



TAX BULLETIN 18-1

Virginia Department of Taxation

February 26, 2018

IMPORTANT INFORMATION REGARDING 2017 VIRGINIA INCOME TAX RETURNS

VIRGINIA'S CONFORMITY TO THE INTERNAL REVENUE CODE ADVANCED TO FEBRUARY 9, 2018

Under emergency legislation enacted by the 2018 General Assembly (Senate Bill 230, Chapter 14 of the 2018 Acts of Assembly, enacted on February 22, 2018, and House Bill 154, Chapter 15 of the 2018 Acts of Assembly, enacted on February 23, 2018), Virginia's date of conformity to the terms of the Internal Revenue Code will advance from December 31, 2016 to February 9, 2018. This bulletin is intended to provide taxpayers with directions on how to reconcile this legislation with their 2017 Virginia income tax returns.

Virginia's Conformity Legislation

During the 2018 General Assembly Session, legislation was enacted to advance Virginia's date of conformity to the Internal Revenue Code from December 31, 2016 to February 9, 2018. This allows Virginia to conform to the Disaster Tax Relief and Airport and Airway Extension Act of 2017, as well as most of the provisions of the Tax Cuts and Jobs Act and the Bipartisan Budget Act of 2018 that are effective for Taxable Year 2017. However, this legislation does not conform to the provision of the Tax Cuts and Jobs Act that temporarily increases the medical expenses deduction for Taxable Years 2017 and 2018. In addition, this legislation deconforms from most of the provisions of the Tax Cuts and Jobs Act and the Bipartisan Budget Act of 2018 that are effective for Taxable Year 2018 and thereafter. This bulletin explains the conformity adjustments that may be necessary on Taxable Year 2017 income tax returns.

Federal Disaster Tax Relief Act

On September 29, 2017, Congress enacted the Disaster Tax Relief and Airport and Airway Extension Act of 2017 ("the Disaster Relief Act"). This federal legislation provides temporary tax relief to individuals and businesses affected by Hurricanes Harvey, Irma, and Maria. Advancing the date of conformity to February 9, 2018, will allow Virginia to conform to the following provisions of the Disaster Relief Act:

- Suspending the annual limitations imposed on charitable contribution deductions if certain contributions are made for hurricane relief;
- Modifying the method by which earned income is determined for purposes of computing the earned income tax credit for taxpayers in hurricane disaster areas; and
- Modifying the deduction for personal casualty losses in hurricane disaster areas to eliminate the requirement that casualty losses must exceed 10 percent of adjusted gross income to qualify for the deduction.

Federal Tax Cuts and Jobs Act

On December 22, 2017, Congress enacted Public Law 115-97, known as the "Tax Cuts and Jobs Act." This legislation substantially changes the federal income taxation of individuals and businesses. Advancing the date of conformity to February 9, 2018, will allow Virginia to conform for Taxable Year 2017 and thereafter to the provisions of the Tax Cuts and Jobs Act providing tax relief for specified 2016 disaster areas and extending combat zone benefits to members of the armed forces performing services in the Sinai Peninsula of Egypt.

The Tax Cuts and Jobs Act also included various provisions that were effective for transactions occurring on and after the date of enactment, including the following provisions:

- Rollovers from 529 accounts to Achieving a Better Life Experience ("ABLE") accounts;
- Modification of the treatment of S corporation conversions into C corporations;
- Expensing of certain costs of replacing citrus plants lost by reason of a casualty;
- Creation of qualified opportunity zones;
- Denial of a deduction for settlements subject to a nondisclosure agreement paid in connection with sexual harassment;
- Expansion of the provision relating to the non-deductibility of fines and penalties;
- Repeal of the deduction for local lobbying expenses; and
- Revision of the treatment of contributions to capital.

To the extent that any of these provisions affect the computation of federal adjusted gross income for individuals or federal taxable income for corporations during Taxable Year 2017, Virginia will conform to such provisions.

Federal Bipartisan Budget Act of 2018

On February 9, 2018, Congress enacted the Bipartisan Budget Act of 2018. The federal legislation extends for one year over 30 tax provisions that expired at the end of 2016. These provisions include the following:

- The above-the-line deduction for qualified tuition and related expenses for higher education;
- The exclusion from gross income of a discharge of qualified principal residence indebtedness;
- The treatment of qualified mortgage insurance premiums as interest for purposes of the mortgage interest deduction;
- Modifications to certain depreciation and cost recovery methods;
- The eligibility of domestic gross receipts from Puerto Rico for the domestic production activities deduction; and
- The deduction for energy efficiency improvements to lighting, heating, cooling, ventilation, and hot water systems of commercial buildings.

Advancing the date of conformity to February 9, 2018, will allow Virginia to conform to these provisions for Taxable Year 2017. Virginia will also conform, for Taxable Year 2017 only, to those provisions of the Bipartisan Budget Act of 2018 that increase the number of individuals and businesses affected by Hurricanes Harvey and Irma who are entitled to tax relief under the Disaster Relief Act and allow victims of the California wildfires that occurred during 2017 to qualify for tax relief.

Virginia's Deconformity from the Increased Medical Expense Deduction

Although Virginia generally conforms to the terms of the Internal Revenue Code, it deconforms from select provisions of federal tax law. For Taxable Year 2017, Virginia will specifically deconform from the provision of the Tax Cuts and Jobs Act that temporarily increases the amount of the medical expense deduction.

Virginia generally allows taxpayers to claim a deduction on their Virginia return for most itemized deductions that were claimed for federal income tax purposes, including the medical expense deduction. Such deduction is equal to the amount of a taxpayer's eligible medical expenses in excess of a deduction floor. Under prior federal law, the deduction floor was set at 10 percent of federal adjusted gross income for Taxable Year 2017. The Tax Cuts and Jobs Act increased the amount of the deduction by temporarily reducing the deduction floor to 7.5 percent of federal adjusted gross income.

While taxpayers may continue to claim an itemized deduction for medical expenses on their Virginia returns, Virginia will deconform from the temporary reduction of the deduction floor. As a result, taxpayers currently preparing and filing their Virginia income tax returns for Taxable Year 2017 must report an addition equal to the difference between the amount of the medical expense deduction reported on their federal income

tax return and the amount of such deduction computed using a floor equal to 10 percent of federal adjusted gross income. See the Department's website for additional information regarding the calculation of such addition.

Other Exceptions to Conformity for Taxable Year 2017

Virginia will continue to deconform from the following provisions of federal tax law:

- Bonus depreciation allowed for certain assets under federal income taxation;
- Five-year carry back of certain net operating losses ("NOLs") generated in Taxable Years 2008 and 2009;
- Tax exclusions related to cancellation of debt income; and
- Tax deductions related to the application of the applicable high yield debt obligation rules.

Virginia's deconformity from these provisions is explained in [Tax Bulletin 17-1](#).

Exceptions to Conformity for Taxable Year 2018 and Thereafter

Virginia will conform to the following provisions of the Tax Cuts and Jobs Act for Taxable Year 2018 and thereafter:

- Tax relief for specified 2016 disaster areas; and
- Extension of combat zone benefits to members of the armed forces performing services in the Sinai Peninsula of Egypt.

Unless further conformity legislation is enacted, Virginia will not conform to any other provisions of the Tax Cuts and Jobs Act or to any provisions of the Bipartisan Budget Act of 2018 for Taxable Year 2018 or thereafter.

Instructions for Taxpayers

Taxpayers should consult the instructions for the appropriate 2017 Virginia income tax return for information about how to make adjustments related to bonus depreciation, the carry back of certain NOLs, cancellation of debt income, and applicable high yield discount obligations. In addition, individual taxpayers should consult the Department's website for guidance on how to make adjustments related to Virginia's deconformity from the increased medical expense deduction.

Taxpayers who have already filed a 2017 Virginia income tax return but need to make a conformity adjustment should consult the instructions for the appropriate income tax return and the Department's website for further information about filing an amended return. If you have additional questions, please visit the Department's website at <http://www.tax.virginia.gov>, or contact the Department at (804) 367-8031 for individual income tax questions or (804) 367-8037 for corporate income tax questions.