



Important Notice: Impact of the American Rescue Plan of 2021 and the Consolidated Appropriations Act of 2021 on North Carolina's 2020 Individual Income Tax Return

The following important information is addressed in this notice:

- North Carolina's tax treatment of various COVID-19 relief provisions excluding certain items of income from federal adjusted gross income for tax year 2020.
- Instructions on how to make adjustments to North Carolina taxable income to account for differences in State and federal law.

Background

On December 27, 2020, the federal [Consolidated Appropriations Act, 2021](#) ("CAA"), was signed into law. On March 11, 2021, the federal [American Rescue Plan Act of 2021](#) ("ARPA"), was signed into law. The CAA and the ARPA (collectively, "Federal Legislation") enhanced and expanded certain provisions of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") and provided financial assistance to individuals and businesses impacted by COVID-19. Importantly, the Federal Legislation excluded specific items of income from the federal definition of gross income as of May 1, 2020.

Each year, the North Carolina General Assembly ("General Assembly") considers whether to adopt the current Internal Revenue Code ("Code") to make sure certain tax definitions and the calculation of adjusted gross income are consistent between the Code and the North Carolina tax statutes.¹ At this time, the General Assembly has not adopted the current version of the Code. As a result, the tax provisions in the Federal Legislation do not apply to the calculation of an individual's North Carolina taxable income.

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. § 105-153.4](#) 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. § 105-153.3](#) provides that a taxpayer's adjusted gross income is the taxpayer's federal adjusted gross income ("AGI") as "defined in section 62 of the Code."

¹ [N.C. Gen. Stat. § 105-228.90\(b\)\(7\)](#).

[N.C. Gen. Stat. § 105-228.90\(b\)\(7\)](#) defines the term “Code” as “[t]he Internal Revenue Code as enacted as of May 1, 2020, 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 Code as of a certain date. **North Carolina currently references the Code as of May 1, 2020.**

Because North Carolina income tax law incorporates by reference many of the provisions of the Code as of a specific date, the General Assembly determines whether to update the State’s reference to the Code. Importantly, until the General Assembly updates North Carolina’s reference to the Code as it was enacted as of March 11, 2021, or later, the tax provisions in the Federal Legislation **do not apply** when a taxpayer calculates their 2020 North Carolina taxable income.

As of the date of this notice, the General Assembly is still in session but has not modified the State’s reference to the Code past May 1, 2020. If the General Assembly modifies the State’s reference to the Code past May 1, 2020, it may adopt or not adopt specific tax provisions of the Federal Legislation.

Impacts of Federal Legislation on Form D-400 for Tax Year 2020

Taxpayers whose federal AGI excluded items of income that would be included in AGI under the Code as of May 1, 2020, (collectively “Excluded Income”) must add back the Excluded Income when calculating North Carolina taxable income. Examples of Excluded Income include:

- Economic Injury Disaster Loan (“EIDL”) grants and targeted EIDL advances described in section 1110(e) of the CARES Act,
- Certain Small Business Association (“SBA”) loan payments described in section 1112(c) of the CARES Act, and
- The first \$10,200 of 2020 unemployment benefits not subject to federal individual income tax.²

How to Include Excluded Income on Form D-400 for Tax Year 2020

If you are required to add Excluded Income to your federal AGI to calculate North Carolina taxable income, you must perform the following actions:

1. Determine if you are required to file [Form D-400 Schedule S](#) for tax year 2020.
2. If you **are required** to file Form D-400 Schedule S, complete the form in its entirety and proceed to the “Excluded Income Worksheet,” located on Page 3 of this notice.

If you **are not required** to file Form D-400 Schedule S, proceed directly to the “Excluded Income Worksheet,” located on Page 3 of this notice.

² See the [Department’s Important Notice dated March 23, 2021](#).

3. After completing the “Excluded Income Worksheet,” enter the amount of Modified Additions on [Form D-400, Line 7, for tax year 2020](#). (**Note:** If you use DOR approved software that does not allow you to modify Form D-400, Line 7, **DO NOT** complete the “Excluded Income Worksheet.” Instead, enter the total amount of Excluded Income on [Form D-400 Schedule S, Part A, Line 5 for tax year 2020](#).)

Excluded Income Worksheet (2020 D-400 Line 7)		
1.	Enter the amount of Line 17 from Form D-400 Schedule S, if applicable.	
2.	Enter the amount of income not included in your 2020 AGI that would have been included in your AGI if the federal calculation of AGI was based on the Code as of May 1, 2020.	
3.	Add Lines 1 and 2. This is the amount of Modified Additions. (Enter this amount on Form D-400, Line 7.)	

In addition to completing the actions above, part-year resident or nonresident taxpayers who are required to file [Form D-400 Schedule PN for tax year 2020](#) must also enter the amount of Excluded Income on Form D-400 Schedule PN, Column A, Line 15. In Column B, enter the amount of Column A that is subject to North Carolina tax.

Impact of Future Legislation

If the tax provisions of the Federal Legislation are adopted by the General Assembly, individuals who filed their 2020 Form D-400 prior to any action of the General Assembly and whose North Carolina taxable income is impacted by the Federal Legislation may file an amended return to request a refund of any overpaid tax within the statute of limitations to seek a refund.

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 4:30 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.