



Florida Department of Revenue
Tax Information Publication

TIP

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2008**

[See TIP 09C01-01, dated March 17, 2009, for updated information](#)

Federal Bonus Depreciation and Expensing – Anticipation of Further Legislative Action

Each year, the Florida Legislature adopts the current Internal Revenue Code as the starting point for computing Florida's Corporate Income Tax. This "piggyback" of the Internal Revenue Code ensures that certain tax definitions and the calculation of adjusted federal income are consistent between the Internal Revenue Code and the Florida Income Tax Code (Chapter 220, Florida Statutes).

In 2008, Congress passed Public Law 110-185, which amended Section 168(k) of the Internal Revenue Code to permit 50 percent bonus depreciation for assets placed in service in 2008 and amended Section 179(b) of the Internal Revenue Code to permit a temporary increase in the limitations on expensing certain depreciable assets. In Chapter 2008-206, Laws of Florida, the Florida Legislature expressed its intent not to incorporate the 50 percent bonus depreciation provisions or the temporary increase in the Section 179 limitations in the calculation of Florida corporate income tax.

The Department of Revenue previously issued Tax Information Publication No. 08C01-02 (dated June 17, 2008 and revised on August 29, 2008) that addressed the Florida legislation on bonus depreciation and expensing. On November 19, 2008, the Department received correspondence from the leaders of the Florida House of Representatives and the Florida Senate indicating that Florida's 2008 legislation may not have accomplished the intent of the Florida Legislature and has created uncertainty for corporate taxpayers. These legislative leaders further indicated their plan to have the Legislature consider correcting this situation at the first available opportunity, but no later than the 2009 regular legislative session.

As a result of this uncertainty, the Department of Revenue will exercise its discretion to waive penalties for taxpayers that act in good faith reliance on this stated intent of future legislative action in their application of bonus depreciation and expensing provisions for purposes of estimated payments or filings for 2008. The Department is aware that some taxpayers have expressed a contrary interpretation than that contained in the Publications described above. When making any decision with respect to this situation, taxpayers may wish to consult with their tax advisors to determine the best course of action.

Additional guidance on this issue may be forthcoming.

References: Chapter 2008-206, Laws of Florida; Section 220.03(3), Florida Statutes; Sections 220.13(1)14. and 15., Florida Statutes.

FOR MORE INFORMATION

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

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

For a detailed written response to your questions, write the Florida Department of Revenue, Taxpayer Services, 5050 West Tennessee Street, Building L, Tallahassee, FL 32399-0112.

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