North Carolina's Reference to the Internal Revenue Code Updated – Impact on 2017 and 2018 North Carolina Corporate and Individual Tax Returns

On June 12, 2018, Session Law 2018-5 (Senate Bill 99) became law. This legislation updated North Carolina's reference to the Internal Revenue Code ("IRC") from January 1, 2017 to February 9, 2018. This means that to the extent North Carolina follows federal tax provisions in calculating State tax liability, changes made to the IRC by the Federal Tax Cuts and Jobs Act ("TCJA") and the Bipartisan Budget Act of 2018 ("BBA"), (collectively, "federal tax provisions") apply to North Carolina. However, certain federal tax provisions do not apply to North Carolina because of previously existing differences between federal and State law including: (1) North Carolina begins with federal adjusted gross income ("AGI") instead of federal taxable income ("FTI"), (2) North Carolina does not conform to federal standard deduction or personal exemption amounts, (3) North Carolina does not conform to federal itemized deductions, and (4) North Carolina does not conform to federal bonus depreciation or larger Section 179 limits.[1]

This Notice identifies the federal tax provisions that North Carolina law decoupled from and the lines on the 2017 income tax returns that are impacted. Any impact to the 2018 income tax returns will be addressed in the instructions for the 2018 income tax returns, which should be released in early January 2019.

Federal Tax Provision	State Tax Provision for 2017	2017 NC Individual Income Return	2017 NC C Corporation Return	State Tax Provision for 2018
The treatment of mortgage insurance premiums as qualified residence interest is extended through tax year 2017.	For individual income tax purposes, mortgage insurance premiums are not treated as qualified residence interest.	Do not include on Form D-400 Schedule S, Part C, Line 15.	The federal provision is not applicable to C corporations.	BBA extended the federal provision through tax year 2017. As of the date of this Notice, the provision is expired for tax year 2018.
The exclusion from gross income for cancellation of qualified principal	For individual income tax purposes, cancellation of qualified principal	Include on Form D-400 Schedule S, Part A, Line 5.	The federal provision is not applicable to C corporations.	BBA extended the federal provision through tax year 2017. As of the date of this

[1] Provisions 1, 2, and 3 apply only to individual income tax. Provision 4 applies to both individual and corporate income tax.

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residence debt is extended through tax year 2017.	residence debt is included in the calculation of NC taxable income.			Notice, the provision is expired for tax year 2018.
The deduction for qualified tuition and related expenses is extended through tax year 2017.	For individual income tax purposes, qualified tuition and related expenses are not deductible.	Include on Form D-400 Schedule S, Part A, Line 5.	The federal provision is not applicable to C corporations.	BBA extended the federal provision through tax year 2017. As of the date of this Notice, the provision is expired for tax year 2018.
Certain gains timely invested in a qualified Opportunity Fund under IRC § 1400Z-2 are temporarily deferred and are not included in in the calculation of FTI or AGI.	For corporate and individual income tax purposes, gains reinvested into a qualified Opportunity Fund under IRC § 1400Z-2 are not deferred and are included in the calculation of NC taxable income.	Include income on Form D-400 Schedule S, Part A, Line 5.	Include income on Form CD-405, Schedule H, Line 1.i.	For corporate and individual income tax purposes, gains reinvested into a qualified Opportunity Fund under IRC § 1400Z-2 are not deferred and are included in the calculation of NC taxable income. **Note.** For tax year 2018, gain included in FTI or AGI under IRC § 1400Z-2 is deductible to the extent the same income was included in the calculation of NC taxable income in tax year 2017.

Federal Tax Provision	State Tax Provision for 2017	2017 NC Individual Income Return	2017 NC C Corporation Return	State Tax Provision for 2018
Certain gains from the sale or exchange of an investment in a qualified Opportunity Fund under IRC § 1400Z-2 are permanently excluded from FTI or AGI.	For corporate and individual income tax purposes, gain from the sale or exchange of an investment in a qualified Opportunity Fund under IRC § 1400Z-2 is included in the calculation of taxpayer's State tax liability.	IRC § 1400Z-2(c) requires an investment to be held for at least 10 years before the gain can be permanently excluded from AGI. Therefore, any gain accrued from an investment in an Opportunity Fund in 2017 is included in AGI as reported on Form D-400, Line 6.	IRC § 1400Z-2(c) requires an investment to be held for at least 10 years before the gain can be permanently excluded from FTI. Therefore, any gain accrued from an investment in an Opportunity Fund in 2017 is included in FTI as reported on Form CD-405, Schedule B, Line 10.	For corporate and individual income tax purposes, gain from the sale or exchange of an investment in a qualified Opportunity Fund under IRC § 1400Z-2 is included in the calculation of taxpayer's State tax liability.
For tax years beginning on or after January 1, 2018, certain US taxpayers are required to include global intangible income ("GILTI") in gross income.	IRC § 951A is effective for tax years beginning on or after January 1, 2018.	IRC § 951A is effective for tax years beginning on or after January 1, 2018.	IRC § 951A is effective for tax years beginning on or after January 1, 2018.	For corporate income tax purposes, GILTI, net of related expenses, is deductible in determining State net income. See N.C. Gen. Stat § 105-130.5(b)(3b). For individual income tax purposes, GILTI is included in determining State net income to the extent GILTI is included in AGI.

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For tax years beginning on or after January 1, 2018, a domestic corporation is allowed a deduction under IRC § 250 for a percentage of foreign derived intangible income ("FDII") and GILTI included in gross income.	IRC § 250 is effective for tax years beginning on or after January 1, 2018.	IRC § 250 is not applicable to individuals.	IRC § 250 is effective for tax years beginning on or after January 1, 2018.	For corporate income tax purposes, an addition is required for the amount deducted under IRC § 250 on the federal return.

Amended Returns

Taxpayers that have already filed a 2017 North Carolina income tax return and whose federal adjusted gross income or federal taxable income is impacted by the amendments to federal law included in TCJA and BBA or by the provisions of federal law from which North Carolina has decoupled must file an amended North Carolina return. If the amended return reflects additional tax due, the taxpayer will avoid a late-payment penalty if the additional tax reflected on the amended return is paid when the amended return is filed. If the amended return reflects additional tax due but some or all of the additional tax is not paid when the amended return is filed, the unpaid tax is subject to applicable penalties. In addition, statutory interest accrues on tax not paid by the original due date of the tax return. Taxpayers that owe additional North Carolina income tax may request a waiver of penalties within the provisions of the Department's Penalty Waiver Policy.

Assistance

If you have any questions about this Notice, you may call the Department's Contact Center at 877-252-3052 (8:00 am until 5:00 pm EST, Monday through Friday), or write the Department at PO Box 1168, Raleigh, NC 27602. Additional information on new legislation affecting North Carolina taxes may be obtained from the Department's annual law change document. When published, the 2018 resource document will be available on the Department's website, www.ncdor.gov.

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 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 Notice, the provisions contained in this Notice supersede the previous guidance.