



SENATE BILL 99: Appropriations Act of 2018, Sec. 38.3: Federal Determinations and Amended Returns

2017-2018 General Assembly

Committee:		Date:	July 11, 2018
Introduced by:		Prepared by:	Trina Griffin Staff Attorney
Analysis of:	Sec. 38.3 of S.L. 2018-5		

OVERVIEW: *Sec. 38.3 of S.L. 2018-5 makes various changes to the federal corrections statutes, which are statutes that address a taxpayer's obligation when their federal taxable income is changed or corrected at the federal level and that change affects the amount of State tax payable. Specifically, the changes create a distinction between situations where the changes are the result of an action initiated by the Internal Revenue Service (IRS) and situations where the changes are the result of an amended return voluntarily filed by a taxpayer.*

This section became effective June 12, 2018, and applies to federal amended returns filed on or after that date.

CURRENT LAW AND BILL ANALYSIS:

Subsection	Explanation
(a)	<p>Clarifies when a taxpayer must notify the Secretary as the result of either a federal determination or a voluntarily filed amended federal return that affects the amount of State tax payable. Similar changes are being made to both statutes that address federal determinations, the one for corporate taxpayers (G.S. 105-130.20) and the one for individual income taxpayers (G.S. 105-159).</p> <p>Under current law, if a taxpayer's State tax payable is affected by a federal determination, the taxpayer must file an amended return with the Secretary within six months of being notified, regardless of whether the amount owed is increased or decreased. Moreover, current law does not specify what constitutes "a final determination by the federal government."</p> <p>This section incorporates a cross-reference to a new definition of "federal determination," which means a change or correction of federal tax due arising from an audit of the Commissioner of Internal Revenue. It also provides that if a taxpayer voluntarily files an amended <u>federal</u> return, the taxpayer must file an amended State return if it results in an increase in State tax payable. An amended State return is optional if the adjustment results in less tax owed.</p>
(b)	Clarifies a taxpayer's filing requirements as the result of a federal determination or when a taxpayer voluntarily files an amended federal return. These changes mirror those made in Section 38.3(a) of the bill.
(c)	Incorporates the changes made to G.S. 105-159 with regard to its application to estates and trusts (<i>See</i> the explanation of subsection (a) in this summary).

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Legislative Analysis
Division
919-733-2578

Senate Bill 99

Page 2

(d)	Incorporates the changes made to G.S. 105-159 with regard to changes to the amount of withholding tax an employer is required to pay under the Code. (See the explanation of subsection (a) in this summary).
(e)	<p>Provides an exception to the general statute of limitations for assessments proposed from adjustments voluntarily filed with the IRS that affect State tax payable. The general statute of limitations for proposing an assessment is the later of: three years after the due date of the return or three years after the taxpayer filed the return.</p> <p>The exception provides that if a taxpayer timely files a return as a result of filing an amended federal return, the period for proposing an assessment is one year after the return is filed or three years after the original return was filed or due to be filed, whichever is later. If the taxpayer does not timely file, the period is three years after the date the federal amended return was filed with the Commissioner of Internal Revenue.</p>
(f)	Incorporates reference to newly defined term "federal determination." (See the explanation of subsection (g) in this summary).
(g)	Creates a definition for the term "federal determination" and clarifies the meaning to be a change or correction of the amount of federal tax due arising from an audit by the Commissioner of Internal Revenue. The current law refers to a "final determination by the federal government," but it is unclear as to what stage in the process this refers to or whether this could apply in a situation where a taxpayer voluntarily files an amended federal return that is consequently changed or corrected but not at the initiation of the IRS.

EFFECTIVE DATE: This section became effective June 12, 2018, and applies to federal amended returns filed on or after that date.