



## Florida Corporate Income Tax

### The Florida Income Tax Code Requires Additions to Income for First Year Federal Bonus Depreciation

**Retroactive to January 1, 2015<sup>1</sup>**

Each year, the Florida Legislature adopts the current Internal Revenue Code (Title 26, United States Code) so 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 [F.S.]). The Florida corporate income tax “piggybacks” federal income tax determinations, and uses adjusted federal income as the starting point for computing Florida net income. This year, Chapter 2016-220, Laws of Florida, amends the Florida Income Tax Code to adopt the Internal Revenue Code with the exception of certain provisions of the Consolidated Appropriations Act, 2016, related to asset depreciation under section 168(k) of the Internal Revenue Code.

The Florida corporate income tax provides for certain additions and subtractions in determining adjusted federal income and Florida net income. Section 220.13(1)(e), F.S., has been amended to require the addition of amounts deducted as bonus depreciation under section 168(k) of the Internal Revenue Code (the “add-back”) for assets placed in service before January 1, 2021.

There is a corresponding subtraction taken equally over a seven-year period in the amount of the add-back, beginning with the year that the addition occurs. The total amount that may be subtracted over the seven-year period should equal, but may not exceed, the add-back (defined in section (s.) 220.13(1)(e), F.S.).

The subtractions allowed by s. 220.13(1)(e), F.S., are the means by which the add-back is reconciled and recovered. If a taxpayer does not claim a deduction for bonus depreciation (assets placed in service before January 1, 2021) on its federal income tax return, no add-back is required or subtraction allowed for Florida corporate income tax purposes. Similarly, if a taxpayer did not add back bonus depreciation because, for example, it was not subject to the Florida corporate income tax in that year, no subtraction is allowed for Florida corporate income tax purposes.

Furthermore, subtractions under s. 220.13(1)(e), F.S., may:

- create or increase a net operating loss; and
- be transferred to the surviving company in a merger or acquisition.

A taxpayer who ceases to do business during the seven-year period may not accelerate, transfer, or otherwise utilize a subtraction.

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<sup>1</sup> In 2015, the Florida Legislature adopted the Internal Revenue Code as of January 1, 2015. At that time, the Internal Revenue Code did not allow bonus depreciation on property placed in service in 2015. Later, Congress amended the Internal Revenue Code to allow bonus depreciation on property placed in service in 2015. Chapter 2016-220, Laws of Florida, specifically decouples from bonus depreciation for property placed in service prior to January 1, 2021, which includes property placed in service during 2015.

The adjustments required by s. 220.13(1)(e), F.S., do not affect the basis of assets. The applicable depreciation conventions, methods, and recovery periods are computed in the same manner as they are computed in determining federal taxable income.

In past years, there was a similar add-back and deduction process in place for certain excess section 179 expenses. Taxpayers who performed this add-back in years prior to January 1, 2015, should continue to make the corresponding subtractions over the seven-year period that began in the tax year the addition was required. Section 179 expenses deducted after January 1, 2015, are not subject to the add-back provisions.

For the 2015 tax year, an amended return may be required for those taxpayers that originally filed their *Florida Corporate Income/Franchise Tax Return* (Form F-1120) in a manner inconsistent with this change in law. The additions are to be included in the "Other additions" line of Schedule I of Form F-1120 for the 2015 tax year. Subtractions are included in Line 10 (bonus depreciation) of Schedule II of Form F-1120. Subtractions related to prior year additions of excess section 179 expenses should be subtracted on Line 9 of Schedule II of Form F-1120.

To the extent that any tax is due on an amended return as a result of this law change, reasonable cause exists under Rule 12-13.007, Florida Administrative Code, for a waiver of the resulting penalty. The provisions of this rule do not relieve a taxpayer of its obligation to file a Florida corporate income tax return and report the adjustment required by s. 220.13(1)(e), F.S.

Taxpayers are required to maintain a schedule reflecting all the additions and subtractions made under s. 220.13(1)(e), F.S.

Partnerships filing a *Florida Partnership Information Return* (Form F-1065) are required to make the additions and subtractions required by s. 220.13(1)(e), F.S., on Part I of Form F-1065.

**References: Chapter 2016-220, Laws of Florida; Sections 220.03 and 220.13, Florida Statutes**

#### **For More Information**

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For forms and other information, visit our website at [www.myflorida.com/dor](http://www.myflorida.com/dor) or call Taxpayer Services, 8:00 a.m. to 7:00 p.m., ET, Monday through Friday, excluding holidays, at 800-352-3671.

For a detailed written response to your questions, write the Florida Department of Revenue, Taxpayer Services, MS 3-2000, 5050 West Tennessee Street, Tallahassee, FL 32399-0112.

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