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## Property Tax Credit Implications From LB34

During the recent Special Session, the Nebraska Legislature passed LB34, which adopts the Property Tax Growth Limitation Act and the School District Property Tax Relief Act and changes provisions relating to revenue and taxation. The bill was signed by Gov. Jim Pillen on August 20, 2024.

One major component of this property tax relief bill is that it brings significant changes to the Property Tax Credit. Since 2020, taxpayers have been able to claim a Property Tax Credit on their Nebraska Income Tax Returns based on the school and community college portion of their real estate taxes paid during the calendar year. LB34 modifies the timing of these credits, providing a direct reduction to real estate taxes. This reduction will begin on the 2024 real estate taxes that will be assessed in December of this year and will be due in two installments in 2025. This reduction of real estate taxes will provide a financial benefit to taxpayers, as they will pay less in real estate taxes directly rather than needing to claim the credit on their Income Tax Return the following year.

LB34 ends the existing Property Tax Credit on Nebraska Tax Returns for years beginning on/after January 1, 2024, for school district property taxes only (the largest portion of the Property Tax Credit). This means that taxpayers who paid their 2023 real estate taxes in 2024, which is a common practice, will not receive a Property Tax Credit for their 2023 real estate taxes for the school district portion.

While this is something that will impact a large number of taxpayers who were expecting this credit on their 2024 tax returns, it is important to understand that they will still see economic benefits in the same tax year. If this credit had been available on 2024 Income Tax Returns, taxpayers would have seen the benefit in 2025, when filing their Income Tax Returns. Instead, taxpayers will still see the benefit in calendar year 2025, just when they pay the installments of their real estate taxes (they could potentially see the benefits early in 2024, if they choose to pay their taxes before year-end). So, while the revised credit is seen as a “front-loading” of the Property Tax Credit, it is important to note that it is more of a shift in how the credit is distributed rather than a shift in the overall timing of the credit. It can all be a bit confusing, as differences between property tax years, income tax years, and the due dates of property taxes and income taxes make all of this a bit murky. In the long-term, however, this still simplifies the delivery of the Property Tax Credit and ensures that all taxpayers receive the credit they are eligible for. The Nebraska Society of CPAs (NesCPA) has been advocating for the Property Tax Credit to be a credit against property taxes rather than an income tax credit since before the first Property Tax Credit bill was even put in place.

Several members of the NESCPA Taxation Committee met with representatives from the Nebraska Department of Revenue on August 23, 2024, to discuss some unintended consequences of this bill. In particular, CPAs are concerned about the potential underpayment penalty for taxpayers after a mid-year law change such as this. The Tax Commissioner has authority to assist with modifications to the underpayment penalty calculation. The Department of Revenue is working with the NESCPA Taxation Committee to update the 2210-N and 2220N to revise the calculation to account for the anticipated School District Property Tax Credit that would have been received on

the 2024 Income Tax Return when computing any 2024 underpayment. This will be based off the School District Property Tax Credit taxpayers had received on their 2023 Income Tax Return.

For individuals, Line 2 of Form 2210-N will be modified to allow inclusion of the 2023 School District Property Tax Credit (from the 2023 Income Tax Return, Form 1040N, Line 36) in addition to the 2024 total refundable credits. There should be no change to Line 7 as that already accounts for the refundable credits in 2023, including the school district and community college refundable Property Tax Credits. In summary, there should be no reason to modify any existing quarterly estimated payments that are already scheduled for the 2024 tax year. As soon as the instructions are updated to reflect this change, we will share the information with our members. There will be a similar change made to the 2220N for the corporation underpayment calculation.

For a taxpayer who purchased real estate in 2024, the Department of Revenue recommends using Form 21A to request abatement of the underpayment penalty in these situations. There may be other unique circumstances that the Department of Revenue has not thought of that could be impacted by this, and they suggest also using Form 21A in those cases. The Department of Revenue's intent is that underpayment penalties related to expected Property Tax Credits for taxes paid in 2024 but assessed in prior years will be able to be abated.

It's important to note that the Nebraska Property Tax Credit for community college property taxes will continue for 2024, and the credit is 100% of those taxes paid (up from 55% for the 2023 income tax year). The community college component of the Nebraska Property Tax Credit will likely expire after the 2024 tax year due to changes in the manner in which community colleges are funded.

As tax practitioners, you should be aware of the following three items as you enter tax planning with your clients. First, underpayment penalty relief will be granted due to this mid-year change. Second, the property tax look-up tool and Nebraska Property Tax Credit will remain for 2024 for the community college portion of real estate taxes only. And finally, if your clients didn't prepay the 2023 real estate taxes in December 2023, they will be ineligible for the school district credit on their 2024 Income Tax Returns.

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