



Florida Department of Revenue
Tax Information Publication

TIP

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**2009 Internal Revenue Code Piggyback
Florida Adjustments for Special 50% Bonus Depreciation, Section 179 Expense, and Deferred
Cancellation of Indebtedness Income**

Every year the Florida Legislature adopts the current Internal Revenue Code (IRC) so 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). The Florida corporate income tax “piggybacks” federal income tax determinations, and uses adjusted federal income as the starting point for computing Florida net income.

Chapter 2009-192, Laws of Florida, amends the Florida Income Tax Code to adopt the Internal Revenue Code, retroactive to January 1, 2009. This means that taxpayers filing Florida returns during 2009 will use adjusted federal income as the starting point in computing their Florida corporate income tax.

Chapter 2009-192, Laws of Florida, also amended section 220.13(1)(e), Florida Statutes, to require adjustments for the special 50% bonus depreciation, section 179 expense, and deferral of cancellation of indebtedness income. These provisions were added to the Internal Revenue Code by the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

First, the 2009 Florida Legislature amended section 220.13(1)(e), Florida Statutes, to require corporate taxpayers to add back to adjusted federal income the special 50% bonus depreciation for assets placed in service during the 2009 calendar year, as well as the 2008 calendar year. Section 220.13(1)(e), Florida Statutes, was also amended to provide a corresponding subtraction taken equally over a seven year period in the amount of the special 50% bonus depreciation required to be added back to adjusted federal income.

Second, section 220.13(1)(e), Florida Statutes, was amended to require that corporate taxpayers claiming a deduction under section 179 of the Internal Revenue Code add back to adjusted federal income those amounts to the extent they exceed \$128,000. The addition for excess section 179 expense now applies to tax years beginning in either 2008 or 2009. All amounts in excess of \$128,000 are required to be added back, including amounts carried over from previous tax years under IRC section 179(b)(3)(B). There is a corresponding subtraction taken equally over a seven year period in the amount of the excess section 179 expense required to be added back to adjusted federal income.

Third, section 220.13(1)(e), Florida Statutes, was amended to require that corporate taxpayers add back to adjusted federal income any cancellation of indebtedness income that is deferred under new section 108(i) of the Internal Revenue Code. Section 108(i) of the Internal Revenue Code allows the deferral of cancellation of indebtedness income in certain situations where a taxpayer reacquires its own indebtedness. The deferral of the deduction for original issue discount in debt for debt exchanges required by IRC section 108(i)(2) is also required for Florida corporate income tax purposes. Section 220.13(1)(e), Florida Statutes, provides a corresponding subtraction when the deferred cancellation of

indebtedness is recognized for federal income tax purposes in subsequent years. Cancellation of indebtedness income is included in the tax base, but is excluded from the apportionment formula by all taxpayers under section 220.15(5)(a), Florida Statutes.

Example: On its calendar-year 2009 federal income tax return, the Taxpayer claimed \$250,000 in IRC section 179 expense, of which \$25,000 was a carryover from 2006 allowed under IRC section 179(b)(3)(B). The Taxpayer also claimed \$300,000 in special 50% bonus depreciation under IRC section 168(k), and \$50,000 of depreciation under IRC section 168(b) for assets placed in service during the 2009 calendar year. The Taxpayer is required to add back \$122,000 (\$250,000 minus \$128,000) of section 179 expense and \$300,000 of the special 50% bonus depreciation in computing its Florida net income. The Taxpayer is not required to add back to adjusted federal income the amount of depreciation (non-special 50% bonus depreciation) it claimed under IRC section 168(b) on its 2009 federal income tax return. On its 2009 Florida corporate income tax return, the taxpayer may also claim subtractions for one-seventh of the amount of special 50% bonus depreciation required to be added back (\$300,000 divided by seven equals \$42,857.14) and one-seventh of the amount of section 179 expense required to be added back (\$122,000 divided by seven equals \$17,428.57). In each of the subsequent six tax years, the Taxpayer may subtract \$42,857.14 and \$17,428.57. At the end of these years, the subtractions should equal the amount(s) required to be added back.

- 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(s) is recovered through the subtraction mechanism(s). The amount of the subtractions claimed over a seven year period equals, but cannot exceed, the amounts required to be added back. Differences in the apportionment fraction from one year to the next are disregarded. The applicable depreciation conventions, methods, and recovery periods are the same as federal.
- Congress 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), section 220.13(1)(e), Florida Statutes, allows that carryover, subject to the overall limitation of \$128,000.
- The addition and subtraction adjustments required by section 220.13(1)(e), Florida Statutes, apply to assets placed in service during the 2008 and 2009 calendar years (special 50% bonus depreciation) and Section 179 expense in excess of \$128,000 (for tax years beginning in 2008 and 2009) that were claimed on the related federal return. If a

taxpayer does not claim the special 50% bonus depreciation on its federal return, does not expense more than \$128,000 in IRC section 179 assets for those periods, or defer cancellation of indebtedness income under IRC section 108(i) on the related federal return, no addition is required nor subtraction allowed for those amounts. Similarly, if a taxpayer was not subject to the Florida corporate income tax or did not add back special 50% bonus depreciation, IRC section 179 expense, or deferred cancellation of indebtedness income, no subtraction is allowed for Florida corporate income tax purposes.

- Corporate taxpayers should create and maintain a schedule reflecting all of the adjustments made under section 220.13(1)(e), Florida Statutes. Taxpayers must also report any additions on Schedule I and subtractions on Schedule II of the *Florida Corporate Income/Franchise and Emergency Excise Tax Return* (Form F-1120) for the current tax year. The schedule should specify the type and amount of the original addition(s) and show all subsequent subtractions by tax year.

Reference: Chapter 2009–192, Laws of Florida

FOR MORE INFORMATION

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