State Tax Changes Effective January 1, 2021

FISCAL FACT
No. 736
Jan. 2021

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Key Findings

- Twenty-six states and the District of Columbia had notable tax changes take effect.
- Arkansas and Iowa reduced their corporate income tax rates and made other substantive changes to their corporate income tax base.
- Arizona and New Mexico increased their top marginal individual income tax rates by adding another bracket.
- Arkansas reduced its top marginal individual income tax rate by eliminating the top income tax bracket.
- Tennessee joins seven other states that do not levy any individual income tax. The Hall Tax, which previously taxed interest and dividend income but not wage income, has been completely phased out.
- Arizona and Illinois made changes to their economic nexus laws governing sales and use tax collection requirements for remote sellers.
- Connecticut, Vermont, and the District of Columbia will see adjustments to their estate tax exemptions and/or rates this year.
- Connecticut began the phaseout of its capital stock tax; Illinois and Mississippi are continuing their phaseout processes; and New York's capital stock tax has been completely repealed.
- Colorado and Oregon increased their cigarette taxes; Colorado, Georgia, and Oregon created new taxes on vapor products.
- Arizona, Montana, and New Jersey recently legalized recreational marijuana and set up a preliminary tax structure for when legal in-state sales begin.
- North Carolina took legislative action to prevent an automatic rate reduction to its motor fuel tax at the beginning of the year.
- California, Colorado, and New Jersey had significant retroactive tax changes take effect in 2020 that are worth being aware of as the new year begins.

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Introduction

Although some state tax changes take effect at the beginning of the fiscal year—for many states in July—most are implemented at the beginning of the calendar year. Twenty-six states and the District of Columbia had notable tax changes take effect on January 1, 2021.

Because most states' legislative sessions were cut short in 2020 due to the COVID-19 pandemic, fewer tax changes were adopted in 2020 than in a typical year. As such, most of the tax changes highlighted in this paper are the result of laws that were adopted prior to 2020 but that have January 2021 effective dates. Among the handful of tax changes that *were* adopted in 2020, many were adopted directly by voters on their November 2020 ballots.

In addition to the major tax changes mentioned here, many states will see automatic increases in their unemployment insurance (UI) tax rates in 2021 due to significant trust fund drawdown in 2020 amid the pandemic, and several states have enacted conformity legislation to reflect changes in the federal tax code that were made by the Coronavirus Aid, Relief, and Economic Security (CARES) Act that was enacted in March 2020.

Corporate Income Tax Changes

Arkansas

In 2019, Arkansas adopted the third phase of a series of tax reforms, and those reforms continue to phase in in 2021. As of January 1, the corporate income tax rate has been reduced from 6.5 to 6.2 percent and is scheduled to drop to 5.9 percent in 2022.[1] The net operating loss (NOL) carryforward period has also increased with the start of the new year. For 2021 and beyond, the carryforward period is 10 years, up from eight years in 2020 and five years before that.[2] The state also implemented changes to its individual income tax code, enumerated below.

Iowa

Iowa adopted a tax reform package in 2018 that is continuing to phase in this year. As of January 1, Iowa's deduction for federal corporate income taxes paid has been fully repealed, ending an obscure policy that tied Iowa's tax code to federal tax changes in undesirable ways (such as Iowa tax liability increasing when federal tax liability decreased).[3] Previously, Iowa's deduction for federal taxes paid contributed to the state having the highest corporate income tax rate in the nation (at face value) despite collections per capita being only slightly above average. With the repeal of federal deductibility, Iowa has reduced its top marginal corporate income tax rate from 12 to 9.8 percent, and the corporate alternative minimum tax (AMT) has also been repealed as of this year. These corporate tax changes were paired with individual income tax reforms, described below.

1 Katherine Loughead, "State Tax Changes as of January 1, 2020," Tax Foundation, Dec. 20, 2019, https://taxfoundation.org/2020-state-tax-changes-january-1/.

2 CCHTaxGroup, "Arkansas Legislation That Modifies Tax Brackets, Decreases Top Rate Enacted," Wolters Kluwer, Feb. 26, 2019, http://news.cchgroup.com/2019/02/26/arkansas-legislation-that-modifies-tax-brackets-decreases-top-rate-enacted/news/state-tax-headlines/.

3 Jared Walczak, "Iowa Governor Outlines Plan to Cut Rates and Repeal Federal Deductibility," Tax Foundation, Feb. 14, 2018, https://taxfoundation.org/iowa-cut-rates-repeal-federal-deductibility/.

Individual Income Tax Changes

Arizona

During the November 2020 election, Arizona voters approved Proposition 208, a ballot measure creating a so-called income tax "surcharge" for education spending. Specifically, Proposition 208 establishes a new, fifth income tax bracket with a rate of 8 percent, up from the current top rate of 4.5 percent, with revenue from that marginal rate dedicated to education rather than to the General Fund.[4] The ballot measure, which is set to take effect with the proclamation of the governor, is currently being challenged in court, where challengers are seeking an injunction to prevent the tax increase from taking effect. As of this writing, the judge has not ruled in this case. If Proposition 208 is upheld in court, the tax increase will apply to income earned starting January 1, 2021.

Arkansas

The 2019 tax reform law that phases down the state corporate income tax rate also reduces individual income taxes over time.[5] Arkansas is unique among states in that it has three entirely different rate schedules depending on a taxpayer's total taxable income. As taxpayers' income rises, taxpayers not only face higher marginal rates but also shift into an entirely different rate schedule.

As of January 1, 2021, for taxpayers with taxable income in excess of $79,300 (the highest of the three rate schedules), the top marginal individual income tax bracket has been repealed, thus leaving three brackets instead of four.[6] As a result, the top marginal rate for taxpayers with income above $79,300 is now 5.9 percent (applying to taxable income exceeding $8,000). Previously, an additional rate of 6.6 percent applied to marginal income above $79,300.

Connecticut

Connecticut is continuing to phase in an increase in its income tax exemption for pension and annuity income. The exemption increased to 42 percent for 2021, up from 28 percent in 2020.[7]

Iowa

A change to Iowa's individual income tax code that was adopted as part of the state's 2018 tax reform package is continuing to phase in this year. With the adoption of Senate File 2417, Iowa conformed to the federal pass-through business income deduction that was enacted as part of the Tax Cuts and Jobs Act (TCJA). For 2019 and 2020, Iowa offered a state deduction equal to 25 percent of the federal deduction. That amount has phased up to 50 percent for 2021 and is set to increase to 75 percent for 2022 and beyond.[8] Iowa lawmakers continue to debate the acceleration of individual income tax rate reductions provided for in the 2018 reforms but made conditional on meeting certain revenue targets.

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4 Janelle Cammenga and Jared Walczak, "Arizona Proposition 208 Threatens Arizona's Status as a Destination for Interstate Migration," Tax Foundation, Oct. 14, 2020, https://taxfoundation.org/arizona-proposition-208-education-funding/.

5 Katherine Loughead, "State Tax Changes as of January 1, 2020."

6 CCHTaxGroup, "Arkansas Legislation That Modifies Tax Brackets, Decreases Top Rate Enacted."

7 Ken Dixon, "End of Tax on Retirement Income Begins Monday," *The Middletown Press*, July 1, 2019, https://www.middletownpress.com/middletown/article/End-of-tax-on-retirement-income-begins-Monday-14064252.php.

8 Jared Walczak, "What's in the Iowa Tax Reform Package," Tax Foundation, May 9, 2018, https://taxfoundation.org/whats-iowa-tax-reform-package/.

Massachusetts

Massachusetts has a new income tax deduction for charitable contributions as of tax year 2021. The deduction uses the federal charitable deduction as its starting point but will be available to Massachusetts taxpayers regardless of whether they itemize their deductions or claim the standard deduction. The restoration of the state charitable deduction was triggered by a law that was put in place just shy of two decades ago that required the income tax rate to fall to 5 percent before the charitable deduction could be restored.[9] The income tax rate reached 5 percent in 2020 upon certain revenue growth criteria being met.

New Mexico

As of January 1, under a tax increase package adopted in April 2019 (House Bill 6), New Mexico has added a fifth individual income tax bracket at a new top rate of 5.9 percent. Previously, the top rate of 4.9 percent kicked in at $16,000 in marginal taxable income (for single filers). Now, the 4.9 percent rate will be limited to marginal income above $16,000 but not exceeding $210,000, and the new 5.9 percent rate will apply to all taxable income exceeding $210,000 (single filers).[10] This tax increase is taking effect because New Mexico failed to meet revenue growth levels specified in the underlying law. Specifically, the tax increase took effect because fiscal year 2020 revenue levels did not exceed fiscal year 2019 levels by more than 5 percent.[11]

Tennessee

Effective January 1, Tennessee is one of eight states that does not levy any individual income tax at all. Tennessee's Hall Tax (an income tax on interest and dividend income but not wage income) was phased down by one percentage point per year between 2016 and 2020 and has been completely repealed as of January 1.[12]

Sales and Use Tax Changes

Arizona

With the start of the new year, Arizona's economic nexus threshold for sales tax collection by out-of-state sellers has dropped to $100,000. This new, lower threshold comes as part of a planned phased-in reduction that was set in motion by the state's original economic nexus law.[13] (House bill 2757, adopted in 2019, set the initial economic nexus threshold at $200,000 for 2019, $150,000 for 2020, and $100,000 starting in 2021.)

As of this year, the state is also requiring more sellers to file and pay Arizona's transaction privilege tax (Arizona's sales tax) online. Under a law adopted in 2017, sellers with sales or use tax liability of $500 or more a year must now remit the tax online.[14]

9 Greg Ryan, "Nonprofits Fret Over Future of Mass. Charitable Deduction," *Boston Business Journal*, Jan. 24, 2020, https://www.bizjournals.com/boston/news/2020/01/24/nonprofits-fret-over-future-of-mass-charitable.html.

10 EY, "New Mexico Personal Income Tax Rates Revised Starting in 2021," Aug. 21, 2019, https://taxnews.ey.com/news/2019-1501-new-mexico-personal-income-tax-rates-revised-starting-in-2021.

11 Dan Boyd, "New Top New Mexico Tax Rate Likely to Go into Effect," *Albuquerque Journal*, Sept. 3, 2019, https://www.abqjournal.com/1361616/new-top-new-mexico-tax-rate-likely-to-go-into-effect.html.

12 Tennessee Department of Revenue, "Hall Income Tax Due Date and Tax Rates," accessed Dec. 15, 2020, https://www.tn.gov/revenue/taxes/hall-income-tax/due-date-and-tax-rates.html.

13 Sales Tax Institute, "Economic Nexus State Guide," Nov. 14, 2020, https://www.salestaxinstitute.com/resources/economic-nexus-state-guide.

14 Arizona Department of Revenue, "New Phase in Electronic Filing and Paying Goes into Effect Jan. 1, 2021," Oct. 6, 2020, https://azdor.gov/news-events-notices/news/next-phase-electronic-filing-and-paying-goes-effect-jan-1-2021.

California

Under Assembly Bill 85, enacted in June 2020, dealers of used vehicles are required to collect and remit sales taxes on those sales, effective January 1, 2021.[15]

Illinois

In December 2019, Gov. JB Pritzker (D) signed Senate Bill 119, which delayed until January 1, 2021 the requirement that remote sellers collect the local portion of the state's sales tax (the Retailers' Occupation Tax), which is destination-sourced. Previously, remote sellers fell under Illinois' use tax statute, and since Chicago is the only Illinois locality with its own use tax, the compliance burdens were lower.[16]

Property and Wealth Tax Changes

Colorado

In November 2020, Colorado voters approved Amendment B, a legislatively referred constitutional amendment repealing the so-called "Gallagher Amendment" from the state constitution. The Gallagher Amendment previously limited residential property to 45 percent of the statewide property tax base and set forth a process by which property assessment ratios were adjusted to maintain the required ratio.[17]

Prior to Amendment B's adoption by voters, a corresponding bill was adopted by lawmakers establishing that the 2020 property tax assessment ratios—7.15 percent for residential property and 21 percent for non-residential property—would be used starting no later than January 1, 2021, contingent upon the adoption of Amendment B. Absent this change, the residential property tax assessment ratio had previously been set to drop to 5.88 percent for 2021.

Connecticut

As of January 1, 2021, Connecticut now offers an income tax credit to offset real estate transfer taxes paid for certain qualifying taxpayers. Under legislation adopted in 2019 (Public Act 19-117), taxpayers who pay the state's conveyance tax (Connecticut's real estate transfer tax) at the new top marginal rate of 2.25 percent may be eligible for the credit if they remain in Connecticut following the sale of their property. Specifically, starting the third year after the sale, eligible taxpayers can claim a credit equal to one-third of the amount of conveyance taxes paid at the 2.25 percent rate, and this credit can be claimed for up to three years, thus potentially offsetting the full amount of conveyance taxes paid at the top marginal rate.[18]

15 KPMG, "California: Tax Increases Expected for Taxpayers; NOLs suspended and Other Tax-Related Measures," June 16, 2020, https://home.kpmg/us/en/home/insights/2020/06/tnf-california-tax-increases-expected-for-taxpayers-nols-suspended-and-other-tax-related-measures.html#:~:text=first%2Dyear%E2%80%9D%20exemption-,For%20tax%20years%20beginning%20on%20or%20after%20January%201%2C%202021,in%20their%20first%20tax%20year.

16 Adam Schuster, "9 New Illinois Taxes Totaling $1.7B Take Effect Jan. 1," Illinois Policy, Dec. 15, 2019, https://www.illinoispolicy.org/9-new-illinois-taxes-totaling-1-7b-take-effect-jan-1/.

17 For a more detailed explanation and analysis of the Gallagher Amendment and Amendment B, see Katherine Loughead, "Colorado Voters to Decide Fate of Longstanding Property Tax Limit," Tax Foundation, Sept. 30, 2020, https://taxfoundation.org/colorado-amendment-b-gallagher-amendment-property-tax-limit/.

18 Corey L. Rosenthal and Cynthia Galamgam, "Summary of Key Connecticut Budget and Tax Changes," *The CPA Journal*, October 2019, https://www.cpajournal.com/2019/10/08/summary-of-key-connecticut-budget-and-tax-changes/#:~:text=The%20conveyance%20tax%20credit%20is,other%20property%20tax%20credit%20available.

Connecticut is also phasing in an increase in its estate tax exemption. As of January 1, the exemption has increased from $5.1 million to $7.1 million. Next year, it is scheduled to increase to $9.1 million, and by 2023, it will match the federal exemption amount. However, as the exemption amounts are increasing, the minimum rate at which the tax is applied is also increasing. Last year, Connecticut's estate tax rates ranged from 10 to 12 percent. This year, the rates range from 10.8 to 12 percent. By 2023, a flat rate of 12 percent will be imposed.[19]

Connecticut is also beginning to phase out its franchise tax this year, reducing the tax rate from 3.1 mills to 2.6 mills per dollar of capital holdings. Further reductions are scheduled for 2022 and 2023, and the tax is set to be fully repealed by 2024.[20]

District of Columbia

The District's estate tax exemption has dropped to $4 million for 2021. (Previously, the exemption was close to $5.8 million, matching the pre-TCJA federal level and adjusted for inflation.) While the exemption has been reduced, the rates have also dropped. In 2020, the rates ranged from 12 to 16 percent, but they now range from 11.2 to 16 percent.[21]

Illinois

Illinois is continuing to phase out its franchise tax (also known as a capital stock tax) under legislation adopted in 2019 (S.B. 689). As of January 1, 2021, the franchise tax *de minimis* exemption has increased from $30 to $1,000.[22] Although this is a very modest change, further *de minimis* exemption increases are scheduled for January 2022 and 2023, with the tax scheduled to be completely repealed in 2024.

Louisiana

Louisiana is among the states that imposes economically harmful tangible personal property (TPP) taxes on the value of certain business inventory. To mitigate the impact of these taxes, Louisiana offers an income tax credit to offset inventory taxes paid. In 2020, unused credit amounts could be carried forward up to five years, but starting in 2021, the carryforward period has extended to 10 years under legislation adopted in November 2020 (Act 50).[23]

Mississippi

Mississippi is continuing its ongoing franchise tax phaseout with a rate reduction to $1.75 per $1,000 of capital value, down from $2.00 per $1,000 of capital value in 2020. Mississippi's franchise tax rate is scheduled to continue decreasing by 25 cents per $1,000 in value until the tax is completely repealed in 2028.[24]

19 DavisPolk, "Estate Planning in 2020," Jan. 14, 2020, https://www.davispolk.com/sites/default/files/2020_01_14_estate_planning_in_2020.pdf.

20 Corey L. Rosenthal and Cynthia Galamgam, "Summary of Key Connecticut Budget and Tax Changes."

21 Sandra Block, Rocky Mengle, and Bob Niedt, "18 States With Scary Death Taxes," *Kiplinger*, Dec. 2, 2020, https://www.kiplinger.com/retirement/inheritance/601551/states-with-scary-death-taxes.

22 Muthu Periakaruppan and Sarah Evans, "Illinois Enacts Major Tax Laws Affecting Income and Sales Taxes," CliftonLarsonAllen LLP, Sept. 6, 2019, https://www.claconnect.com/resources/articles/2019/illinois-enacts-major-tax-laws-affecting-income-and-sales-taxes.

23 KPMG, "Louisiana: Inventory Tax Credit Changes Effective January 1, 2021," Dec. 21, 2020, https://tax.kpmg.us/events/podcasts/twist/2020/twist-122120/twist-122120-la.html.

24 Joseph Bishop-Henchman, "Mississippi Approves Franchise Tax Phasedown, Income Tax Cut," Tax Foundation, May 16, 2016, https://taxfoundation.org/mississippi-approves-franchise-tax-phasedown-income-tax-cut/.

New York

As of 2021, New York no longer levies a capital stock tax. In 2014, New York lawmakers adopted a corporate tax reform package that included a multiyear phaseout of the capital stock tax. The tax rate was reduced incrementally every year between 2016 and 2020 and now is no longer levied.[25]

Texas

Several changes to Texas' property tax took effect on January 1. House Bill 639, adopted in June 2019, tightens the definition of "qualified open-space land" for property tax purposes. In addition, some of the property tax transparency measures included in Senate Bill 2, a property tax reform law that was adopted in June 2019, also took effect at the beginning of this year.[26]

Vermont

Vermont has been phasing in an increase in its estate tax exemption. As of January 1, the exemption is $5 million, up from $4.25 million in 2020 and $2.75 million in 2019.[27]

Tobacco, Vapor, and Marijuana Tax Changes

Arizona

Arizona voters approved Proposition 207 in November 2020, legalizing recreational marijuana and establishing a framework for a legal market and tax structure. Limited possession of recreational marijuana is legal as of November 30, 2020, but it will likely be several months before the state begins approving applications for the retail sale of cannabis products.[28]

Colorado

Colorado Proposition EE was adopted by voters in November 2020. This ballot measure increased several taxes as of January 1 and set in statute further rate increases through 2027. As of January 1, 2021, Proposition EE increased the cigarette tax from $0.84 to $1.94 per pack, set a minimum after-tax retail price for cigarettes at $7.00 per pack, increased the tax on other tobacco products from 40 percent to 50 percent of wholesale value, created a new tax on nicotine products at 30 percent of wholesale value, and established a policy by which FDA-certified modified-risk tobacco products will be taxed at half the statutory tobacco tax rate.

Under this measure, the cigarette tax is scheduled to increase to $2.24 per pack in 2024 and $2.64 per pack in 2027, with taxes on vapor products and other tobacco products increasing to 56 percent of wholesale value in 2024 and 62 percent of wholesale in 2027. The mandatory minimum cigarette retail price is set to increase to $7.50 in 2024, and the nicotine products tax is scheduled to phase up to 35 percent in 2022, 50 percent in 2023, 56 percent in 2024, and 62 percent in 2027.[29]

25 Joseph Bishop-Henchman, "New York Corporate Tax Overhaul Broadens Bases, Lowers Rates, and Reduces Complexity," Tax Foundation, Apr. 14, 2014, https://taxfoundation.org/new-york-corporate-tax-overhaul-broadens-bases-lowers-rates-and-reduces-complexity/.

26 Eric Griffey, "Four New Texas Laws Go into Effect on Jan. 1, 2021," Spectrum News 1, Jan. 1, 2021, https://spectrumlocalnews.com/tx/san-antonio/news/2021/01/01/four-new-texas-laws-go-into-effect-on-jan--1--2021.

27 Downs Rachlin Martin PLLC, "Tax Update December 2019," Dec. 17, 2019, https://www.drm.com/resources/tax-update-december-2019#:~:text=Vermont%20Estate%20Tax%20Exemption%20Increase,million%20on%20January%201%2C%202021.

28 David Abbott, "What You Need to Know about Recreational Weed in Arizona," *Tucson Weekly*, Dec. 17, 2020, https://www.tucsonweekly.com/tucson/what-you-need-to-know-about-recreational-weed-in-arizona/Content?oid=30031394.

29 Legislative Council of the Colorado General Assembly, "2020 state Ballot Information Booklet," 25-26, http://leg.colorado.gov/sites/default/files/blue_book_english_for_web_2020_0.pdf.

Georgia

As of January 1, Georgia is among the states imposing an excise tax on vapor products. Senate Bill 375, enacted in June 2020, established a tax structure whereby closed system products are taxed at a rate of 5 cents per fluid milliliter, while open system products and single-use devices are taxed at 7 percent of the wholesale price.[30]

Montana

With the adoption by voters of I-190 in November 2020, possession of recreational marijuana is legal as of January 1, 2021. However, retail sales will not begin until 2022. Once retail sales begin, sales will be subject to taxation at 20 percent of the retail price.[31]

New Jersey

In November 2020, New Jersey voters approved Public Question 1, a legislatively referred constitutional amendment that legalizes recreational marijuana as of January 1. The ballot measure specifies that the general sales tax will apply to marijuana sales, and local option sales taxes of up to 2 percent may also be collected. The measure prohibits the imposition of excise taxes on marijuana purchases at the retail level but does not prohibit further taxes from being adopted at the wholesale or manufacturer levels.[32] The House and Senate have both passed legislation that would impose an additional "excise fee," as well as a gross receipts tax (GRT) style "local transfer tax" on cannabis products.[33] As of this writing, Gov. Phil Murphy (D) has not acted on this bill.

Oregon

Measure 108, which was approved by Oregon voters in November 2020, took effect on January 1. This ballot measure imposes a new tax on vapor products at 65 percent of the wholesale price. It also raises the cigarette tax from $1.33 to $3.33 per pack while doubling the tax cap on cigars from $0.50 to $1.00 per cigar.[34]

Virginia

As of January 1, Virginia newly taxes heated tobacco products—or products in which tobacco is heated rather than burned—at 2.25 cents per stick.

In addition, under legislation enacted in November 2020, Virginia now requires remote sellers to collect not just sales taxes but tobacco excise taxes as well. As of January 1, out-of-state sellers who sell tobacco products into Virginia and exceed the *de minimis* exemption threshold will be required to collect the state's other tobacco products (OTP) tax, or the tax imposed on non-cigarette tobacco products.[35]

30 Gail Cole, "Georgia to Tax Vaping Products in 2021," Avalara, Aug. 13, 2020, https://www.avalara.com/us/en/blog/2020/08/georgia-to-tax-vaping-products-in-2021.html#:~:text=But%20there's%20no%20federal%20excise,2021%2C%20Georgia%20will%20join%20them.

31 Jared Walczak, Katherine Loughead, Ulrik Boesen, and Janelle Cammenga, "State and Local Tax Ballot Measures to Watch on Election Day 2020," Tax Foundation, Oct. 5, 2020, https://taxfoundation.org/2020-state-tax-ballot-measures/.

32 Ulrik Boesen, "Voters in Four States to Vote on Recreational Marijuana," Tax Foundation, Sept. 29, 2020, https://taxfoundation.org/arizona-montana-south-dakota-new-jersey-recreational-marijuana/.

33 Ulrik Boesen, "Gross Receipt Taxes Become Part of New Jersey's Recreational Marijuana Legalization," Tax Foundation, Dec. 18, 2020, https://taxfoundation.org/new-jersey-recreational-marijuana-legalization-gross-receipts-taxes/.

34 Ulrik Boesen, "Taxation of Tobacco and Vapor Products on the Ballot in Oregon," Tax Foundation, Oct. 7, 2020, https://taxfoundation.org/oregon-cigarette-tax-increase-measure-108/.

35 Troutman Sanders Tobacco Practice, Agustin Rodriguez, and Robert Claiborne, "New Virginia Law Taxes Remote Sellers of Tobacco Products Beginning Jan. 1, 2021," Tobacco Law Blog, Dec. 8, 2020, https://www.tobaccolawblog.com/2020/12/new-virginia-law-taxes-remote-sellers-of-tobacco-products-beginning-jan-1-2021/.

Transportation Tax Changes

North Carolina

In July 2020, House Bill 77 became law without Gov. Roy Cooper's (D) signature. Most of this law's provisions took effect on July 1, 2020, but one provision—establishing a "floor" for the gas tax in 2021—took effect on January 1 of this year. Specifically, the temporary gas tax floor will prevent the gas tax rate in 2021 from falling below the 2020 rate (36.1 cents per gallon), as it would have done automatically without legislative intervention due to the tax rate being indexed in part to energy inflation.[36] The intent behind this policy was to recoup revenue given the pandemic's effect on road travel and fuel consumption.

Miscellaneous Excise Tax Changes

Utah

As of January 1, under legislation enacted in 2020 (SB 225), Utah levies an excise tax at a rate of 1.2 percent on the sale of prepaid wireless telecommunications service.[37]

Wyoming

Starting this year, a new lodging excise tax is imposed in Wyoming at a rate of 5 percent, and local governments have the option of levying their own lodging tax at a maximum rate of 2 percent. This tax applies to most forms of short-term lodging and is levied in addition to the state sales tax.[38]

Other Tax Changes

Colorado

With the adoption of Proposition 117 by voters in November 2020, as of January 1, voter approval is now required before the state creates new state government enterprises that expect to collect more than $100 million in fees during their first five years in operation. Until now, such enterprises have been exempt from Taxpayer's Bill of Rights (TABOR) limitations.[39]

Connecticut

As of this year, a new payroll tax is being levied in Connecticut to fund the state's Paid Family and Medical Leave program, which was created in 2019 by Public Act 19-25. This new tax is levied at a rate of 0.5 percent, and the tax base is the portion of an employee's wages that are subject to Social Security taxes.[40] With its enactment, Connecticut has become the third state to impose a payroll tax for non-UI purposes, following Massachusetts, which recently adopted one for similar purposes, and, before that, Nevada, which does not levy an individual income tax but does impose a capped employer-side payroll tax known as the Modified Business Tax.

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36 Keith Goble, "North Carolina Law Freezes Fuel Tax Rate," Land Line, July 10, 2020, https://landline.media/north-carolina-law-freezes-fuel-tax-rate/.

37 Utah State Tax Commission, "Prepaid Disposable Cell Phone Tax Rate Increase," Tax Bulletin 09-20, https://tax.utah.gov/bulletin/tb-09-20.pdf.

38 Mike Armstrong, "Lodging Tax Passes," *The Saratoga* (Wyoming) *Sun*, Mar. 4, 2020, https://www.saratogasun.com/story/2020/03/04/news/lodging-tax-passes/9053.html.

39 Jared Walczak, Katherine Loughead, Ulrik Boesen, and Janelle Cammenga, "State and Local Tax Ballot Measures to Watch on Election Day 2020."

40 State Representative Stephanie Cummings, "Payroll Tax Goes Into Effect January 1, 2021," Nov. 12, 2020, https://www.cthousegop.com/cummings/payroll-tax-goes-into-effect-january-1-2021/.

Delaware

As of January 2021, Delaware requires employers to file many taxes electronically, including withholding taxes and other business taxes.[41]

Illinois

H.B. 5864, enacted in 2019, created several new business income tax credits that are effective for tax years starting in 2021. These credits are targeted toward businesses in the construction industry.[42]

Kentucky

Under legislation enacted in 2019 (House Bill 354), Kentucky is transitioning to taxing financial institutions under its corporate income tax and limited liability entity tax (LLET) rather than under a separate bank franchise tax. In 2021, financial institutions will pay all three taxes but receive a refundable income tax credit for bank franchise taxes paid. Starting in 2022, financial institutions will no longer pay the bank franchise tax.[43]

Nebraska

In August 2020, LB 1107 was enacted, making several adjustments to Nebraska's tax code. Many of this law's provisions took effect on January 1. Among these changes are a new refundable income tax credit to offset a portion of local school district property taxes paid, and an increase in the allocation to Nebraska's existing Property Tax Credit Cash Fund. This law also modernized the state's major business tax incentives program, replacing the Nebraska Advantage Act with the ImagiNE Nebraska Act.[44]

Utah

As of January 1, the allowable use of revenue from the state's income and tangible personal property taxes has been expanded. Previously, revenue from such taxes could only be used for public and higher education, but now it can also be used for services that support children and individuals with disabilities.[45]

41 EY, "Delaware Employers Required to File and Pay Certain Withholding Taxes Electronically Effective in 2021; Forms W-2/1099 Reminders for 2020," Dec. 17, 2020, https://taxnews.ey.com/news/2020-2887-delaware-employers-required-to-file-and-pay-certain-withholding-taxes-electronically-effective-in-2021-forms-w-2-1099-reminders-for-2020.

42 BDO, "Illinois Credit Incentive Changes for Projects That Create Construction Jobs," August 2019, https://www.bdo.com/insights/tax/state-and-local-tax/illinois-credit-incentive-changes-for-projects-tha.

43 KPMG, "Kentucky: Second Bill Enacted Under Comprehensive Tax Legislative Package," Apr. 23, 2019, https://home.kpmg/us/en/home/insights/2019/04/tnf-kentucky-second-bill-enacted-under-comprehensive-tax-legislative-package.html#:~:text=House%20bill%20354%20revised%20the,tax%20beginning%20January%201%2C%202021.&text=During%20this%20transition%20period%2C%20financial,paid%20for%20that%20one%20year.

44 Katherine Loughead, "Nebraska's Property Tax Compromise Provides Temporary Relief, but Structural Reform Is Still Needed," Tax Foundation, Aug. 13, 2020, https://taxfoundation.org/lb1107-nebraska-property-tax-relief-structural-reform-still-needed/.

45 Jared Walczak, Katherine Loughead, Ulrik Boesen, and Janelle Cammenga, "State and Local Tax Ballot Measures to Watch on Election Day 2020."

Retroactive Tax Changes Adopted in 2020

Some significant state tax changes were made in 2020 that do not technically have effective dates of January 1, 2021, but are nevertheless worth being aware of at the beginning of a new year.

California

In June 2020, Gov. Gavin Newson (D) signed into law Assembly Bill 85, a budget that included retroactive tax increases. One provision increased taxes on businesses amid the COVID-19 pandemic by suspending many businesses' ability to claim the state's net operating loss (NOL) deduction in 2020, 2021, or 2022. (Businesses with income below $1 million may still claim the deduction.) The law also retroactively capped the amount of credits a business may claim to $5 million in 2020, 2021, and 2022. A slight tax reduction was enacted for certain businesses that newly register to do business in the state in 2021, 2022, or 2023, with a three-year suspension of the $800 "first-year" tax.[46]

Colorado

In November 2020, Colorado voters approved Proposition 116, permanently reducing the state income tax rate (for both the corporate income tax and the individual income tax) from 4.63 to 4.55 percent.[47] This change is retroactive to January 1, 2020.

New Jersey

On September 29, 2020, Gov. Murphy signed legislation retroactively increasing and extending New Jersey's surtax on corporate taxable income exceeding $1 million. The surtax was adopted in 2018 at a rate of 2.5 percent but was on track to phase down to 1.5 percent for 2020 and 2021 and to sunset by 2022. Instead, A. 4721, which took effect immediately upon its enactment, retroactively increased the rate back up to 2.5 percent for tax years 2020 through 2023. As a result, New Jersey's top corporate income tax rate, which would have been 10.5 percent for 2020 and 2021, is now 11.5 percent for 2020 through 2023.[48]

46 "California: Tax Increases Expected for Taxpayers; NOLs suspended and Other Tax-Related Measures."

47 Katherine Loughead, "Colorado Proposition 116: Will Voters Reduce the State Income Tax Rate?" Tax Foundation, Oct. 5, 2020, https://taxfoundation.org/colorado-proposition-116-state-income-tax/.

48 Marks Paneth LLP, "New Jersey Enacts Personal and Corporate Tax Rate Increases Retroactive to January 1, 2020," Oct. 1, 2020, https://www.markspaneth.com/insights/industry/service/nj-enacts-personal-corporate-tax-rate-increases-retroactive-jan-2020.