



Florida Department of Revenue
Tax Information Publication

TIP

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**Emergency Rule 12CER08-31, Florida Administrative Code
Economic Stimulus Act of 2008 Additions**

This Tax Information Publication (TIP) explains Emergency Rule 12CER08-31, Florida Administrative Code, and provides examples to assist Taxpayers in complying with the corporate income tax additions in Sections 220.13(1)(a)14., and 220.13(1)(a)15., Florida Statutes. **This rule will not apply unless you deducted more than \$128,000 on your 2008 federal income tax return under section 179, Internal Revenue Code, or claimed bonus depreciation on assets placed in service during the 2008 calendar year.**

Example One: Assume Taxpayer XYZ, with a tax year end of December 31, 2008, purchased five-year assets on July 1, 2008, for \$1 million. The Taxpayer deducted \$250,000 under section 179, Internal Revenue Code, in computing its federal taxable income. In addition, the Taxpayer deducted \$375,000 as bonus depreciation under section 168(k), Internal Revenue Code. The Taxpayer also deducted straight line depreciation of \$37,500 (10% of \$375,000).

Federal Calculation after Economic Stimulus Package Changes

Assets purchase price	\$1,000,000
Less:	
179 deduction 12/31/08	(\$250,000)
168(k) Bonus Depreciation Deduction 12/31/08	(\$375,000)
167/168 Straight Line Depreciation (10% 1 st year due to mid year convention)	<u>(\$37,500)</u>
Remaining Basis – 1/1/09	\$337,500

Subsection (2) of Emergency Rule 12CER08-31, Florida Administrative Code, requires Taxpayer XYZ to make an addition in the computation of its Florida income for tax year ending December 31, 2008, for the amount of the Taxpayer's Section 179 deduction that exceeds \$128,000. In this example, the Taxpayer's addition is \$122,000 (\$250,000 minus \$128,000). Taxpayer XYZ would show this addition on its Florida corporate income tax return, Form F-1120, schedule I, line 14.

Subsection (3) of Emergency Rule 12CER08-31, Florida Administrative Code, requires Taxpayer XYZ to recalculate its depreciation deduction as if it had only expensed \$128,000 under Section 179, and had not claimed any bonus depreciation under Section 168(k). The Taxpayer is then required to make an addition equal to the difference between its actual federal depreciation (including bonus depreciation under Section 168(k)) and the recalculated amount. In the example provided, Taxpayer XYZ is required to make an addition in the amount of \$325,300.

Recalculation

179 deduction 12/31/08	(\$128,000)
168(k) Bonus Depreciation Deduction 12/31/08	(\$0)
167/168 Straight Line Depreciation (10% 1 st year due to mid year convention)	(\$87,200)

If the assets are sold before making all adjustments offsetting the additions required in subsections (2) and (3) of Emergency Rule 12CER08-31, Florida Administrative Code, subsection (5) of Emergency Rule 12CER08-31, Florida Administrative Code, requires taxpayers to make an additional adjustment in the year of sale. The additional adjustment requires taxpayers to reduce their Florida income by an amount equal to the difference between the total depreciation and expensing taken for Florida purposes (including the adjustments required under Subsections (2),(3),and (4)) and the total depreciation and expensing taken for federal purposes on the applicable assets.

Example Two: Assume in Example One that Taxpayer XYZ sold the assets on December 31, 2009. Subsection (5) of Emergency Rule 12CER08-31, Florida Administrative Code, would require Taxpayer XYZ to make an adjustment to reduce its Florida income for tax year ending December 31, 2009, by \$347,900. The adjustment is calculated as follows:

For federal purposes, Taxpayer XYZ has taken total deductions of \$737,500 of depreciation and expensing (\$250,000 of Section 179 in 2008, plus \$375,000 of Section 168(k) in 2008, plus \$37,500 of Sections 167 and 168 in 2008, plus \$75,000 of Sections 167 and 168 in 2009).

For Florida purposes, Taxpayer XYZ has taken total deductions of \$389,600 (\$128,000 of Section 179 in 2008, plus \$87,200 of Sections 167 and 168 in 2008, plus \$174,400 of Sections 167 and 168 in 2009).

The difference between these amounts is \$347,900, and Taxpayer XYZ should adjust its Florida income by this amount in 2009. Taxpayer XYZ would show this adjustment on its Florida corporate income tax return, Form F-1120, schedule I, line 15 as a negative amount because the total deductions taken federally are greater than the total deductions allowed for Florida purposes.

Subsection (6) of Emergency Rule 12CER08-31, Florida Administrative Code, provides that the sum of all Florida additions and adjustments will be zero. After all adjustments are made, the adjustments in the years after 2008 should equal the amount of the 2008 additions. In the end, the requirements of Emergency Rule 12CER08-31, Florida Administrative Code, allow taxpayers to eventually receive the full benefit of depreciation and expensing deductions without adjusting the basis of the assets or changing the gain or loss on the disposition of the assets.

	Federal Expensing/Depreciation on Assets	Florida Adjustments	Florida Expensing and Depreciation on Assets & Adjustments
12/31/08			
179 deduction 12/31/08	\$250,000	(\$122,000)	\$128,000
168(k) Bonus Depreciation Deduction	\$375,000	(\$375,000)	\$0
167/168 Straight Line Depreciation (10% 1 st year)	\$37,500	\$49,700	\$87,200
12/31/09			
167/168 Straight Line Depreciation (20% 2 nd year)	\$75,000	\$99,400	\$174,400
Adjustment on sale of assets	<u>\$0</u>	<u>\$347,900</u>	<u>\$347,900</u>
Total Depreciation/Adjustments	\$737,500	\$0	\$737,500

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

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