

Tax Bulletins

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 Virginia Department of Taxation
 February 19, 2015

IMPORTANT INFORMATION REGARDING 2014 VIRGINIA INCOME TAX RETURNS

VIRGINIA INCOME TAX FIXED-DATE CONFORMITY ADVANCED TO DECEMBER 31, 2014

Under emergency legislation (SENATE BILL 1044; Chapter 1 of the 2015 Acts of Assembly) passed by the 2015 General Assembly and signed by Governor McAuliffe on February 16, 2015, Virginia's fixed-date of conformity to the terms of the Internal Revenue Code ("IRC") will advance from January 2, 2013 to December 31, 2014. This notice is intended to provide taxpayers with directions on how to reconcile this legislation with their 2014 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 each year. During the 2014 Session, the General Assembly did not advance Virginia's date of conformity. Because no federal legislation was enacted during Taxable Year 2013 that would impact the filing of Virginia income tax returns, it was not necessary to advance Virginia's date of conformity from January 2, 2013.

On February 16, 2015, the Governor signed legislation advancing the date as of which Virginia conforms to the IRC from January 2, 2013 to December 31, 2014. This will allow Virginia to conform to federal tax legislation enacted during 2014 that would impact the filing of Virginia income tax returns. This bulletin explains the fixed-date conformity adjustments that may be necessary on taxpayers' Taxable Year 2014 income tax returns.

Conformity to the Internal Revenue Code for Taxable Year 2014

Effective for taxable years beginning on and after January 1, 2014, Virginia's fixed-date of conformity to the terms of the IRC will advance from January 2, 2013, to December 31, 2014, 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.

Tax Increase Prevention Act of 2014

Virginia will conform to the provisions of the federal Tax Increase Prevention Act of 2014 ("TIPA"). TIPA extended a number of expiring federal tax provisions including, but not limited to:

- The above-the-line deduction for certain expenses of elementary and secondary school teachers;
- The increased deduction for certain types of property pursuant to IRC § 179;
- The deduction for mortgage insurance premiums;
- The deduction for qualified tuition and related expenses;
- The deduction for state and local sales tax;
- The exclusion from gross income for individual retirement account (IRA) distributions for charitable purposes; and
- The exclusion from gross income for the discharge of qualified principal residence indebtedness.

Exceptions to Conformity

Bonus Depreciation

Virginia will continue to disallow any bonus depreciation allowed for certain assets under IRC § 168(k). The fixed-date conformity will not include any bonus depreciation that is allowed under IRC §§ 168(l), 168(m), 1400L, and 1400N. These sections allow bonus depreciations in limited circumstances and were designed to benefit the following:

- **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.

Virginia's fixed-date conformity will allow any bonus depreciation that is allowed under IRC § 168(n), which is designed to benefit qualified disaster assistance property.

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 disallow the income tax deductions related to applicable high yield discount obligations under IRC § 163(e)(5)(F). The American Recovery and Reinvestment Act ("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

Virginia will continue to disallow 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. Under IRC § 108(i), the income realized upon the reacquisition of certain business debt during 2009 and 2010 may be deferred and reported in Taxable Years 2014 through 2018.

For Taxable Year 2009, taxpayers were allowed to elect a partial deferral of these exclusions for specified debt reacquired in Taxable Year 2009. Taxpayers that deferred cancellation of debt income from transactions in 2009 on their federal returns were allowed to elect to report the addition required by conformity in three equal amounts for Taxable Years 2009, 2010 and 2011.

For Taxable Year 2010, Virginia extended the treatment of deferral of cancellation of debt to transactions completed on or before the adoption of the Appropriations Act on April 21, 2010 (Chapter 874 of the 2010 Acts of Assembly). Because the change to the Virginia treatment of this income was not fully known until the Appropriations Act was passed by the General Assembly at its reconvened session on April 21, 2010, the treatment adopted for transactions that occurred in 2009 was extended to transactions that were completed on or before April 21, 2010. Taxpayers who elected in 2010 to report this addition over three years must continue to report the income from qualified transactions in three equal amounts for Taxable Years 2010, 2011 and 2012.

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

Instructions for Taxpayers

Individuals and corporations should consult the instructions for the appropriate 2014 Virginia income tax return for information about how to properly add back income 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 2014 Virginia income tax return but need to make a fixed-date 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> (<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.

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