



Florida Department of Revenue
Tax Information Publication

TIP

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**Florida Corporate Income Tax
Economic Stimulus Act of 2008
Florida Additions and Subtractions for Bonus Depreciation and Section 179 Expense**

In 2008, Florida decoupled from the changes made by the Economic Stimulus Act of 2008 to the Section 179 expense amounts and the bonus depreciation provisions contained in Section 168(k) of the Internal Revenue Code. Sections 220.13(1)(a)14., and 15., Florida Statutes, required corporate taxpayers to add back the 50% bonus depreciation and Section 179 expense in excess of \$25,000 allowed by the Economic Stimulus Act of 2008. These provisions have been repealed by Chapter 2009-018, Laws of Florida.

The 2009 Florida Legislature has created new Section 220.13(1)(e), Florida Statutes. Section 220.13(1)(e)1., Florida Statutes, requires corporate taxpayers to add back bonus depreciation for assets placed in service during the 2008 calendar year. However, starting in 2008, it provides for a corresponding subtraction for seven tax years equal to one-seventh of the amount required to be added back.

Section 220.13(1)(e)2., Florida Statutes, was newly created, and requires corporate taxpayers claiming a deduction under Section 179 of the Internal Revenue Code to add back those amounts to the extent they exceed \$128,000. The addition for Section 179 expense only applies to tax years that begin in 2008. A corresponding subtraction is provided for seven tax years starting with tax years beginning on or after January 1, 2008 equal to one-seventh of the amount required to be added back.

Example:

Taxpayer A, with a tax year end of December 31, 2008, purchases five-year assets on July 1, 2008 for \$750,000. Taxpayer A expenses \$250,000 of these assets under Section 179 of the Internal Revenue Code on its federal return. Assume that Taxpayer A is allowed, and claims 50% bonus depreciation in the amount of \$250,000 and straight line depreciation in the amount of \$50,000. Taxpayer A's basis in the assets is \$200,000 (\$750,000 minus \$250,000 Section 179 expense, \$250,000 bonus depreciation, and \$50,000 straight line depreciation).

Under Section 220.13(1)(e)2., Florida Statutes, Taxpayer A must add back Section 179 expense to the extent it exceeds \$128,000 (\$250,000 minus \$128,000 equals \$122,000), but receives a corresponding subtraction in 2008 of one-seventh of the amount added back (\$122,000 divided by 7 equals \$17,428.57). Therefore, Taxpayer A would have a positive adjustment for Section 179 expense for the 2008 calendar year of \$104,571.43. (\$122,000-17,428.57 equals \$104,571.43). The \$122,000 would be included on Schedule I, Line 14 of the Florida Corporate Income Tax Return (F-1120), and the \$17,428.57 would be included on Schedule II, Line 9 of the return. In each of the next six tax years, Taxpayer A would claim a subtraction in the amount of \$17,428.57, which matches the amount required to be added back.

Under Section 220.13(1)(e)1., Florida Statutes, Taxpayer A also must add back all of the 50% bonus depreciation it claimed on assets placed in service during the 2008 calendar year. In this example, Taxpayer A claimed \$250,000 in bonus depreciation, so it would add back this amount. However, Taxpayer A is allowed a corresponding subtraction equal to one-seventh of the \$250,000 required to be added back, or \$35,714.29. The \$250,000 would be included on Schedule I, Line 15 of the F-1120, and the \$35,714.29 would be included on Schedule II, Line 9 of the return. Therefore, Taxpayer A would have a positive adjustment for the 2008 tax year in the amount of \$214,285.71 for bonus depreciation, and would subtract \$35,714.29 in each of the six subsequent tax years.

- Corporate taxpayers that filed a Florida corporate income tax based on the old law must file an *Amended Florida Corporate Income/Franchise and Emergency Excise Tax Return* (Form F-1120X). The Department of Revenue will compromise any penalties and interest for taxpayers that filed based on the old law and subsequently file amended returns based on the new law.
- If a corporation acquires or merges with another corporation, the acquiring corporation may claim the subtractions allowed under Section 220.13(1)(e), Florida Statutes, in the same manner and to the same extent as the original corporation. In addition, if a corporate taxpayer has a net operating loss in a tax year in which it is entitled to claim a subtraction, it is allowed to increase its net operating loss by the amount of the subtraction. However, if a corporate taxpayer ceases to do business, it may not transfer or otherwise utilize a subtraction.
- The basis of assets subject to the additions and subtractions under Section 220.13(1)(e), Florida Statutes, is the same for federal and Florida corporate income tax purposes. Therefore, even though the underlying asset(s) may have been sold, fully depreciated, or otherwise disposed of, corporate taxpayers continue to claim the subtractions over the seven year period. There is no separate Florida basis adjustment for assets subject to Section 220.13(1)(e), Florida Statutes, since the effect of the addition is recovered through the subtraction mechanism. The amount of the subtractions claimed over a seven year period equals, but cannot exceed, the amounts required to be added back. The applicable depreciation conventions, methods, and recovery periods are the same as federal.
- The Economic Stimulus Act of 2008 increased the phase-out limit amount under Section 179(b)(2) from \$500,000 to \$800,000. Florida follows the federal limitations contained in Section 179(b)(2) of the Internal Revenue Code and allows the increased \$800,000 phase-out limitation. Similarly, if a taxpayer is allowed to carry over a disallowed deduction on its federal return under Section 179(b)(3)(B) of the Internal Revenue Code (relating to expenses in excess of the taxable income of an active trade or business), Florida will not require that carryover subtraction to be added back.
- The addition and subtraction adjustments required by Section 220.13(1)(e), Florida Statutes, only apply to assets placed in service during the 2008 calendar year (50% bonus depreciation) and Section 179 expense in excess of \$128,000 (for tax years beginning in 2008) that were claimed on the related federal return. If a taxpayer does not claim the 50% bonus depreciation on its federal return, or does not expense more than \$128,000 in Section 179 assets for those periods, no addition is required or subtraction allowed.
- Corporate taxpayers should attach a schedule to their Florida corporate income tax returns showing the amounts of the additions and subtractions. The schedule should specify the type and amount of the original addition(s) and show all subsequent subtractions by tax year.

References: Chapter 2009 – 018 Laws of Florida

FOR MORE INFORMATION

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Persons with hearing or speech impairments may call our TDD at 800-367-8331 or 850-922-1115.

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