IMPACT OF THE TAX CUTS AND JOBS ACT AND THE BIPARTISAN BUDGET ACT OF 2018 ON NORTH CAROLINA'S CORPORATE AND INDIVDUAL INCOME TAX RETURNS

North Carolina's corporate income tax law uses federal taxable income as the starting point in determining North Carolina taxable income. North Carolina's individual income tax law uses federal adjusted gross income as the starting point in determining North Carolina taxable income. In both cases, the reference to federal law is to the Internal Revenue Code ("Code") as of a certain date. Currently, that reference is to the Code as of January 1, 2017. Each year the General Assembly determines whether to update its reference to the Code. Doing so would make recent amendments to the Code applicable for North Carolina income tax purposes. The General Assembly may not follow ("decouple" from) certain changes to federal law.

On December 22, 2017, President Trump signed into law the Tax Cuts and Jobs Act ("TCJA"). The TCJA included a wide range of changes and almost every individual and business will be impacted to some extent. Most of the changes affect tax years 2018 and forward. However, one provision that affects tax year 2017 is a change to the calculation of deductible medical expenses. Prior to the law change, individuals who were under 65 years of age could only deduct medical expenses that exceeded 10% of the individual's adjusted gross income. As amended, for tax years 2017 and 2018, the 10% limitation is reduced to 7.5%. If the General Assembly does not update the reference to the Code to December 22, 2017 or later, the provision to enhance the medical expense deduction will not apply for North Carolina income tax purposes.

On February 9, 2018, President Trump signed into law the Bipartisan Budget Act of 2018 ("BBA"). In addition to providing a continuing resolution to fund the federal government through March 23, 2018, the BBA contains numerous tax law changes. The BBA extends through tax year 2017 several provisions in federal law that expired on December 31, 2016, including the deduction of up to $4,000 of qualified tuition and related expenses, the deduction of mortgage insurance premiums as deductible mortgage interest, and the exclusion from gross income of the discharge of an individual's qualified principal residence indebtedness. The BBA also adds new tax provisions effective for tax years beginning on or after January 1, 2018. If the General Assembly does not update the reference to the Code to February 9, 2018 or later, the provisions in the BBA do not apply in calculating North Carolina income taxable income.

The General Assembly is scheduled to convene on May 16, 2018. Even if the General Assembly enacts legislation to update the Code reference to February 9, 2018 or later, it may elect to continue to decouple from some federal provisions. In that case, taxpayers will be required make decoupling adjustments to the corporate and individual income tax returns. Therefore, any person required to file a North Carolina income tax return who has not yet filed the return and whose 2017 federal taxable income or federal adjusted gross income is impacted by the amendments to federal law included in the TCJA or the BBA should check the Department's website for updates that will be posted as they become available.

Individuals who wait to file their 2017 North Carolina income tax return until the General Assembly makes their determination will need to file Form D-410 to receive an automatic six-month extension of time to file. Corporations that wait to file their 2017 North Carolina income tax return will need to file Form CD-419 to receive an automatic six-month extension of time to file.

Taxpayers who file a 2017 North Carolina tax return prior to any action of the General Assembly and whose 2017 federal taxable income or federal adjusted gross income reported on the original return is impacted by changes to federal law may be required to file an amended North Carolina tax 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. However, interest will be due on the additional tax from the original due date of the return until the additional tax is paid.

If you have any questions about this notice, you may call the 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.

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.