



MULTISTATE INCOME/FRANCHISE TAX

Minnesota tax bill updates IRC conformity date Tax Alert

Overview

On January 12, 2023, Minnesota's governor signed [H.F. 31](#) into law, updating the state's date of conformity to the Internal Revenue Code ("IRC") to December 15, 2022, with retroactive application of federal law changes to when they first became effective for federal purposes. However, H.F. 31 carves out retroactive application of federal amendments to certain provisions including IRC sections 163(j) and 172. H.F. 31 also includes other amendments to various Minnesota tax provisions.

This Tax Alert summarizes some of the provisions of H.F. 31.

Minnesota updates IRC conformity date

H.F. 31 updates Minnesota's date of IRC conformity from December 31, 2018, to December 15, 2022. While the bill is effective the day following its enactment, the incorporation of federal law changes is effective retroactively to the date those changes were effective for federal purposes. H.F. 31, however, carves out certain federal law changes from retroactive application. Notably, H.F. 31 decouples from the federal amendments to the interest expense limitation under IRC section 163(j) and the NOL deduction provided under the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) for tax years 2019 and 2020.

For tax years 2019 and 2020, H.F. 31 creates an add-back for the additional interest deductible due to changes in the federal adjusted taxable income (ATI) limitation in those years. Therefore, Minnesota effectively does not conform to the increased ATI limitation percentage under IRC section 163(j) for 2019 and 2020 tax years. H.F. 31 also does not conform to the federal expansion of the NOL carryback rules and the suspension of the NOL utilization limitation.

Regarding the 163(j) limitation, H.F. 31 provides a prospective subtraction modification due to the state's decoupling from the increased 50% ATI limitation under the CARES Act for tax years 2019 and 2020. In each of five consecutive tax years commencing with the first tax year beginning after December 31, 2022, taxpayers are allowed to deduct one-fifth of the amounts required to be added back for the 2019 and 2020 due to non-conformity to the increase ATI limitation percentage.

Additionally, H.F. 31 decouples from various temporary additions and subtractions provided by federal legislation applicable for tax years 2020 and 2021. H.F. 31 does not impact conformity to certain items from which Minnesota separately decouples, such as federal bonus depreciation.

Other provisions within H.F. 31

There are several other notable tax provisions included within H.F. 31, including but not limited to the following:

- Qualified Improvement Property (“QIP”): H.F. 31 retroactively updates Minnesota’s conformity to the federal treatment of QIP.
- Composite Income Tax Returns: H.F. 31 amends the definition of “income” to include the additions and subtractions for business interest and NOLs. This amendment is effective retroactively for tax year 2018 and forward.
- Pass-through Entity Tax: H.F. 31 establishes that refunds administered under the pass-through entity tax cannot be claimed by the pass-through entity and, instead, must be passed to the owners of the pass-through entity if such owners have already claimed the pass-through entity tax credit. This amendment is effective retroactively for tax years beginning after December 31, 2020.

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