

Income/Franchise:

Minnesota: New Law Updates State Conformity to IRC, Taxes GILTI, and Revises DRD and NOL Amounts

H.F. 1938, signed by gov. 5/24/23; *Tax Law Changes: 2023 Legislative Session*, Minn. Dept. of Rev. (5/24/23). Recently signed omnibus tax legislation incorporates several significant changes to Minnesota corporate income/franchise tax and individual income tax laws, including generally updating Minnesota's definition of the Internal Revenue Code (IRC) to the IRC of 1986, as amended through May 1, 2023 (previously, December 15, 2022), and providing that any changes to the IRC incorporated by federal legislation are retroactively effective to when the changes were effective for federal purposes. Effective for taxable years beginning after December 31, 2022, the legislation also updates the classification of global intangible low-taxed income (GILTI) under IRC section 951A to classify it as dividend income for Minnesota corporate income/franchise tax purposes. The new law additionally reduces Minnesota's deduction for dividends received from 20% or more owned corporations to 50% (previously, 80%) of dividends received, and reduces Minnesota's deduction for dividends received from less than 20% owned corporations to 40% (previously, 70%) of dividends received, applicable for taxable years beginning after December 31, 2022. Accordingly, because GILTI is now subject to Minnesota's dividend received deduction, 50% of GILTI is subject to tax in Minnesota. The legislation also amends Minnesota's addition modification for foreign-derived intangible income (FDII) to include any amount deducted under IRC section 250.

URL: <https://www.revisor.mn.gov/bills/bill.php?b=House&f=HF1938&ssn=0&y=2023>

URL: <https://www.revenue.state.mn.us/tax-law-changes>

Moreover, the legislation limits the amount of Minnesota's corporate income/franchise tax net operating loss (NOL) deduction to 70% (previously, 80%) of taxable net income in a single taxable year for taxable years beginning after December 31, 2022. Some other tax provisions in the bill include:

1. Imposition of a new "net investment income tax" on certain defined "net investment income" of individuals, estates, and trusts in excess of \$1 million at a rate of 1%;
2. Numerous changes to Minnesota's elective pass-through entity tax (PTET) laws; and
3. Reduced standardized and itemized deductions for some higher-income individuals.

The Minnesota Department of Revenue has since stated that it is reviewing these various tax law changes and their implications and will "share updated guidance and tax forms for affected tax years when they are available;" in the meantime, it advises that affected taxpayers should not amend any Minnesota returns to account for these law changes.

See recently issued Multistate Tax Alert for more details on this omnibus tax legislation, and please contact us with any questions.

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