



TAX BULLETIN 23-1
Virginia Department of Taxation
February 27, 2023

**IMPORTANT INFORMATION REGARDING
2022 VIRGINIA INCOME TAX RETURNS**

**VIRGINIA'S CONFORMITY TO THE INTERNAL REVENUE CODE ADVANCED TO
DECEMBER 31, 2022**

Under emergency legislation enacted by the 2023 General Assembly (Senate Bill 882, Chapter 1 of the 2023 Acts of Assembly), Virginia's date of conformity to the terms of the Internal Revenue Code will advance from December 31, 2021 to December 31, 2022. This bulletin is intended to provide taxpayers with guidance on reconciling this legislation with their 2022 Virginia income tax returns.

Virginia's Conformity Legislation

During the 2023 General Assembly Session, legislation was enacted to advance Virginia's date of conformity to the Internal Revenue Code from December 31, 2021 to December 31, 2022. This legislation allows Virginia to conform to the Inflation Reduction Act of 2022 ("IRA") and the Secure 2.0 provisions of the Consolidated Appropriations Act of 2023 ("CAA"). This tax bulletin explains the conformity adjustments that may be necessary on Taxable Year 2022 income tax returns.

Inflation Reduction Act of 2022

On August 16, 2022, the Inflation Reduction Act of 2022 (H.R.5376) was signed into law. This federal legislation included three provisions that may impact Virginia income tax returns. These provisions are:

- Enhancements to the Energy Efficient Commercial Building Deduction;
- Cost Recovery for Qualified Property and Energy Storage Technology; and
- Extension of the Limit on Excess Business Losses.

Advancing Virginia's date of conformity to December 31, 2022 will allow Virginia to conform to the three provisions listed above. As a result, adjustments are generally not required on the Virginia income tax return to address the provisions of this federal legislation.

Secure 2.0 Provisions of the Consolidated Appropriations Act of 2023

On December 29, 2022, the Consolidated Appropriations Act of 2023 (H.R.2617) was signed into law. This federal legislation contained several provisions amending the rules governing the federal treatment of retirement accounts and addressing charitable conservation easements. These provisions are collectively known as the Secure 2.0 provisions. Of the Secure 2.0 provisions related to retirement accounts, there are several provisions that would have a substantial impact on Virginia taxpayers. These retirement related provisions include:

- Option to treat employer matching or non-elective contributions as Roth contributions;
- Option for employers to offer pension-linked emergency savings accounts that are generally treated as Roth IRAs that benefit from tax exempt treatment;
- Exclusion of certain disability-related first responder retirement payments;
- Treatment of student loan payments as elective deferrals for purposes of matching contributions, which will allow employees with student debt to benefit from employer retirement contributions even if they are unable to make contributions themselves;
- Elective deferrals generally limited to regular contribution limitations; and
- One-time election to enhance qualified charitable contribution distributions.

Advancing Virginia's date of conformity to December 31, 2022 will allow Virginia to Conform to the Secure 2.0 provisions of the CAA, including the retirement provisions listed above. As a result, adjustments are generally not required on the Virginia income tax return to address the provisions of this federal legislation.

Effective Date of Tax Preferences for Educators and Certain Hardwood Practices

Virginia's conformity legislation also clarifies the effective date for two new tax preferences enacted during 2022: an individual income tax deduction for qualified educator expenses (House Bill 103, Chapter 6, Special Session I) and the Beneficial Hardwood Management Practices Tax Credit (House Bill 1319, Chapter 18, Special Session I). Pursuant to Virginia's conformity legislation, such provisions become effective immediately and may be claimed by qualifying taxpayers on their Taxable Year 2022 income tax returns.

Existing Exceptions to Conformity for Taxable Year 2022

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;
- Tax deductions related to the application of the applicable high yield debt obligation rules;
- The suspension of the federal overall limitation on itemized deductions;
- The reduction in the medical expense deduction floor;
- Certain business provisions of the federal CARES Act; and
- The deduction of business expenses through certain COVID-related small business assistance programs prior to Taxable Year 2021.

Virginia's deconformity from these provisions is explained in [prior tax bulletins](#). Taxpayers should also consult the instructions for the appropriate 2022 Virginia income tax return for information regarding how to make adjustments for Virginia's existing exceptions to conformity.

Instructions for Taxpayers

Taxpayers who have already filed a 2022 Virginia income tax return but need to make an adjustment should consult the instructions for the appropriate income tax return and the Department's website for further information about filing an amended tax return. If you have additional questions, please visit <https://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.