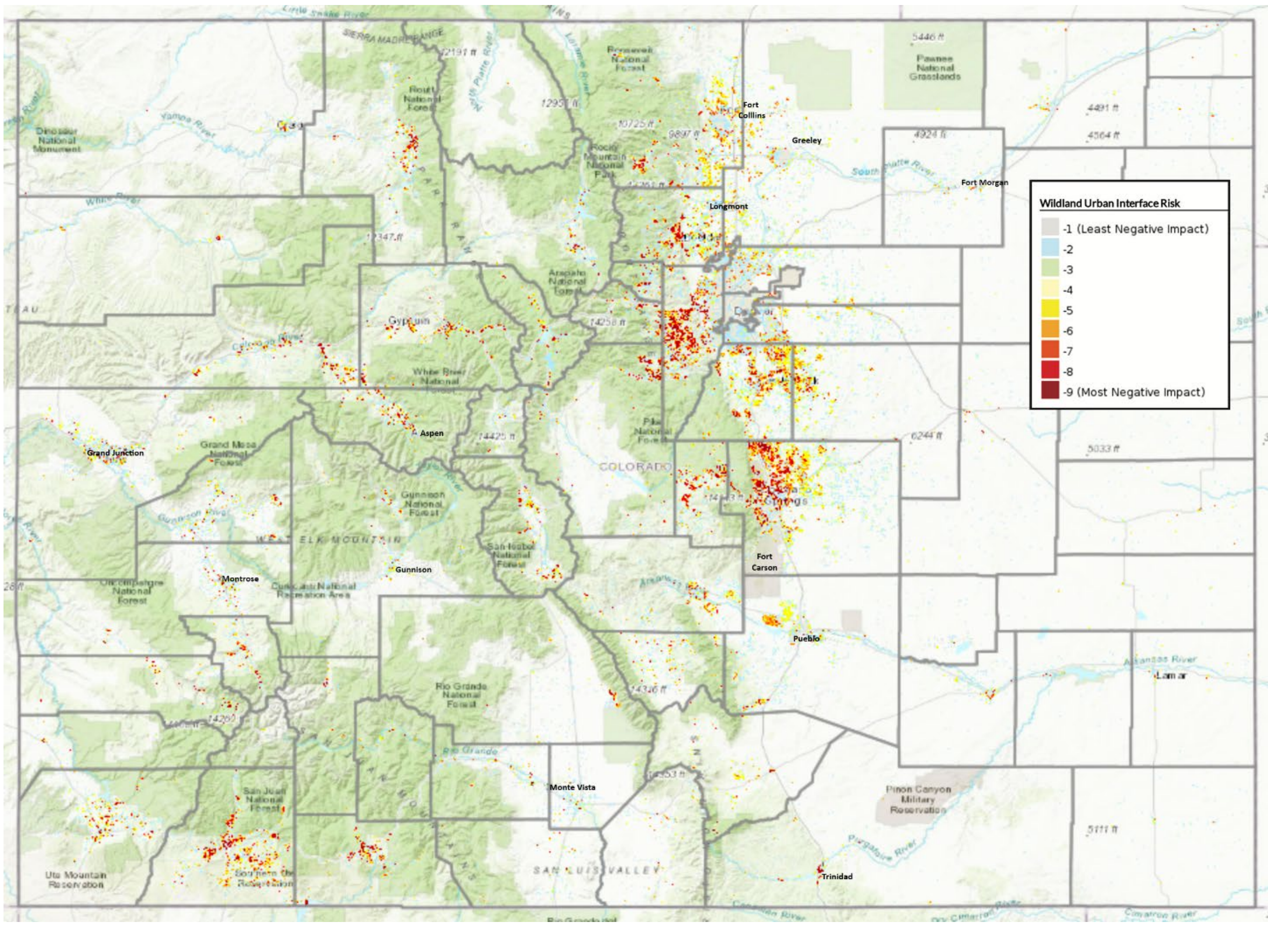
Technical Note

Department of Revenue guidance for the deduction defines wildland-urban interface area as a place where structures or other development are built close to natural terrain and flammable vegetation with high potential for wildland fires.

Wildfires cause significant damage to property in Colorado each year. For example, according to the Rocky Mountain Insurance Information Association, the 2021 Marshall Fire in Boulder County resulted in insurance claims of over $2 billion, with more than 1,200 properties lost or damaged. Wildfire mitigation can reduce damage to property when a wildfire occurs nearby. According to the National Fire Protection Association, removing flammable materials, such as vegetation and mulch, from the perimeter of a home and thinning trees can significantly decrease wildfire damage or destruction.

CSFS estimated that about 11 percent of Colorado's population lived in an area with high risk of wildfire in 2017, and, due to population growth and development in rural areas, the number of properties in wildland-urban interface areas is projected to increase. Exhibit 1 shows the high risk wildland-urban interface areas for wildfires.

Exhibit 1
High Risk Wildland-Urban Interface Areas



Source: Colorado State Forest Service's Wildfire Risk Public Viewer.

We considered the purpose of the deduction to be to provide financial support for taxpayers who incur wildfire mitigation costs. House Bill 22-1007, which extended the deduction and created a new Wildfire Hazard Mitigation Expenses Credit for taxpayers who incur wildfire mitigation costs, stated that the purpose of the credit is "…to reimburse a landowner for the costs incurred in performing wildfire mitigation measures…" on private property in Colorado. Although this purpose statement only applies specifically to the new credit and not the deduction, because statute does not provide a separate purpose statement for the deduction, we considered it to have a similar purpose as the credit. We evaluated the effectiveness of the deduction at meeting the purpose we considered by measuring the extent to which it provides financial support to private landowners who incur costs related to completing wildfire mitigation activities.

Evaluation Results

We found that the Wildfire Mitigation Deduction provides landowners with a relatively small financial benefit relative to the cost of wildfire mitigation.

Exhibit 2 shows the potential tax benefit from the deduction, depending on the total cost of the wildfire mitigation project. As shown, the deduction provides no more than a $110 tax benefit and covers, at most, 2.2 percent of the project costs. Because the deduction is capped at $2,500, if a landowner spends more than $5,000 on mitigation, the tax benefit would represent an even smaller percentage of the total cost of the mitigation work. For example, if a landowner spends $10,000 on mitigation work, the tax benefit would only cover 1.1 percent of the cost.

Exhibit 2
Potential Tax Benefit Provided by the Deduction

Project Cost	$1,000	$2,500	$5,000	$10,000
Maximum Deduction (50 percent of costs up to $2,500)	$500	$1,250	$2,500	$2,500
Tax Benefit Based on 4.4 Percent Income Tax Rate	$22	$55	$110	$110
Percentage of Project Cost Covered by Deduction	2.2%	2.2%	2.2%	1.1%

Source: Colorado Office of the State Auditor analysis of statute [Section 39-22-104(4)(n.5), C.R.S.].

According to CSFS, the cost to perform wildfire mitigation varies based on several factors including the type of forest, the size and location of the property, and the terrain. On average, CSFS estimates mitigation costs to be about $1,700 per acre statewide, but can vary from about $1,050 to $2,100 per acre. It also notes that mitigation work around homes in wildland-urban interface areas, which requires more handwork and mastication of vegetation, costs more per acre.

In addition, there are other tax credits and programs in the state that provide a greater financial benefit to landowners who perform wildfire mitigation activities. As discussed, House Bill 22-1007, which extended the deduction, created the Wildfire Hazard Mitigation Expenses Credit, which, starting in Tax Year 2023, provides an income tax credit worth up to $625 to landowners who perform wildfire mitigation on their property and have a federal taxable income at or below $120,000, which will be adjusted for inflation in each subsequent tax year. The landowner can claim the credit for 25 percent of the cost up to $2,500 in project costs. In addition, CSFS administers several programs that can help private landowners address wildfire risks. The Forest Stewardship Program provides landowners with technical assistance and, in some cases, financial assistance in managing their forest for overall health, including wildfire mitigation. Private landowners can also participate in several programs administered by CSFS that can help reduce the cost of fire mitigation, such as selling lumber through the Forest Ag or Tree Farm Programs. Finally, CSFS also administers grant programs for local governments and communities to address wildfire risks, such as the Forest Restoration & Wildfire Risk Mitigation Grant Program, although these grants are not available for individual landowners. While these types of programs are common in other states, we did not identify any tax expenditures similar to the Wildfire Mitigation Deduction in other states.

According to Department of Revenue data, about 1,760 taxpayers claimed the deduction in Tax Year 2020, with the average deduction being about $1,280, for an average reduction in tax liability of $58 per taxpayer. As shown in Exhibit 3, the deduction has had a relatively small financial impact to the State.

Exhibit 3
Wildfire Mitigation Deduction Revenue Impact

Year	Revenue Impact
2015	$68,000
2016	$64,000
2018	$105,000
2020	$103,000

Source: Colorado Department of Revenue's 2022 Tax Profile & Expenditure Report.

Policy Consideration

The General Assembly may want to review the eligibility requirements for the Wildfire Mitigation Deduction and the Wildfire Hazard Mitigation Expenses Credit to determine if they are consistent with legislative intent. As discussed, House Bill 22-1007 established the Wildfire Hazard Mitigation Expenses Credit to reimburse landowners for wildfire mitigation costs that, in many cases, would also qualify for the Wildfire Mitigation Deduction, with the same types of wildfire mitigation costs being eligible for both the credit and the deduction. However, there are several differences regarding eligibility for these tax expenditures. Specifically, the credit is limited to taxpayers with federal taxable income of $120,000 or less, but can be claimed statewide and for land owned by both individuals and partnerships when there is a dwelling on the land. In contrast, the deduction has no income qualifications, but can only be claimed for mitigation work conducted in a wildland-urban interface area and is limited to land owned by individuals, and partnerships are never eligible to claim it. Therefore, an individual landowner in a wildland-urban interface area could potentially claim both the deduction and credit for qualifying wildfire mitigation costs (a potential tax benefit of $735); whereas, if the same work was performed on land owned by a partnership or outside of a wildland-urban interface area, it would only be eligible for the credit (a potential $625 tax benefit). Based on our review of the legislative history of House Bill 22-1007, it is not clear whether the General Assembly intended the two provisions to create a duplicative benefit or a larger potential benefit for certain taxpayers. Therefore, the General Assembly may want to review the eligibility requirements for both provisions and make changes if their current requirements are contrary to its intent.

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