Webinar with Tax Professionals: December 9, 2021

Disclaimer: *Information in this document is based on the laws in effect when it was written. It does not supersede or alter any provision of Minnesota laws, administrative rules, court cases, or revenue notices. It does not provide tax advice.*

Mark: Hello and thank you for joining us today. My name is Mark Krause and I'm the Tax Professional Outreach Coordinator with the Income Tax and Withholding Division at the Minnesota Department of Revenue.

I am joined today by Allyson Casseday, the External Training and Communications Specialist with the Corporate Franchise Tax Division, and representatives from our Policy Teams who will be helping present today. There are also several other Department of Revenue employees who are joining us to assist with your questions.

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Today, we will primarily focus on changes for the upcoming filing season. This includes:

- Reviewing department updates
- Conformity and non-conformity hightlights from the 2021 tax law changes
- Business and individual income tax updates for taxable year 2021
- Notable court cases
- Taking your questions

Before we begin, I would like to introduce Dan Getschel, Director of the Income Tax and Withholding Division, to provide a few comments on behalf of the Commissioner's Office.

Dan: I'd like to start by saying thank you for joining this call today. I know this has been another very challenging filing season, not only due to the continuing pandemic but also due to federal tax laws changing mid-filing season. I encourage all of you to:

- Subscribe to our tax professional updates email list – you'll receive updated information on where we are at with processing the 2020 adjustments
- Review the [Our Response to COVID-19] section on our website for the most up-to-date information.

The department has been able to maintain its level of service for 2020 income tax and property tax refund returns and has been answering taxpayer calls and emails, even though most Revenue employees have been working from home. We anticipate most employees working from home for the majority of the upcoming filing season as well.

We appreciate your partnership and will continue to ask for your feedback as we move closer to the 2022 filing season.

I'll now turn the call back over to Mark with some department updates.

Department Updates

Mark: We do have a few updates that I would like to share with you as we head towards the upcoming 2022 filing season.

New Identity Theft Forms and Procedures

In an effort to better support identity theft victims, we have released new forms in 2021. These forms help your clients formally manage the reporting of identity theft to the department and allow your clients to request copies of fraudulently filed returns.

If your client believes they are a victim of identity theft, they should call us at 651-296-3781 or 1-800-652-9094. Then, they should complete and submit Form M1ID, Identity Theft Affadavit. This will alert us of the issue and help us detect any potential fraud on their account. We will notify your client if we received a fraudulent return or not.

If your client receives a letter informing them a Minnesota return was fraudulently filed under their name, they can contact us for a copy of the return.

If your client wants a copy of the fraudulent return for their records, they should complete Form REV189, Request for Copy of Return Related to Identity Theft.

If your client wants to send a copy of the fraudulent return to law enforcement, they should complete Form REV190, Authorization to Release Return Related to Identity Theft.

Retirement of Phone File and Pay System

Revenue's telephone file and pay system for businesses was retired on April 21, 2021. The ongoing COVID-19 situation provided a unique opportunity as people are more comfortable working online.

The decision was also due to other factors, including the upgraded usability of our e-Services system.

Our upgraded systems allow us to serve you more quickly, efficiently, and cost-effectively than the telephone file and pay system. Other methods to file returns and make payments can be found by visiting our Options to File and Pay webpage.

You can still make credit card payments over the phone by calling Value Payment Systems. Direct debit from checking or savings accounts is not available with phone payments.

2020 Tax Return Adjustments for Conformity

On the corporate franchise tax side, we have completed the PPP loan forgiveness adjustments at the business entity level. On the individual side, we began manually processing PPP and unemployment compensation adjustments on September 9 and our automated adjustments began at the end of October. As of December 6, out of about 543,000 returns needing adjustment, we have completed over 408,000 adjustments. We are processing about 50,000 automated adjustments per week and are also working manual adjustments simultaneously. We have about 86,000 automated adjustments remaining and 49,000 manual adjustments to do. We anticipate this work to be completed by early 2022.

Early on in this process, we sent out approximately 8,000 letters to taxpayers notifying them that they must amend their return to receive their refund due on non-taxable unemployment compensation or PPP loans because we lack information to process it automatically.

We sent out guidance last Thursday on how we will handle the Working Family Credit (WFC) on adjusted returns. If the taxpayer qualified for WFC, we will adjust the amount of the credit. If the taxpayer did not previously qualify, but now does due to lower income, clients must file an amended return to claim the WFC. Do not appeal the adjustment letter. We will make all other conformity adjustments necessary on these returns such as IRA distributions to be repaid or taxed over a period of time.

We provide updates every 2-3 weeks via email in an effort to be more transparent with this process. Subscribe to Tax Professional Updates email list to receive these updates. The latest email went out this past Monday.

Looking back to 2018 and 2019 return conformity adjustments, those have been completed. We processed over 310,000 adjustments, over 71,000 were adjusted manually. We spent almost 22,000 hours on this project.

Standard Deduction Limitation Adjustments

For taxable years 2019 and 2020, the worksheet for calculating the standard deduction limitation was incorrect. This affects returns with the federal adjusted gross income (FAGI) thresholds you see on this slide based on filing status. The calculation reduced their standard deduction by 20%, but it should have reduced this deduction by 80%.

We updated the worksheet for calculating the standard deduction limitation in the 2019 and 2020 Minnesota Individual Income Tax instructions and sent out a GovDelivery explaining the issue on September 24, 2021.

Software providers have been notified of this change and should have made updates to your software by now.

If returns already filed for 2019 or 2020 and are at or above these thresholds, we will adjust them and send a letter. If your clients need to file amended returns for other reasons, you may make this adjustment when filing.

Returns not yet filed that exceed these gross income thresholds – make sure you use the correct worksheets from our updated instructions or verify that your software has been updated.

To verify the correct Worksheet for Line 4 of Form M1 is being used, line 6 should say 20% instead of 80% on page 12 in the 2019 and 2020 Form M1 instructions.

Since these adjustments will most likely result in a balance due, we will not assess penalty or interest on balances due solely to this issue. If your clients do not pay the balance due within 60 days, we may assess penalty and interest. We will start adjusting these returns after unemployment compesation and PPP adjustments are completed. We will make these adjustments if we are processing an amended return or adjusting for any other reason.

Nongame Wildlife Fund Donation

By law, you must notify your clients while preparing their return about their right to contribute to the Nongame Wildlife Fund. This option is on Form M1 (for Individual Income Tax), Form M1PR (for the Property Tax Refund), Form M4 (for Corporate Franchise Tax), and Form M8 (for S Corporation Tax).

You can order free sticky notes reminding clients to make a donation. From the Minnesota Department of Natural Resources' website, enter **nongame wildlife fund tax preparer** into the Search box to find their Information for Tax Preparers page.

Nongame fish and wildlife are those species that are not traditionally hunted or harvested. This includes over 800 species of animals and insects.

This program relies on donations for the majority of its funding. Donations made on tax returns are matched by the Critical Habitat License Plate Fund. Without the donations and the match, nongame species in Minnesota would not have a voice or funding. (Note that license plates are issued through the Department of Motor Vehicles at an additional cost and are not included when making a donation on tax returns.)

We will be implementing new software requirements for tax year 2022 that will require software providers to prompt you via pop-up or other methods to help you meet this statutory requirement. In the meantime, ensure that you are asking your clients about this important program.

There are links to our Tax Law Changes pages, social media, and email subscriptions at the bottom of our website. The name of the email list for tax professionals is "Updates for Tax Professionals." There is also a list for business return types called "Information for Businesses." We also encourage you to subscribe to the "Tax Law Changes" email list.

Here is the information you'll find on the Tax Law Changes page of our website. This page has all of the information we have been releasing about updates for taxable year 2021.

Here, you will find:

- An FAQ section which is regularly updated. Note that we have posted FAQs for questions related to the newest state tax bill. We are also cleaning up all of the prior FAQs for 2017 through 2020, including COVID-related FAQs.
- The webinar script and recording from the September webinar that walked you through tax form changes.
- The 2022 filing season timeline.

We just uploaded all 2021 final forms for most types this past Monday, December 6 to our forms search function on our website. All draft forms have been removed from the Draft Forms and Instructions page with the exception of the Withholding Tax forms.

If you have a technical tax question you do not see answered anywhere on our website for tax years 2020 or 2021, email it to taxlawchanges@state.mn.us.

Here is a visual of the annual changes that need to be made each year. We just talked about the status of our forms and we are now working with software providers to have them update their products and receive certification. We plan on announcing the opening of the 2022 filing season when the Internal Revenue Service opens.

The red line indicates approximately where we are currently.

Conformity Updates

Now let's go over some conformity updates for the 2022 filing season.

Federal Tax Laws

Remember my mantra from 2 years ago? Minnesota tax law has not changed? And then remember last year? Minnesota tax law has changed? Well this year, I have a new one: Minnesota tax law has and has not changed.

Minnesota tax law generally conforms to the Internal Revenue Code (IRC) as amended through December 31, 2018. There have been numerous federal tax laws enacted since December 31, 2018.

In the 2021 Minnesota first special session, bill H.F. 9 / chapter 14, passed on July 1, 2021, conformed the state tax code to certain provisions from these federal acts. Minnesota has not adopted all federal changes, so nonconformity return adjustments are needed to correctly determine Minnesota taxable income.

As we review these federal laws, we are providing highlights only. For more detailed information, refer to the nonconformity schedules and our Tax Law Changes webpage.

Taxpayer Certainty and Disaster Tax Relief (TCDTR) Act of 2019

Under the Taxpayer Certainty and Disaster Tax Relief Act of 2019, or TCDTR, Minnesota tax law conforms to these sections.

- Extended the qualified principal residence indebtedness (QPRI) exclusion to apply to debts that are discharged before January 1, 2021, **or** subject to a written agreement that was entered before January 1, 2021.
- Up to $15 million in expenses for certain film, television, and live theater costs.
- Extends deductions for energy efficient commercial properties and certain biofuel properties.
- Businesses on an Indian reservation may extend accelerated depreciation for business property.
    - This does not apply to property placed in service after December 31, 2020 (previously December 31, 2017).
- Up to $100,000 for disaster-related distributions from retirement accounts can be spread over three years following the distribution (within 180 days of disaster between January 1, 2018, and February 20, 2020).
- Cash charitable contributions for disaster relief efforts up to 100% of the contribution base.
    - Allows excess (up to 60% of contribution base) to be carried over for contributions between January 1, 2018, and February 20, 2020.
- Allows deduction for the full amount of the disaster-related casualty loss (for casualty losses between January 1, 2018, and February 20, 2020).
    - Current Minnesota law limits the casualty loss itemized deduction to losses greater than $100 in excess of 10% of AGI.

Minnesota does not conform to these TCDTR sections.

- Deduction of qualified tuition and related expenses does not apply to taxable years beginning after December 31, 2017.
- Deduction of mortgage insurance premiums as qualified residence interest does not apply to taxable years beginning after December 31, 2017.
- Certain federal credits that impact depreciation and expenses do not apply for taxable years beginning after December 31, 2019. These items are still on the business NC schedules, so refer to our updated 2020 NC schedules.

Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019

Under the SECURE Act of 2019, Minnesota does not conform to:

- The expansion of section 529 higher education savings plans which includes using distributions to pay for apprenticeship programs and to make student loan payments.

There are no conformity highlights to note here.

Families First Coronavirus Response Act (FFCRA) of 2020

Here is one provision that we do not conform to from the Families First Coronavirus Response Act of 2020, or FFCRA. Minnesota does not conform to the federal payroll tax credits for employer-paid medical leave due to COVID-19. Just to clarify, this is a credit for payroll taxes, not income taxes.

There are no conformity highlights to note here.

Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020

Minnesota conforms to the following provisions of the CARES Act of 2020.

PPP loan amounts forgiven are excluded from gross income.

Taxpayers may withdraw up to $100,000 and then spread the tax for Minnesota over three years starting in the year of distribution, just like federal law. Taxpayers may repay all or a portion of the distribution anytime during the three-year period beginning the day after the date the distribution was received. Repaid distributions will not be taxed.

Minnesota does not conform to these tax-related sections of the CARES Act.

- For non-corporate taxpayers, excess business loss limitations were repealed for taxable years 2019 to 2020 and imposed for 2021 to 2026. An excess business loss is the amount by which the total deductions from all trades or businesses exceed a taxpayer’s total gross income and gains from those trades or businesses, plus $250,000, or $500,000 for a joint return.
- Net operating loss cannot be carried back 5 years for losses incurred in taxable years 2018 to 2020.
- Charitable contributions for non-itemizing taxpayers (above the line) on the 1040.
- Business interest expense limitation changed from 30% to 50% of after tax income.
- The qualified improvement property (QIP) CARES Act fix.

Taxpayer Certainty and Disaster Relief Act of 2020 (TCDTR20)

Minnesota does not conform to various provisions of the Taxpayer Certainty and Disaster Relief Act of 2020, or the TCDTR20, which was the second extenders bill.

While there are other provisions that Minnesota does not conform to from this act, the one we will highlight today is the temporary allowance for full deduction of business meals. Taxpayers need to make a nonconformity adjustment for the difference between the previously allowed 50% limitation and the full amount deducted on their federal return.

There are no conformity highlights.

COVID-Related Tax Relief Act (COVIDTRA) of 2020

Our conformity highlights for COVID-Related Tax Relief Act of 2020 include:

- Expenses related to PPP loan forgiveness incurred after February 15, 2020. Minnesota also allowed the related expenses deduction in the past.

- Personal protective equipment (PPE), disinfectant, and other supplies to control COVID-19 are eligible for the federal educator expense deduction after March 12, 2020.

- **Qualified** emergency financial aid grants provided to students under the CARES Act are excluded from gross income (for qualified grants made after March 26, 2020). This is federally effective for taxable years ending after March 27, 2020, and effective for all economic injury disaster loans (EIDL) and Targeted EIDL Advances, which occurred in 2020 and 2021. They are excluded from gross income. The bill adopts the provision for payments in taxable year 2020 only.

- Section 1112(c) of the CARES Act instructed the Small Business Administration to make payments of principal, interest, and fees on behalf of borrowers of certain loans. These payments are excluded from gross income.

- It provides an exclusion from gross income for small business loan subsidy payments under section 1112(c) of CARES and allows a deduction for related expenses.

- This is federally effective for taxable years ending after March 27, 2020, and is effective for 1112(c) payments, which occurred in 2020 and 2021. The bill adopts the provision for payments in taxable year 2020 only.

There are no nonconformity highlights to mention.

American Rescue Plan Act (ARPA) of 2021

Minnesota conformed to ARPA.

Clients may exclude up to $10,200 in unemployment compensation for taxabale year 2020.

For joint returns, the exclusion applies to each spouse who received unemployment compensation.
FAGI must be less than $150,000.

Child and dependent care expense amounts allowed were raised substantially for 2021 for the federal return – to $8,000 and $16,000 for 1 or 2+ children respectively. Minnesota credit amounts are still based on $3,000 and $6,000. We reworked Schedule M1CD to no longer rely on a completed federal Form 2441.

Amounts paid from the Restaurant Revitalization Fund are not included in federal gross income. Minnesota does not exclude these payments from income.

Worldwide interest allocation has been permanently repealed with ARPA. The implementation was scheduled for 2021. In Minnesota, however, your clients may elect to adopt the worldwide interest expense apportionment method. For more information, see the Schedule M4NC instructions. Note that this repealed provision did not apply to individual taxpayers.

Now I'd like to introduce Allyson Casseday to review some 2021 business income tax updates.

Business Income Tax Updates

Pass-Through Entity (PTE) Tax

Allyson: The pass-through entity tax (PTE tax) allows certain partnerships, S corporations, and LLCs taxed as partnerships or S corporations that meet the requirements to elect to file a return and pay state tax at the entity level.

The pass through entity tax allows an entity to pay a tax on behalf of their partners, members, or shareholders. Partnerships, limited liability companies (LLC), and S corporations may elect to pay PTE tax if owners who collectively control more than 50% of the entity decide to do so. The election is binding on all owners.

Qualifying entities are partnerships, limited liability companies (LLC) taxed as a S Corporation or partnership, and S corporations qualify to make the PTE election if no partner, member, or shareholder is a partnership, LLC, or corporation, other than a disregarded entity. Single-member LLCs are not eligible to make the PTE tax election.

The election must be made by the extended due date of the entity's return and is made by filing Schedule M1PTE. The election may not be made on an amended return.

PTE estimated payments are made in e-Services using the same method as estimated tax payments for nonresident withholding, composite income tax, and other entity level income taxes.

The PTE Tax ends when the SALT cap ends. Currently, it's scheduled to end December 31, 2025.

There are numerous FAQs that have been posted to our website in regards to this new tax type. If you cannot find answers to your questions, please continue to submit those to us at taxlawchanges@state.mn.us.

There will be one-hour webinars you can attend to get more information on this new tax type. An announcement will be out soon with more information. You will be able to register for these webinars on our website. Hover over Businesses, and under the Resources column, select Education and Outreach.

Partnership Audit

The 2021 tax bill conformed Minnesota law with the federal partnership audit regime.

Retroactively for taxable years beginning after December 31, 2017, state-level reporting and payment requirements for partnership audits and assessments of the Bipartisan Budget Act (BBA) enacted in 2015 replaced the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982. It also applies for those partnerships who made an early opt-in election to receive the federal entity level audit treatment.

These new state-level reporting and payment requirements allow a partnership to elect the Partnership Pays election for Minnesota purposes. The Partnership Pays election allows a partnership to report and pay the Minnesota income tax, penalty, and interest resulting from a federal BBA audit on their partners' behalf. This relieves the partner from filing a return to report their pro rata share of the federal adjustments, unless a partner is excluded from the calculation.

Minnesota's reporting and payment requirements for the partnership and partners depend on:

- If the partnership elects to pay their Minnesota tax liability at the partnership level using the Partnership Pays election
- The reviewed year of the adjustments

Partnerships electing to pay at the entity level must file Schedule M3BBA, Partnership Audit Report, to file a federal adjustments report and make the Partnership Pays election. For partnerships with reviewed years in 2021, the Partnership Pays entity-level tax is reported on Line 5 of Form M3X. For reviewed years 2017 through 2020, the Partnership Pays entity-level tax must be reported on the composite income tax line (Line 2) of the appropriate reviewed years's Form M3X. Next to Line 2, write "Schedule M3BBA" and also include "BBA Partnership" in red font at the top of the Form M3X.

If a partnership chooses not make a Partnership Pays election, then the partnership and each of their partners must file amended Minnesota returns for the reviewed years and report their pro rata share of the federal adjustments.

The Schedule M3BBA also allows a partnership to designate a state partnership representative. The state partnership representative has the sole authority to act on behalf of the partnership, and its partners are bound by those actions. If the state partnership representative designation is not completed, the state partnership representative will be the same person as the partnership's federal partnership representative.

To designate a state partnership representative, complete page 4 of Schedule M3BBA. If your partnership is making the partnership pays election, this designation should be included with the Schedule M3BBA filing. All other partnership designations may be sent to the partnership correspondence address listed on Revenue's public website.

To revoke the state partnership representative designation, an owner, officer, or authorized agent of the partnership, or the designee must send the department a signed and dated statement ending the designee's authority and designating a new designee or stating that the federal partnership representative is designated.

You can find more information regarding the Partnership Pays election and the state partnership representative designation on our website and within the Schedule M3BBA instructions.

Film Production Credit

The film production tax credit is a new nonrefundable credit equal to 25% of eligible production costs and verified expenses. In order to qualify for the credit, a taxpayer must apply to the Minnesota Department of Employment and Economic Development (DEED) and receive an allocation certificate. The credit applies for taxable years 2021 through 2024, and no more than $4.95 million in credits may be allocated for any year. Credits are allocated on a first-come, first-served basis.

This credit is primarily administered by DEED and the Department of Revenue in consultation with the Minnesota Film and TV Board.

Revenue and DEED are currently working to create credit certificates and related documents.

179 Expensing

The Minnesota tax law includes full conformity to IRC section 179. The addition lines were removed from tax forms for taxable years 2020 and beyond. Subtraction lines will remain until subtractions are exhausted.

Clients have the option of amending a prior year's return to reflect recent Minnesota tax law changes.

Now I'd like to turn it back to Mark for the 2021 individual income and withholding tax updates.

2021 Individual Income Tax Updates

Mark: Standard deduction amounts are here on the slide for Minnesota. Note that these amounts do not always match the federal amounts for 2021. The Single and Married Filing Jointly standard deduction amounts are $25 less than the federal amount, and the Married Filing Separately deduction is

$50 less than the federal amount. The additional amounts for taxpayers who are blind or age 65 and older are both $50 less than the federal amounts.

The federal standard deduction was changed in 2018, while the state's standard deduction did not change until 2019. The amounts in statute match the federal rounded amounts for 2019, but the inflation adjustments are off by a year. Because of this, there will be years when our standard deduction is slightly different than the federal one.

For clients claimed as dependents on another return, the standard deduction is the larger of $1,100 or Earned Income plus $350, up to standard deduction of $12,525 for Single filers. Use sections 151 and 152 of the Internal Revenue Code to determine who is a dependent.

Note that unlike the federal standard deduction, the Minnesota standard deduction amount is subject to limitation when AGI exceeds $199,850 (or $99,925 for Married Filing Separately).

Dependent Exemptions

As you know by now, the TCJA reduced personal exemptions to zero for taxable years beginning after December 31, 2017, and before January 1, 2026. Under current Minnesota Law, personal exemptions are not allowed for a taxpayer or their spouse.

Unlike the federal return, Minnesota has not reduced the dependent exemption amount to zero. A dependent exemption will be allowed for each eligible dependent that would meet the qualifications under the Internal Revenue Code.

The dependent exemption amount for 2021 is $4,350 per dependent.

Similar to the standard deduction amounts, the exemption amounts are also subject to phaseout based on income and filing status.

Volunteer Driver Reimbursement Subtraction

The Minnesota tax law provided a new subtraction to volunteer drivers for mileage reimbursement paid by charitable organizations. Charitable organizations can reimburse a volunteer driver up to $0.14 per mile, the charitable contribution rate. The subtraction allows volunteer drivers to subtract an amount equal to the excess of $0.14 per mile reimbursed, but not to exceed the business standard mileage rate for the applicable tax year.

For 2021, $0.42 per mile is an additional subtraction. If reimbursed less than $0.14 per mile, the difference is still based on $0.14.

This law change is effective for taxable years beginning after December 31, 2020.

Working Family Credit

The Minnesota tax law amended the Minnesota Working Family Credit by lowering the age requirement for taxpayers with no qualifying children from 21 to 19. This law change is effective for taxable years beginning after December 31, 2020. Use the client's age as of December 31 of the taxable year.

Eligible ages for this credit are now 19 to 64 for clients with zero qualifying children. The age requirement does not apply for clients with one or more qualifying children. Married couples filing for this credit must still file a joint return.

Student Loan Credit

The Minnesota tax law amended the Student Loan Credit by modifying the definition of earned income so that married taxpayers filing joint returns are not penalized if both spouses earn income. What you may have seen happen was that clients filing jointly were ineligible for this credit with their combined income, but they would have qualified individually if income was separated. This law change is effective for taxable years beginning after December 31, 2020.

Property Tax Refund

Let's move on to property tax refund updates. Household income includes forgiven PPP loan amounts and all unemployment compensation. The amount of unemployment compensation not included in FAGI must be added back for 2020, but not for 2021 since all unemployment compensation is again taxable.

Under the Minnesota tax law, veteran's disability compensation paid under title 38 of the United States Code is excluded for purposes of determining household income for the Homestead Credit Refund (for Homeowners) and Renter's Property Tax Refund. This law change is effective for refund claims based on property taxes payable in 2022 and rent paid in 2021 and thereafter. In other words, this takes effect with the 2021 M1PR.

Important Individual Income Tax Forms Changes

We released a [forms summary for 2021] on our website on the Tax Law Changes page under Resources. Here are the highlights of new or changed forms:

We split Schedule M1M, Additions and Subtractions into two forms: Schedule M1M for non-business income additions and substractions, and Schedule M1MB, Business Income Additions and Subtractions, for business additions and subtractions.

Schedule M1CD, Child and Dependent Care Credit, generally no longer relies on information from federal Form 2441. We now make nearly all calculations on our own form.

Schedule M1LOSS, Minnesota Limitation on Business Losses, is a new form used to calculate an excess business loss. Losses exceeding the threshold limits for the year are added back to income and treated as a net operating loss. Use Schedule M1LOSS is used to determine the Minnesota excess business loss and compare it to the federal excess business loss.

This form calculates the limit of your losses ($262,000, or $524,000 for Married Filing Jointly) and flows to Schedule M1NC.

Taxable Year 2022

Minnesota Withholding

Let's move on to a few withholding tax updates. The first one takes effect after December 31, 2021.

The Minnesota tax law requires that a financial institution withhold Minnesota income tax on any periodic payment or nonperiodic distribution to Minnesota residents, unless the Minnesota resident asks the financial institution not to withhold. The opt-out for a periodic payment needs to be made only once, while nonperiodic distributions must be made for each distribution. If an individual opts out of Minnesota income tax being withheld from a period payment, the opt-out remains in effect until the individual revokes the election.

This law change is effective for payments and distributions made after December 31, 2021.

Telecommuting

Wage Allocation

Here are some reminders on wage allocation, which is the same message as the one we shared last year.

In 2021, we saw another year of employees working from home. There are no changes to wage allocation for Minnesota due to COVID-19. Wages for work physically performed in Minnesota are allocated to Minnesota and Minnesota tax should be withheld. The notable exceptions to this are employees who live in North Dakota or Michigan. These states have reciprocity agreements with Minnesota.

The department will not seek to establish nexus for business income tax or sales and use tax solely because an employee is temporarily working from home due to the COVID-19 pandemic. Generally, an employer that transacts business or derives income from sources in Minnesota must withhold for employees.

Bordering States

Generally:

- The first situation is North Dakota, Iowa, and Wisconsin residents who previously commuted to Minnesota but now work from home for any part of the year. The wages not earned in Minnesota should be allocated to the resident's home state.

- Since there has been no change to reciprocity, employees who have worked in Minnesota but live in Michigan or North Dakota are not subject to wage allocation or withholding provided that Form MWR, Reciprocity Exemption/Affidavit of Residency, is on file with their employer. To qualify, employees must have a residence in Michigan or North Dakota and return to it at least one a month.

For Minnesota residents who previously commuted to North Dakota, South Dakota, Iowa and Wisconsin but now work at home, wages earned in Minnesota should be allocated to Minnesota.

Here is what we are suggesting if you receive an incorrectly allocated Form W-2.

1) Try to obtain a corrected W-2 (also known as a W-2c) from the employer.
2) If an employer does not issue a W-2c, then allocate wages properly, complete the return and include an explanation.
3) Alert us about any employer that refuses to provide a W-2c by calling or emailing us. You may report the name of the employer to us anonymously.

Economic Impact Payments

All Economic Impact Payments are not included in Federal or Minnesota adjusted gross income or Minnesota household income.

2021 Unemployment Compensation

For taxable year 2021, all unemployment compensation is included in Minnesota adjusted gross income and household income. The exclusion for this income only applied to taxable year 2020.

Benefits under the Pandemic Emergency Unemployment Compensation (PEUC) program were extended to March 14, 2021, and the number of weeks that an individual could claim PEUC benefits was increased from 13 to 24 by the Consolidated Appropriations Act (CAA).

The American Rescue Plan Act of 2021 further extended the PEUC by 29 weeks, for up to a total of 53 weeks through September 5, 2021.

The Federal Pandemic Unemployment Compensation (FPUC) program also provided an additional $300 per week for unemployment beginning after December 26, 2020, and ending on or before September 5, 2021.

Court Cases

Olson, Supreme Court of Minnesota, December 30, 2020

The Department sent Jeffrey Olson a tax order assessing sales and use taxes covering a three-year period. The order was sent by regular mail, as authorized by Minnesota Statute 270C.33, subdivision 8. Olson appealed, asserting that he only became aware of the tax liability when his bank account was levied on by the Commissioner. The tax court granted the Commissioner's motion to dismiss. The Supreme Court affirmed, holding that Olson’s notice was constitutionally sufficient.

Olson, Supreme Court of Minnesota, A20-1048, December 30, 2020

The Minnesota Supreme Court agreed with the Minnesota Tax Court that regular mail provided sufficient notice. In this case, the Department of Revenue’s tax order was sent to the taxpayer by regular, non-certified mail. The Minnesota Supreme Court held that regular, non-certified mail provides sufficient notice to satisfy procedural due process.

Closing

Thanks again for joining us. Our department’s vision is that everyone reports, pays, and receives the right amount: no more, no less. Our partnership with you is essential to provide the information and resources Minnesota taxpayers need to realize this vision. We appreciate your engagement, questions, and comments as we move closer to the 2021 taxable year filing season.

We’ll post the script and recording for this webinar under our Tax Law Changes page as well as the Conference Calls and Webinars page on our website.

We’re committed to meeting our priorities for the upcoming filing season. If you have further comments or ideas, contact us on the Tax Professional Outreach Line at 651-556-6606 or email taxpro.outreach@state.mn.us.

Remember to check our Tax Law Changes FAQs as we regularly post new questions and answers. You can also email your tax questions to TaxLawChanges@state.mn.us. Thanks again for attending our webinar.