



TAX BULLETIN 17-1
Virginia Department of Taxation
February 6, 2017

IMPORTANT INFORMATION REGARDING
2016 VIRGINIA INCOME TAX RETURNS

VIRGINIA INCOME TAX FIXED-DATE CONFORMITY
ADVANCED TO DECEMBER 31, 2016

Under emergency legislation (House Bill 1521; Chapter 1 of the 2017 Acts of Assembly) passed by the 2017 General Assembly and signed by Governor McAuliffe on February 3, 2017, Virginia's date of conformity to the terms of the Internal Revenue Code ("IRC") will advance from December 31, 2015 to December 31, 2016. This notice is intended to provide taxpayers with directions on how to reconcile this legislation with their 2016 Virginia income tax returns.

Virginia Income Tax

For approximately thirty years, Virginia conformed to federal income tax law. Whenever federal income tax law changed, the changes automatically affected Virginia income taxes, unless otherwise exempted. In 2003, Virginia began conforming to the IRC as of a specific, fixed date, moving the date nearly every year.

On February 3, 2017, Governor McAuliffe signed legislation advancing the date as of which Virginia conforms to the IRC from December 31, 2015 to December 31, 2016. This will allow Virginia to conform to federal tax legislation enacted during 2016 that would impact the filing of Virginia income tax returns. This bulletin explains the conformity adjustments that may be necessary on taxpayers' Taxable Year 2016 income tax returns.

Conformity to the Internal Revenue Code for Taxable Year 2016

Effective for taxable years beginning on and after January 1, 2016, Virginia's date of conformity to the terms of the IRC will advance from December 31, 2015 to December 31, 2016, with limited exceptions. Virginia will continue to disallow the five-year carry back of net operating losses ("NOL") allowed for NOLs generated in Taxable Years 2008 and 2009.

United States Appreciation for Olympians and Paralympians Act of 2016

Virginia will conform to the provisions of the United States Appreciation for Olympians and Paralympians Act of 2016. This legislation excludes from gross income the value of any medal awarded or any prize money received from the United States Olympic Committee for competition in the Olympic Games or Paralympic Games. This income tax exclusion does not apply to an individual if his or her adjusted gross income exceeds \$1 million, or \$500,000 if such individual is married and filing a separate income tax return.

Exceptions to Conformity

Bonus Depreciation

Virginia will continue to deconform from any bonus depreciation allowed for certain assets under IRC §§ 168(k), 168(l), 168(m), 1400L, and 1400N. These sections allow bonus depreciation in limited circumstances and were designed to benefit the following:

- Certain property acquired after December 31, 2007 - IRC § 168(k);
- Cellulosic biofuel plant property - IRC § 168(l);
- Reuse and recycling property - IRC § 168(m);
- New York Liberty Zone property - IRC § 1400L; and
- Gulf Opportunity Zone property - IRC § 1400N.

To the extent that such bonus depreciation was claimed for federal income tax purposes, the depreciation deduction must be recomputed for Virginia income tax purposes. If a taxpayer's total 2016 Virginia depreciation calculation is less than the 2016 federal depreciation calculation, then the difference must be recognized as an addition to federal adjusted gross income. If a taxpayer's total 2016 Virginia depreciation calculation is greater than the 2016 federal depreciation calculation, then the difference must be recognized as a subtraction to federal adjusted gross income. When reporting any adjustments related to bonus depreciation, the adjustments for all of the categories of bonus depreciation should be grouped together on the applicable line of the taxpayer's income tax return.

Applicable High Yield Discount Obligations

Virginia will continue to deconform from the income tax deductions related to applicable high yield discount obligations under IRC § 163(e)(5)(F). The American Recovery and Reinvestment Act of 2009 ("ARRA") established a provision that suspends the application of the applicable high yield debt obligation ("AHYDO") rules for certain debts issued after

September 30, 2008, and before January 1, 2010. Virginia will continue to deconform from this federal tax provision.

Cancellation of Debt Income

Under IRC § 108(i), the income realized upon the reacquisition of certain business debt during 2009 and 2010 was allowed to be deferred and reported in Taxable Years 2014 through 2018. Virginia disallowed the income tax exclusions related to cancellation of debt income realized in connection with a reacquisition of business debt at a discount after December 31, 2008, and before January 1, 2011. For Virginia income tax purposes, taxpayers were permitted to elect a partial deferral of these exclusions for specific debt reacquired in Taxable Year 2009. This treatment was extended to Taxable Year 2010, provided that the transaction was completed on or before April 21, 2010. Taxpayers that made this election were required to report the Virginia addition over three taxable years.

Taxpayers that reported such cancellation of debt income for Virginia income tax purposes for Taxable Years 2009, 2010, 2011, or 2012 may continue to claim a subtraction on their Virginia income tax returns for Taxable Years 2014 through 2018, to the extent such income is reported on their federal income tax returns.

Instructions for Taxpayers

Individuals and corporations should consult the instructions for the appropriate 2016 Virginia income tax return for information about how to make adjustments related to the carry back of certain NOLs, bonus depreciation, applicable high yield discount obligations, and cancellation of debt income. In addition, individuals and corporations who have already filed a 2016 Virginia income tax return but need to make a conformity adjustment should consult the instructions for the appropriate income tax return for further information about filing an amended return.

Further Instructions

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.