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State & Local Tax Advisor

Provided by the National Tax Office

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Alabama

Tax Amnesty Program Enacted

The Alabama Tax Delinquency Amnesty Act of 2018 has been enacted. The amnesty program will be held for the period beginning July 1, 2018, and ending on September 30, 2018. The program applies to all taxes administered by the Department of Revenue except for motor fuel, motor vehicle, and property taxes. The taxes eligible for amnesty include:

- taxes due prior to January 1, 2017, and
- taxes for taxable periods that began before January 1, 2017.

Participation in the program is conditioned upon agreement by the taxpayer to waive any right to protest or initiate an administrative or judicial proceeding. The agreement only applies to the specific tax and the tax period for which amnesty is granted. Amnesty applications must be submitted in an electronic manner as prescribed by the department.

Waiver of interest and penalties: The program waives all of the interest and penalties associated with the tax periods for which amnesty is granted. However, penalties may be imposed for various reasons, including failing to comply with the amnesty provisions, providing false or fraudulent information, and/or cost of collection penalties.

Look-back periods: A limited look-back period of the last three full tax years, or 36 months, applies separately to each tax type. If the taxpayer has collected any tax without remitting the tax to the department, the look-back period will be extended to include all periods, back to the point of collection.

Amnesty requirements: An eligible taxpayer who is granted amnesty must comply with the following requirements:

- Submit to the department by November 15, 2018, all applicable returns, supporting documentation, and the full payment of the tax. No payment plans will be entered into for taxes that are approved for amnesty. An amnesty payment or return submitted in a properly addressed envelope with sufficient postage delivered by the U.S. Postal Service is deemed paid or received on the date it is postmarked. An amnesty payment or return delivered by courier

- or taxpayer is deemed paid or received on the date it is delivered to the department's headquarters or a regional office; and
- Include the current year return with the amnesty returns filed for the eligible tax type. Penalties for failure to timely file a return and failure to timely pay will be waived. Waiver of interest does not apply to current year returns.

Ineligible taxpayers: Tax amnesty may not be granted to a taxpayer under any of the following circumstances:

- The taxpayer is a party to a criminal investigation or criminal litigation pending as of March 6, 2018 for nonpayment, delinquency, or fraud in relation to any state tax imposed by Alabama and administered by the department;
- The taxpayer has delivered or disclosed a false or fraudulent application, document, return, or other statement to the department in connection with an amnesty application;
- The taxpayer has been issued a final assessment in which the appeal period has ended;
- The taxpayer has entered into a voluntary disclosure agreement with the department before December 31, 2017; or
- The taxpayer has been granted amnesty for the tax type as part of the Alabama Tax Delinquency Amnesty Act of 2016.

Act 2018-153 (H.B. 137), Laws 2018, effective March 6, 2018

Consumers/Purchasers Now Allowed to Directly Petition for Refunds of Certain Taxes

Consumers/purchasers can now directly petition for refunds of overpaid Alabama sales, use, public utility, and transient occupancy taxes rather than file a joint petition with the business/taxpayer that collected the tax and remitted it to the state. Also, the business can petition for a refund of these taxes in certain situations, such as:

- if the business remitted more tax to the state than it collected from customers, or
- if the consumer/purchaser paid the tax directly to the business.

However, a refund will not be paid to the business until after the tax has been credited or repaid to the consumer/purchaser by the business.

Act 2018-180 (S.B. 63), Laws 2018, effective March 8, 2018

Colorado

Treatment of Gain from Sale of Interest in LLC Discussed

The Colorado Department of Revenue issued a private letter ruling discussing the tax treatment of gains realized by a corporate income taxpayer from the sale of a 50% interest in a limited liability company (LLC). Under Colorado law, gain or loss from the sale of intangible personal property constitutes business income if the property while owned by the taxpayer was used in the taxpayer's trade or business. In this matter, the taxpayer’s ownership interest in the LLC was intangible personal property. The taxpayer manufactured and sold products in the aerospace industry and subsequently formed the LLC in furtherance of this purpose and contributed to the LLC contracts created in the regular course of the taxpayer’s business. Therefore, the gain the taxpayer realized from the sale was considered as business income.

Further, it was noted that as per the Colorado law, the taxpayer’s business income was required to be apportioned in the ratio of the taxpayer’s total sales in Colorado to the its total sales everywhere. Accordingly, gross sales that flowed from the LLC to the taxpayer, as a partner, were treated for federal tax purposes as if the gross sales from such work were paid directly to the taxpayer. Thus, where the taxpayer’s pass-through income from the LLC was business income for Colorado tax purposes, the taxpayer’s distributive share of the LLC’s gross sales were the taxpayer’s own gross

sales. Accordingly, it was determined that the taxpayer should include its distributive share of the LLC's gross sales in its Colorado apportionment factor.

Lastly, since all the accounting, financial, payroll, engineering, manufacturing, and distribution departments that accounted for and managed the taxpayer's activities that related to the gain were performed in Illinois, the taxpayer was allowed to exclude the gain it received from the sale of its interest in the LLC from its Colorado apportionment factor.

PLR-17-009, Colorado Department of Revenue, December 29, 2017

Georgia

Governor Signs IRC Conformity Update, Rate Cut

Georgia has adopted legislation that:

- updates the corporate and personal income tax federal Internal Revenue Code (IRC) conformity date to February 9, 2018, with certain exceptions;
- doubles the standard deduction, effective January 1, 2018 and expiring December 31, 2025;
- lowers the top income tax rate for businesses and individuals from 6% to 5.75%, effective January 1, 2019 and expiring December 31, 2025; and
- if the General Assembly and governor provide further approval, the top income tax rate would decrease to 5.5% effective January 1, 2020 and expiring December 31, 2025.

The previous IRC conformity date was January 1, 2017. The IRC conformity update applies to tax years beginning on or after January 1, 2017.

IRC §179 Deduction

The federal and Georgia IRC §179 deduction maximum dollar limitation and investment limitation is:

- limited to $510,000, with a $2,030,000 phase out in 2017;
- limited to $1 million, with a $2.5 million phase out in 2018.

Georgia has not adopted the Section 179 deduction for certain real property (IRC §179(d)(1)(B)(ii) and 179(f)). However, Georgia follows the separate reporting requirement to shareholders of S corporation and partners of partnerships for:

- the gain from asset sales for which a §179 deduction was claimed; and
- the §179 deduction.

The gain should not be reported directly on the S corporation or partnership return. The gain should be reported separately to the shareholders or partners.

Net Operating Losses

For net operating losses incurred in taxable years ending on or after December 31, 2017, Georgia follows the new federal laws regarding:

- no carryback and unlimited carryforward;
- 2 year carryback for farming losses; and
- the 2 year carryback and 20 year carryforward for certain insurance company net operating losses.

For losses incurred after January 1, 2018, Georgia follows the 80% limitation on the usage of net operating losses (the state 80% limitation is based on Georgia taxable net income). The federal and state 80% limitation does not apply to certain insurance company net operating losses.

IRC Exceptions

Georgia has not adopted the following IRC sections:

- "bonus depreciation" (§168(k));
- income attributable to domestic production activities (§199);
- 20% qualified business income deduction (§199A);
- federal deferral of debt income from reacquisitions of business debt at a discount in 2009 and 2010 for five years (§108(i));
- modified rules for high yield original issue discount obligations (§163(e)(5)(F) and 163(i)(1)).
- tax benefits for particular property (New York Liberty Zone (§1400L), Gulf Opportunity Zone (§1400N(d)(1), §1400N(f), §1400N(j), §1400N(k), and §1400N(o));
- special allowance for certain reuse and recycling property (§168(m));
- special allowance for qualified disaster assistance property (§168(n));
- increased first-year depreciation limit for passenger automobiles if the passenger automobile is "qualified property," (§168(k));
- classification of property (§168(e)(3)(B)(I), 168(e)(3)(E)(ix), and 168(e)(8));
- modified rules relating to the 15 year straight-line cost recovery for qualified restaurant property (allowing buildings to now be included) (§168(e)(7)); and
- 5 year depreciation life for most new farming machinery and equipment (§168(e)(3)(B)(vii));

Parts of the IRC that are treated as they were in effect before the enactment of the Tax Cuts and Job Act address:

- limitation of business interest (§163(j)); and
- contributions to the capital of a corporation (§118).

Depreciation Differences

Depreciation differences due to the federal tax being computed differently for Georgia purposes should be treated as follows:

- taxpayers should attach the current year IRS Form 4562 to the Georgia return and add federal depreciation by entering it on the other addition line;
- then compute depreciation on Georgia Form 4562 and enter it on the other subtraction line of the return.

Domestic Production Activities

Taxpayers should enter this adjustment on the addition line of the applicable return. If the partnership or S corporation is not allowed the Section 199 deduction directly an adjustment is not required. The partnership or S corporation should pass through the information needed to compute the deduction to the partners or shareholders.

Other Differences

Decoupling from certain federal provisions may have other effects on the calculation of Georgia income. Adjustments for the items listed below should be added or subtracted on the Georgia income tax form:

- if property is sold, after federal bonus depreciation was claimed, there will be a difference in the gain or loss on the sale for Georgia purposes; and
- the depreciation adjustment may be different if the taxpayer is subject to the passive loss rules and is not able to claim the additional bonus depreciation on the federal return.

Finally, Georgia has adopted certain federal provisions enacted to assist combat-injured veterans to recover income taxes that were improperly collected by the Department of Defense. The legislation extends the 3-year period for filing a refund claim with Georgia to the same date that is allowed federally.

Press Release, Georgia Gov. Nathan Deal, March 5, 2018; Act 284 (H.B. 918), Laws 2018, effective March 2, 2018

Idaho

Loss, Credit Carryovers Available to Offset Certain Income Increases

Recently enacted Idaho legislation permits taxpayers to use available loss and credit carryovers in years exceeding the general statute of limitations if there is a taxable income increase due to a bonus depreciation adjustment. Previously, taxpayers were not allowed to use:

- Idaho credits;
- net operating loss deductions; or
- capital loss carryovers

to offset any increase of that type over three years old.

Ch. 7 (H.B. 384), Laws 2018, effective July 1, 2018

Tax Reform Legislation Enacted

Idaho Governor C.L. "Butch" Otter has signed significant tax reform legislation.

The legislation updates the state's IRC conformity date to:

- December 21, 2017, for tax year 2017;
- December 31, 2017, applicable to IRC Sec. 965 (repatriation tax provisions) and IRC Sec. 213 (personal income tax deduction for medical expenses) for tax year 2017;
- and January 1, 2018, for tax years beginning after 2017.

The legislation also requires a corporate income tax addback for:

- amounts deducted under IRC Sec. 965 (repatriation tax provisions);

- amounts deducted under IRC Sec. 245A (participation exemption deduction for foreign-source portion of dividends);
- amounts deducted under IRC Sec. 250 (foreign-derived intangible income and global intangible low-taxed income deduction); and
- other special deductions.

A .475% rate reduction is enacted for:

- all personal income tax brackets; and
- the state corporate income tax.

The legislation creates a nonrefundable child tax credit of $130 dollars per child for tax years after 2017 and before 2026. Legislation (H.B. 675) has been introduced in the Idaho House of Representatives to increase the credit to $205 per child.

Taxpayers are now required to add back any amount limited by IRC Sec. 461 when determining the amount of a net operating loss.

(H.B. 463), Laws 2018, retroactively effective to January 1, 2018; H.B. 675, introduced in the Idaho House of Representatives on March 9, 2018

Illinois

Impact of the Tax Cuts and Jobs Act Explained

Illinois advises business and individual income taxpayers that many changes enacted by the Tax Cuts and Jobs Act (TCJA) (P.L. 115-97) may impact a taxpayer's income tax base. The starting pointing for computing Illinois income tax liability is:

- federal taxable income (FTI) for corporations; and
- federal adjusted gross income (AGI) for individuals.

Most of the TCJA changes are effective for tax years beginning after 2017.

Depreciation and Expense Deductions

The TCJA amended the IRC to:

- allow a 100% federal bonus depreciation deduction under IRC Sec. 168(k) for property placed in service after September 27, 2017 and before January 1, 2023; and
- increase the maximum expense deduction under IRC Sec. 179 to $1 million and the investment phase-out threshold to $2.5 million.

Illinois allows the TCJA bonus depreciation and expense deduction amounts.

Net Operating Losses

The TCJA changed the net operating loss (NOL) deduction under IRC Sec. 172 by:

- eliminating the 2-year NOL carryback period;
- allowing indefinite NOL carryforwards (previously a 20-year period); and
- capping NOLs at 80% of a taxpayer's income tax liability.

Illinois NOL adjustments for corporations consist of:

- an addition for the federal NOL deduction; and
- a subtraction from adjusted and apportioned base income for NOLs carried forward to the tax year.

The Illinois NOL carryforward period is 12 years. However, the amount of the Illinois NOL is based on IRC Sec. 172. Therefore, the 80% deduction limit enacted by the TCJA applies.

The federal NOL deduction changes also impact personal income taxpayers since Illinois does not require any adjustments to the federal deduction.

Dividends Received Deduction

The TCJA reduced the IRC Sec. 243 dividends received deduction (DRD) for corporate taxpayers from:

- 70% to 50% of dividends received; and
- 80% to 65% of dividends received from 20% or more owned corporations.

Illinois allows corporations a subtraction adjustment for dividends received from foreign corporations. The subtraction is based on the percentages allowed under IRC Sec. 243. So, the TCJA change will also reduce a corporation's Illinois foreign DRD subtraction.

Subpart F Income

The TCJA established:

- a tax (repatriation transition tax) on each U.S. shareholder's share of accumulated foreign earnings from controlled foreign corporations (CFCs) and certain other foreign corporations; and
- a requirement that U.S. shareholders include global intangible low-taxed income (GILTI) from CFCs.

Both the tax and the GILTI inclusion are treated as Subpart F income resulting in an increase to FTI. However, the Illinois foreign DRD subtraction allows corporations to exclude a portion of this increase from their base income.

Pass-Through Business Income Deduction

The TCJA created a deduction under IRC Sec. 199A for up to 20% of business income individuals receive from:

- S corporations;
- partnerships; or
- sole proprietorships.

Since the deduction is not allowed in computing federal AGI, there is no impact on Illinois base income. The deduction also does not apply to S corporations or partnerships computing Illinois replacement tax liability.

Standard Deduction, Personal Exemptions, and SALT

TCJA changes that may effect federal income tax liability of individuals for tax years 2018 through 2025 include:

- a repeal of the personal exemption;
- an increase in the standard deduction; and
- a $10,000 cap on the state and local tax (SALT) deduction.

These amendments do not impact individuals computing Illinois income tax liability. Illinois allows a $2,000 basic exemption for each taxpayer and each dependent, unless federal AGI exceeds:

- $500,000 for taxpayers with a filing status married filing jointly; or
- $250,000 for all other taxpayers.

Illinois does not allow itemized deductions.

IRC Sec. 529 Education Savings Plans

The TCJA expanded the definition of "qualified higher education expenses" under IRC Sec. 529 to include tuition at an elementary or secondary public, private, or religious school. The Illinois subtraction modification for IRC Sec. 529 contributions only applies to Illinois 529 plans. Illinois 529 plans define "eligible educational institution" as public and private colleges, junior colleges, graduate schools, and certain vocational institutions. If a taxpayer uses a Illinois 529 plan distribution for nonqualfied expenses, Illinois:

- requires an addition modification for the portion of the nonqualified distribution that was previously deducted from the taxpayer’s base income; and
- imposes a penalty of 10% of the earnings portion of the distribution.

Pre-Paid Property Tax

Individuals who claim the Illinois property tax credit for the 2017 tax year may include pre-paid property tax. The credit is not available to taxpayers if their federal AGI exceeds:

- $500,000 for taxpayers with a filing status married filing jointly; or
- $250,000 for all other taxpayers.

News, Illinois Department of Revenue, March 1, 2018

Guidance on Using Blended Rate or Schedule SA with Schedule K-1-P or K-1-T Issued

The Illinois Department of Revenue issued an informational bulletin providing guidance to personal and corporate income taxpayers on the accounting methods that can be used for reporting pass-through entity income. The bulletin states that taxpayers can use either the blended income tax rate method or Schedule SA (Specific Accounting Method of Computing Net Income for Individuals) with their Schedule K-1-P (Partner’s or Shareholder’s Share of Income, Deductions, Credits, and Recapture) or Schedule K-1-T (Beneficiary’s Share of Income and Deductions). Taxpayers receiving a Schedule K-1-P or Schedule K-1-T should evaluate the tax consequences of using either of the accounting methods to determine which is more advantageous to their specific situation. Since pass-through entity income is deemed earned on the last day of an entity’s tax year, an entity with a tax year ending after July 1, 2017 must report

and pay pass-through withholding at the 4.95% or 7% rate. In either case, tax due will be offset by the pass-through withholding reported on Schedule K-1-P or Schedule K-1-T, possibly entitling the taxpayer to a refund. Accordingly, some taxpayers may be required to file a return when they would not normally be required to when the pass-through income is deemed earned. The bulletin also contains examples of taxpayers using the two accounting methods.

Informational Bulletin FY 2018-22, Illinois Department of Revenue, March 2018

Michigan

Personal Exemptions Continued, IRC Conformity Update

Michigan taxpayers can continue to claim personal and dependent exemptions on their state income tax returns after 2017. Also, the personal exemption amount will increase in future years.

Reaction to Federal Changes

Michigan enacted legislation to continue the state exemptions in response to changes made by the federal Tax Cuts and Jobs Act (TCJA). The TCJA temporarily repealed the federal personal and dependent exemptions for years 2018 through 2025. Michigan previously tied its personal and dependent exemptions to the number of exemptions allowed on a taxpayer's federal return. The legislation removes references to the exemptions allowed on a taxpayer's federal return and creates stand-alone state exemptions.

Personal Exemption Amounts

Taxpayers may claim a Michigan personal exemption equal to one of the following amounts, whichever is greater:

- an inflation-adjusted amount (rounded to the nearest $100); or
- an amount specified by statute.

The legislation sets the following amounts by statute:

- 2014 through 2017: $4,000
- 2018: $4,050
- 2019: $4,400
- 2020: $4,750
- 2021: $4,900

Also, for 2022 and each tax year after 2020, the legislation increases the inflation-adjusted exemption amount by an additional $600.

Dependent Exemption Amount

The Michigan dependent exemption amount remains unchanged at $1,500.

Savings Account Deductions

In addition, the legislation allows taxpayers to deduct interest earned and qualified withdrawals from an education savings account, to the extent they *included* those amounts in their adjusted gross income. Previously, they could

deduct interest earned and qualified withdrawals, to the extent they *did not deduct* those amounts in determining their adjusted gross income.

The same change applies to deductions for interest and distributions from an Achieving a Better Life Experience (ABLE) savings account.

“Internal Revenue Code” Definition

Finally, for Michigan purposes, "Internal Revenue Code" now means:

- the Internal Revenue Code of 1986 in effect on January 1, 2018 (previously, January 1, 1996); or
- at the option of the taxpayer, the Internal Revenue Code in effect for the tax year.

Act 38 (S.B. 748), Laws 2018, effective February 28, 2018

Sales and Use Tax Apportionment of Industrial Processing Exemption for Electricity and Natural Gas Providers Explained

A method approved by the Michigan Department of Treasury for the apportionment applicable to the industrial processing sales and use tax exemption claims of electricity and natural gas providers has been issued.

Electricity systems

Both exempt and non-exempt activities occur throughout the delivery of electricity over the electrical grid, thereby necessitating apportionment. The electricity transmission system may be apportioned as 60% exempt. Assets within an electrical distribution system may be apportioned as follows:

- stations and substations (90% exempt);
- transformers and related components (90% exempt);
- wires, cabling, and related equipment (25% exempt);
- poles and pole top equipment (25% exempt);
- distribution tools and supplies (50% exempt);
- supervision, quality control, and personal safety equipment (50% exempt); and
- customer meters (25% exempt).

Natural gas systems

For natural gas providers, industrial processing equipment within interstate systems may be apportioned 100% exempt. Natural gas is not capable of distribution until after odorization, a process that occurs when it passes into the intrastate system. The intrastate distribution system may be apportioned as 50% exempt. While distribution within a utility system is a non-exempt activity, regulation of pressure levels within the intrastate system is an exempt industrial processing activity.

Other apportionment formulas

A taxpayer may request to apportion the industrial processing exemption by another method, but must provide supporting documentation showing that its calculation of exempt use is reasonable.

Revenue Administrative Bulletin 2018-4, Michigan Department of Treasury, February 28, 2018

Health Maintenance Organizations Exempt from Premiums Tax

Health maintenance organizations (HMO) are exempt from the Michigan gross direct premiums tax. Furthermore, HMOs are excluded from the definition of "insurance company" for income tax purposes.

Act 31 (H.B. 4950) and Act 32 (H.B. 5047) Laws 2018, effective February 21, 2018 and applicable retroactively to January 1, 2016

Oregon

Section 965 Personal Income Guidance Issued

Oregon issued guidance to personal income taxpayers with Internal Revenue Code (IRC) §965 income. The Internal Revenue Service (IRS) is having taxpayers report IRC §965 income, minus a deduction amount, on their federal form. Also, the IRS is allowing the taxes on the repatriated and deferred income to be paid over eight-years.
However, in Oregon:

- deducting income that is taxable in order to take advantage of a special federal tax rate is not allowed; and
- Oregon taxes paid on this income are due by April 17, 2018 because Oregon is not tied to the 8 year federal extension.

Taxpayers should add the amount that was deducted under IRC §965(c) from the repatriation income to get the amount included on Line 21 of the federal return. Taxpayers should use addition code 162 ("Capital loss with Oregon-only tax benefit" even though the description does not match) to add the deduction amount to their 2017 Oregon personal income tax return.

Revenews, Oregon Department of Revenue, March 19, 2018

Virginia

IRC Conformity Legislation Enacted

Recent Virginia legislation advances the state's IRC conformity date to February 9, 2018. The previous IRC conformity date was December 31, 2016. Under the legislation, Virginia does not conform to the following:

- special bonus depreciation allowance for certain property;
- five-year carryback period for certain net operating losses (NOLs);
- deductions related to the original issue discount on applicable high-yield discount obligations;
- exclusions related to cancellation of debt income;
- the increased medical expense deduction for tax years 2017 and 2018
- provisions of the Tax Cuts and Jobs Act effective for tax years other than 2017; and
- provisions of the Bipartisan Budget Act effective for tax years other than 2017.

The legislation specifically conforms Virginia to the following:

- provisions of the Tax Cuts and Jobs Act effective for tax year 2017, other than the temporary enhancement of the medical expense deduction;
- tax relief for certain 2016 disaster areas;

- the extension of combat zone benefits to members of the armed forces serving in the Sinai Peninsula of Egypt; and
- provisions of the Bipartisan Budget Act effective for tax year 2017.

Ch. 14 (S.B. 230), Laws 2018, effective February 22, 2018; Ch. 15 (H.B. 154), Laws 2018, effective February 23, 2018

Filing Guidance Provided for Conformity Legislation

Virginia has addressed the tax implications of the recently enacted conformity legislation, which advances the IRC conformity date to February 9, 2018, with a number of exceptions. The previous IRC conformity date was December 31, 2016. Taxpayers should refer to the applicable 2017 Virginia income tax return instructions for information about how to make adjustments related to:

- conformity adjustments for 2017 returns that have already been filed;
- the carry back of certain NOLs;
- bonus depreciation;
- applicable high yield discount obligations; and
- cancellation of debt income.

The Tax Cuts and Jobs Act temporarily increases the medical expenses deduction. It lowers the threshold for the deduction from 10% of federal adjusted gross income to 7.5% for tax years 2017 and 2018. Virginia does not conform to the temporary deduction threshold reduction. Taxpayers claiming a deduction on their Virginia returns must add back the difference between the amount of:

- the medical expense deduction reported on their federal return; and
- a deduction computed using a threshold equal to 10% of federal adjusted gross income.

Tax Bulletin 18-1, Virginia Department of Taxation, February 26, 2018

West Virginia

IRC Conformity Tie-In Date Updated

West Virginia Gov. Jim Justice signed legislation that updates the IRC conformity tie-date for determining:

- corporation net income tax liability; and
- personal income tax liability.

Tie-In Date

West Virginia adopts all changes to the IRC in effect:

- after December 31, 2016; and
- before January 1, 2018.

Depreciation and Expense Deductions

The update means that West Virginia incorporates federal income tax changes enacted by the Tax Cuts and Jobs Act (TCJA) (P.L. 115-97, including:

- the 100% federal bonus depreciation deduction under IRC Sec. 168(k) for property placed in service after September 27, 2017; and
- the $1 million dollar and $2 million investment phase out limits for the IRC Sec. 179 asset expense deduction.

Net Operating Loss Deduction

The TCJA made several changes to the federal net operating loss (NOL) deduction effective for tax years beginning after 2017. The changes include:

- eliminating the 2-year NOL carryback period;
- allowing NOL carryforwards indefinitely (previously a 20-year period); and
- capping NOLs at 80% of a taxpayer's income tax liability.

West Virginia currently requires corporate income taxpayers to make an addition adjustment for any federal NOL deduction. Corporations may claim a separate West Virginia NOL carryforward and carryback deduction that is computed according to IRC Sec. 172. However, the carryback deduction is limited to $300,000. A corporation must apply the NOL to its post-apportioned West Virginia income.

Personal income taxpayers are not required to make any West Virginia adjustments to their federal NOL deduction.

Repatriation Tax on Foreign Earnings

The TCJA imposes a tax on the accumulated foreign earnings of controlled foreign corporations and certain other foreign corporations. U.S. shareholders must include in their Subpart F income a proportionate share of those foreign earnings. West Virginia law currently allows corporate income taxpayers to deduct all Subpart F income reported on the taxpayer's federal return.

Personal Exemptions

The West Virginia conformity law allows individuals to claim personal exemptions as if the TCJA had not eliminated those exemptions for federal tax purposes beginning after 2017.

H.B. 4135 and H.B. 4146, Laws 2018, effective February 9, 2018

If you have any questions, please contact your tax advisor or:

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