



TAX BULLETIN 22-1
Virginia Department of Taxation
February 23, 2022

**IMPORTANT INFORMATION REGARDING
2021 VIRGINIA INCOME TAX RETURNS**

**VIRGINIA'S CONFORMITY TO THE INTERNAL REVENUE CODE ADVANCED TO
DECEMBER 31, 2021**

Under emergency legislation enacted by the 2022 General Assembly (House Bill 971, Chapter 3 of the 2022 Acts of Assembly), Virginia's date of conformity to the terms of the Internal Revenue Code will advance from December 31, 2020 to December 31, 2021. This bulletin is intended to provide taxpayers with guidance on reconciling this legislation with their 2021 Virginia income tax returns.

Virginia's Conformity Legislation

During the 2022 General Assembly Session, legislation was enacted to advance Virginia's date of conformity to the Internal Revenue Code from December 31, 2020 to December 31, 2021. This legislation allows Virginia to generally conform to the American Rescue Plan Act of 2021 ("ARPA") and provides additional benefits to recipients of certain coronavirus disease 2019 ("COVID-19") business assistance programs during Taxable Years 2021 and 2019. This tax bulletin explains the conformity adjustments that may be necessary on Taxable Year 2021 income tax returns.

American Rescue Plan Act of 2021

On March 11, 2021, ARPA was signed into law. This federal legislation provides emergency economic assistance to businesses and individuals affected by COVID-19. Several provisions in ARPA may have an impact on Virginia taxpayers preparing and filing their Taxable Year 2021 Virginia income tax returns. These provisions include:

- Enhancing the Child and Dependent Care Tax Credit for Taxable Year 2021, which benefits Virginia taxpayers who claim the Virginia Child and Dependent Care Deduction;

- Increasing the amount taxpayers can contribute to Child and Dependent Care Flexible Spending Accounts for Taxable Year 2021;
- Expanding eligibility for the Earned Income Tax Credit, with most changes effective solely for Taxable Year 2021;
- Excluding student loan forgiveness from gross income for Taxable Years 2021 through 2025; and
- Allowing certain business taxpayers to receive tax-free assistance under the Restaurant Revitalization and Targeted Economic Injury Disaster Loan Advance grant programs while also deducting the business expenses paid with such tax-free funds.

Advancing Virginia's date of conformity to December 31, 2021 will allow Virginia to generally conform to the ARPA, including the treatment of certain COVID-19 business assistance programs as described below.

COVID-19 Business Assistance Programs

The General Assembly enacted legislation during the 2021 Session that generally deconformed from the federal deductibility of business expenses funded by forgiven Paycheck Protection Program ("PPP") loan proceeds and Economic Injury Disaster Loan ("EIDL") program funding. In addition, the 2021 conformity legislation provided a Virginia-specific deduction of up to \$100,000 for business expenses funded by forgiven PPP loan proceeds that were paid or incurred during Taxable Year 2020, and provided a Virginia-specific subtraction of up to \$100,000 for Rebuild Virginia grant recipients. No changes have been made to the Virginia income tax treatment for recipients of COVID-19 business assistance for Taxable Year 2020. As a result, such taxpayers should continue to follow the instructions provided in [Tax Bulletin 21-4](#).

Virginia's 2022 conformity legislation modified how Virginia treats certain COVID-19 business assistance programs for income tax purposes for Taxable Years 2021 and 2019. The impact of such changes are described below:

- **Taxable Year 2021:** Virginia generally conforms to the federal tax treatment of COVID-19 business assistance programs for Taxable Year 2021 and after. As a result, no adjustment will generally be required on 2021 Virginia income tax returns for taxpayers that have business expenses funded forgiven PPP loan proceeds, EIDL program funding, and Restaurant Revitalization grants during Taxable Year 2021.
- **Taxable Year 2019:** The General Assembly retroactively extended the Virginia-specific deduction for up to \$100,000 in business expenses funded by forgiven PPP loan proceeds and the Virginia-specific subtraction of up to \$100,000 for

Rebuild Virginia grant recipients to Taxable Year 2019. This allows fiscal year filers to benefit from the deduction and subtraction for such expenses and income received during 2020 that was reflected on their Taxable Year 2019 returns. See [Tax Bulletin 21-4](#) and the Department's website for information regarding reporting PPP-funded expenses and Rebuild Virginia grants for Virginia income tax purposes. Taxpayers may need to file amended Taxable Year 2019 Virginia returns to report such changes.

This legislation does not change the Virginia income tax treatment for recipients of EIDL funding for Taxable Years 2019 or 2020. As a result, such taxpayers must continue to report a fixed date conformity addition equal to the amount of business expenses paid using tax-exempt EIDL funding on their Taxable Year 2019 and 2020 returns.

Existing Exceptions to Conformity for Taxable Year 2021

Virginia will continue to deconform from the following provisions of federal tax law:

- Bonus depreciation allowed for certain assets under federal income taxation;
- Five-year carry back of certain net operating losses ("NOLs") generated in Taxable Years 2008 and 2009;
- Tax exclusions related to cancellation of debt income;
- Tax deductions related to the application of the applicable high yield debt obligation rules;
- The suspension of the federal overall limitation on itemized deductions; and
- The reduction in the medical expense deduction floor.

Virginia's deconformity from these provisions is explained in [prior tax bulletins](#).

Instructions for Taxpayers

Taxpayers should consult the instructions for the appropriate 2021 Virginia income tax return for information regarding how to make adjustments such as those related to bonus depreciation, the carry back of certain NOLs, cancellation of debt income, and applicable high yield discount obligations. No adjustments are necessary for Virginia's deconformity from the suspension of the federal overall limitation on itemized deductions and the increased medical expense deduction because these are incorporated into the Department's forms and instructions.

Taxpayers who have already filed a 2021 Virginia income tax return but need to make an adjustment should consult the instructions for the appropriate income tax return and the Department's website for further information about filing an amended return. If you have additional questions, please visit <https://www.tax.virginia.gov>, or contact the Department at 804.367.8031 for individual income tax questions or 804.367.8037 for corporate income tax questions.