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Georgia's Annual Internal Revenue Code (IRC) Update

What is it and why do we need it?

The annual Internal Revenue Code (IRC) update, while generally considered a housekeeping bill, is likely one of the most important pieces of legislation passed each session by the Georgia General Assembly outside of the state budget. The update conforms Georgia's tax Code to the federal IRC, easing the tax filing process for accountants, tax preparers, and taxpayers alike, and allows all corporate and personal income taxes to be prepared for the prior tax year as easily as possible by beginning Georgia income tax calculations with the taxpayer's federal adjusted gross income. Tax preparers then only have to include additional deductions or credits specific to Georgia, or add back credits or deductions taken on federal taxes that the state does not honor.

According to the Tax Foundation, all states fit into one of three categories regarding conforming to federal tax changes: rolling, selective, and static. States with rolling conformity automatically conform to federal tax changes and must pass legislation to decouple from any unwanted federal provisions. States adhering to selective conformity incorporate certain provisions of the federal Code, but omit large portions. The states exercising static conformity must pass legislation to conform to the federal tax Code on a specific date; these states may choose to update annually or less often and must also decouple from any unwanted federal provisions. Georgia is a static conformity state. To adopt the federal IRC and any amendments to the IRC without going through the legislative process is a delegation of legislative authority and a violation of the Georgia Constitution.

Given the importance and urgency of the IRC update, the bill is historically passed early in the legislative process as a housekeeping measure; however, in recent years the IRC updates have had more significant fiscal impacts and have included other tax related proposals. Two of the past four IRC update bills have been standalone bills, while two included various provisions:

- HB 846 (2020 Session) included the annual IRC update, codified the direct pay sales tax program, established an income tax credit for manufacturers of personal protective equipment, and allowed flexibility for employers eligible for job tax credits and quality jobs tax credits to utilize 2019 employee numbers.
- HB 419 (2019 Session) included the annual IRC update.
- HB 821 (2018 Session) included the IRC update, a minor change regarding title ad valorem tax fees, and provided a sales and use tax exemption for jet fuel.
- HB 283 (2017 Session) included the annual IRC update.

The practice of passing the bill early and clean is a timely and important clarification for tax preparers to file the prior year's income tax returns; additionally, combining tax policy measures increases the risk of veto and constitutional concerns.