What is tax conformity?

Tax conformity is a state's adoption of the federal definitions of income, as contained in the U.S. Internal Revenue Code (IRC). For individuals, it's the calculation of federal adjusted gross income (AGI); for businesses, it's federal taxable income (FTI). Traditionally, Virginia adopts those definitions as of a fixed date — usually, but not always, Dec. 31 of the previous year. This means that each year, the date of conformity must be advanced through the legislative process so that taxpayers can file their returns for the previous tax year.

What is the current date of conformity?

Currently, Virginia's conformity date is December 31, 2019, with exceptions for certain provisions.

What has happened since the last conformity date?

The CARES Act was passed in March 2020 and had significant implications for the calculation of AGI for individuals and FTI for businesses. In addition, the Consolidated Appropriations Act signed into law in late December 2020 impacts these calculations.

How does Virginia advance its conformity date?

In order to take effect ahead of Virginia's May 1 filing deadline, conformity must be passed as emergency legislation, which requires an 80 percent approval vote in each chamber of the General Assembly.

What happens if Virginia does not conform?

Essentially, taxpayers would be forced to complete two federal returns each year — one calculated in accordance with the definitions of AGI or FTI contained in the federal law and one calculated in accordance with the definitions of AGI or FTI as of December 31, 2019.

What happens if Virginia does not conform via emergency legislation?

Without an emergency clause, the earliest conformity could take effect would be July 1, 2021 — well after the deadlines for 2020 returns. This would cause significant, widespread delays in the ability to file returns and as well as slow down any refunds. A lack of conformity would require the Virginia Department of Taxation (TAX) and tax software companies to make significant programming changes to their software systems, making filings much more complicated and placing extra burdens on taxpayers, tax practitioners and software developers.

Furthermore, a large number of adjustments would be required on state tax returns. Each adjustment represents just the final calculation for a specific line on the return. Other forms will be needed to calculate each adjustment, adding to the complexity and delay in completing returns. These adjustments could result in additional fees, due to either separating the federal return from the state return or the need for an extension.