

IMPACT OF THE FURTHER CONSOLIDATED APPROPRIATIONS ACT OF 2020 ON NORTH CAROLINA'S INDIVIDUAL INCOME TAX RETURN

On December 20, 2019, the [Further Consolidated Appropriations Act of 2020](#) ("FCAA") was signed into law. Of note, the FCAA renewed several expired or soon-to-be-expired federal tax breaks known as "tax extenders". Among the federal tax breaks extended for individuals are (1) the temporary reduction in the medical and dental expense threshold from 10% of the taxpayer's adjusted gross income ("AGI") to 7.5% of the taxpayer's AGI, (2) the deduction of up to \$4,000 of qualified tuition and related expenses, (3) the deduction of mortgage insurance premiums as deductible mortgage interest, and (4) the exclusion from gross income of the discharge of an individual's qualified principal residence indebtedness. The FCAA also added several tax provisions that impact individuals that became effective for tax years beginning on or after January 1, 2019.

North Carolina Law

North Carolina General Statute (["N.C. Gen. Stat." § 105-153.7\(a\)](#)) provides that "a tax is imposed for each taxable year on the North Carolina taxable income of every individual."

[N.C. Gen. Stat. § 153.4](#) provides that for individuals who are residents of this State, nonresidents of this State, or part-year residents of this State, the term "North Carolina taxable income" refers to "the taxpayer's adjusted gross income" as modified in N.C. Gen. Stat. §§ 105-153.5 and 105.153.6.

[N.C. Gen. Stat. § 153.3](#) provides that "adjusted gross income" is the taxpayer's federal adjusted gross income ("AGI") as "defined in the section 62 of the Code."

[N.C. Gen. Stat. § 228.90\(b\)\(1b\)](#) defines the term "Code" as "the Internal Revenue Code as enacted as of January 1, 2019, including any provisions enacted as of that date that become effective either before or after that date."

Application of North Carolina Law

For individual income tax purposes, the starting point for determining North Carolina taxable income is AGI as defined in the Internal Revenue Code ("Code") as of a certain date. North Carolina currently references the Code as of January 1, 2019.

Because North Carolina's individual income tax law incorporates by reference many of the provisions of the Code, the General Assembly must determine whether to update the State's reference to the Code. Importantly for purposes of this notice, unless and until the General Assembly updates North Carolina law to reference the Code as it was enacted as

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of December 20, 2019, or later, the tax provisions in the FCAA **do not apply** to an individual when calculating North Carolina taxable income.

General Information

The General Assembly is scheduled to convene on April 28, 2020. Even if the General Assembly enacts legislation to update the State's reference to the Code to December 20, 2019 or later, it may elect to continue to decouple from some of the federal provisions included in the FCAA. In that case, taxpayers may be required to make decoupling adjustments to AGI on Form D-400 Schedule S when calculating North Carolina taxable income. Therefore, any person required to file a North Carolina income tax return and whose tax liability is impacted by the provisions included in the FCAA should check the Department's website for updates. Updates will be posted to the website as soon as they become available.

Individuals may choose to wait to file their [2019 North Carolina Individual Income Tax Return](#) (Form D-400) until after the General Assembly makes a determination on whether to update the State's reference to the Code. A calendar year taxpayer who files the 2019 D-400 after April 15, 2020, will need to either file [Form D-410](#) by the original due date of the return or be granted an automatic extension to file the corresponding federal return in order to receive an automatic six-month extension of time to file the State income tax return.

Individuals who file their 2019 Form D-400 prior to any action of the General Assembly and whose North Carolina taxable income is impacted by changes in the FCAA later adopted by the General Assembly may be required to file an amended North Carolina tax return. If the amended return reflects additional tax due, a taxpayer will avoid a late-payment penalty if the additional tax reflected on the amended return is paid when the amended return is filed. However, interest will be due on the additional tax from the original due date of the return until the additional tax is paid.

Assistance

If you have any questions about this notice, you may call the North Carolina Department of Revenue Customer Service line at 1-877-252-3052 (8:00 am until 5:00 pm EST, Monday through Friday), or write to Customer Service, PO Box 1168, Raleigh, NC 27602.

To the extent there is any change to a statute or regulation, or new case law subsequent to the date of this notice, the provisions in this important notice may be superseded or voided. To the extent that any provisions in any other notice, directive, technical bulletin, or published guidance regarding the subject of this notice and issued prior to this notice conflict with this important notice, the provisions contained in this important notice supersede the previous guidance.