

Florida Department of Revenue Tax Information Publication



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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% 1st year	
due to mid year convention)	(\$37,500)
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% 1st year	
due to mid year convention)	(\$87,200)

Taxpayer XYZ's actual depreciation amounts (including bonus depreciation under Section 168(k)) was \$412,500. The recalculated first-year depreciation deduction is \$87,200. The resulting difference between the actual depreciation and the recalculated depreciation is \$325,300. Thus, in 2008, Taxpayer XYZ must make an addition of \$325,300. Taxpayer XYZ would show this addition on its 2008 Florida corporate income tax return, Form F-1120, schedule I, line 15.

Subsection (4) of Emergency Rule 12CER08-31, Florida Administrative Code, is intended to allow taxpayers to recover the amount of the additions required by Subsections (2) and (3) over the depreciable life of the applicable assets. Taxpayers will recover the amount of the additions by adjusting their Florida income in future years. The adjustment will require taxpayers to recalculate the amount of their applicable year's depreciation deduction as if it had only expensed \$128,000 under Section 179, and had not claimed any bonus depreciation under Section 168(k). Taxpayers will then adjust their Florida income in an amount equal to the difference between the amount of the actual federal depreciation taken on the assets and the recalculated amount. For instance, in our example, Taxpayer XYZ is required to reduce its Florida income for year ending December 31, 2009, in an amount equal to \$99,400. The recalculation required by Subsection (4) of Emergency Rule 12CER08-31, Florida Administrative Code, is as follows:

Recalculated 2009 Federal Depreciation Calculation	
Assets purchase price	\$1,000,000
Less:	
2008 179 deduction 12/31/08	(\$128,000)
2008 168(k) Bonus Depreciation Deduction 12/31/08	(\$0)
2008 167/168 Straight Line Depreciation (10% 1st year	
due to mid year convention)	(\$87,200)
Remaining Depreciable Amounts	\$784,500
2009 167/168 Straight Line Depreciation (20% in 2 nd yr of asset life)	(\$174,400)

Once Taxpayer XYZ determines its recalculated depreciation deductions, it is required to reduce its Florida income by an amount equal to the difference between its recalculated depreciation and its actual federal depreciation on the applicable federal return.

Actual 2009 Federal Depreciation Calculation	
Original Assets purchase price	\$1,000,000
Less:	
2008 179 deduction 12/31/08	(\$250,000)
2008 168(k) Bonus Depreciation Deduction 12/31/08	(\$375,000)
2008 167/168 Straight Line Depreciation (10% 1st year	
due to mid year convention)	(\$37,500)
Remaining Basis – 1/1/09	\$337,500
2009 167/168 Straight Line Depreciation (20% in 2 nd yr	
of asset life)	(\$75,000)

So, in our example, Taxpayer XYZ is required to reduce its Florida income in an amount equal to \$99,400, which is the difference between the recalculated amount of \$174,400 and the actual regular depreciation taken on the applicable federal return of \$75,000. 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 recalculated Florida amount is greater than the actual federal amount.

Adjustments under subsection (4) of Emergency Rule 12CER08-31, Florida Administrative Code, will continue until the adjustments fully offset the additions required in subsections (2) and (3) of Emergency Rule 12CER08-31, Florida Administrative Code.

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.

Fe	deral 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% 1st	year) \$37,500	\$49,700	\$87,200
12/31/09			
167/168 Straight Line Depreciation (20% 2 nd	^d year) \$75,000	\$99,400	\$174,400
Adjustment on sale of assets	<u>\$0</u>	\$347,900	<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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Persons with hearing or speech impairments may call our TDD at 800-367-8331 or 850-922-1115.

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