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MINNESOTA

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Minnesota: Conformity Legislation Signed into Law

Under prior law, Minnesota conformed to the Internal Revenue Code in effect on December 31, 2018. House File 31, which was signed into law on January 12, 2023, updates the state's conformity to generally adopt the Internal Revenue Code as amended through December 15, 2022 for both individual and corporate franchise tax purposes. The change is effective upon enactment, but "the changes incorporated by federal changes are effective retroactively at the same time the changes were effective for federal purposes." Because of Minnesota's prior conformity date, the state did not conform to any of the taxpayer-favorable changes in the CARES Act, or any of the tax changes in the six other federal bills enacted since the end of 2018 (e.g., Consolidated Appropriations Act, American Rescue Plan Act, Inflation Reduction Act, etc.). House File 31 generally adopts all the tax changes included in those federal enactments retroactively, with certain exceptions. Those exceptions include, but not limited to, the expanded deductions for business interest and NOLs included in the CARES Act, the increased charitable contributions deduction for C Corporations, and the temporary 100 percent deduction allowed for business meals.

For corporate franchise (income) tax purposes, a new addition is required under Minn. Stat. section 290.0133, subdivision 15 for each taxable year beginning after December 31, 2018 and before January 1, 2021 for the amount of business interest deducted under the special rules in IRC section 163(j)(10)(A) and (B). These are the provisions in the CARES Act that allowed taxpayers to (1) deduct interest up to 50 percent of Adjusted Taxable Income (ATI) for taxable years beginning in 2019 and 2020, and (2) elect to substitute the taxpayer's 2019 ATI for the 2020 ATI in determining the taxpayer's section 163(j) limitation. House File 31 then creates a new subtraction for each taxable year an addition is required under section 290.0133, subdivision 15. The subtraction is found in Minn. Stat. section 290.0134, subdivision 20 and equals the amount of interest added back, less the sum of all amounts subtracted in all prior taxable years that does not exceed the limitation on business interest in section 163(j) of the Internal Revenue Code of 1986, as amended through December 15, 2022, notwithstanding the special rule in IRC section 163(j)(10). Any excess interest carryforward is a "delayed business interest carryforward," the entire amount of which must be carried to the earliest taxable year. No subtraction is allowed under this paragraph for taxable years beginning after December 31, 2022. For each of the five taxable years beginning after December 31, 2022, there is a subtraction allowed equal to one-fifth of the sum of all carryforward amounts that remain.

House File 31 also adopts five new temporary additions and two subtractions for corporations. The subtractions include wages used to calculate employee retention credits and various payroll credits to the extent not deducted from income and amounts required to be added back to gross income to claim the credit in IRC section 6432. The additions include the amount of meals expenses in excess of the 50 percent limitation under IRC section 274(n)(1) and the amount of charitable contributions deducted for tax year 2020 under P.L. 116-136 (CARES Act), which temporarily suspended limits on the deductibility of charitable contributions. These temporary additions and subtractions apply retroactively to the same time the changes were effective for federal tax purposes.

For individual income tax purposes, the bill likewise requires an addback for the amount of business interest allowed to be deducted under the CARES Act, but then allows a subtraction over five years for the disallowed business interest expense. Also for individual tax purposes, additional net operating losses under the CARES Act must be added back as do excess business losses allowed for federal purposes under IRC section 461(l). These losses can be carried forward for up to 20 years. A subtraction will be allowed for excess business losses subject to federal limitation in Section 461(l)(1) of the Internal Revenue Code in tax years 2026-2028.

The conformity update will likely require a number of taxpayers to file amended returns. Taxpayers whose liability is affected by the updated conformity legislation will have until December 31, 2023 to file an amended return. Please contact Caroline Balfour with questions.