FLORIDA DEPARTMENT OF REVENUE

Tax Information Publication **TIP**

No: **21C01-01R**

Date Issued:
July 30, 2021
Revised:
August 13, 2021

Note: This TIP is being revised as of August 13, 2021, to correct the explanation on the use of Florida net operating losses.

Florida Corporate Income Tax
Adoption of 2021 Internal Revenue Code

Each year, the Florida Legislature must consider adopting the current Internal Revenue Code (IRC) (Title 26, United States Code) to ensure certain tax definitions and the calculation of adjusted federal income will be 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, section (s.) 1, Chapter 2021-242, Laws of Florida, amends the Florida Income Tax Code to adopt the Internal Revenue Code retroactively to January 1, 2021. This means Florida will follow the computation of federal taxable income, including changes made by the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Consolidated Appropriations Act, 2021.

For example, **Florida will piggyback the federal corporate income tax treatment of Paycheck Protection Program (PPP) loans, Economic Injury Disaster Loans (EIDL), and Small Business Administration (SBA) loans**.

However, sections 3 and 4, Chapter 2021-242, Laws of Florida, provide for decoupling from several federal income tax provisions, which will be explained below.

Amended Return May Be Required

Based on the date this Tax Information Publication is issued, some taxpayers may have already filed a Florida corporate income/franchise tax return under a different basis than what is explained below. If so, taxpayers should file Amended Florida Corporate Income/Franchise Tax Return(s), Form F-1120X, and explain the reason for the amendment. The Department will work with you to resolve any penalty imposed on such amended return(s) that are a direct result of these items.

Limit on Net Interest Deductions – Section 220.13(1)(e)4., F.S.

For taxable years beginning after December 31, 2018, and before January 1, 2021, the interest limitation for Florida filers remains the sum of 30 percent of federal adjusted taxable income, plus business interest income, plus floor plan financing interest. Taxpayers must add back as an "Other Addition" on Line 19 of Schedule I of the Florida Corporate Income/Franchise Tax Return (Form F-1120) the amount that the federal deduction exceeded the amount allowed by Florida. This addition is then treated as a disallowed business interest expense carryforward from prior years for purposes of computing the subsequent year's business interest expense.

See **TIP 19C01-01** issued July 31, 2019, for more information on the limit on net interest deductions.

Taxpayers should maintain a schedule of disallowed interest with information substantiating the amount of interest and the amount carried over, including tax returns where an interest carryover is generated, used, or carried forward.

Qualified Improvement Property Placed in Service on or after January 1, 2018
A Florida addback is required for the federally deducted depreciation of qualified improvement property, as defined in s. 168(e)(6) of the Internal Revenue Code, whether depreciated under s. 167(a), IRC, or bonus depreciated under ss. 167 or 168(k), IRC. This requirement applies even if the taxpayer claimed the missed depreciation as a s. 481(a), IRC, adjustment.

There is a corresponding Florida subtraction for the depreciation that would have been allowed under the Internal Revenue Code in effect on January 1, 2020, without the retroactive change made by the CARES Act, and without taking into account any sale or other disposition of the property.

A taxpayer that took bonus depreciation on its federal return for qualified improvement property should add back to federal taxable income on its corresponding Florida return the amount of bonus depreciation on Schedule I of the Florida Corporate Income/Franchise Tax Return (Form F-1120) and follow the subtraction in the paragraph above for the applicable recovery period. The subtraction is the means by which the addback is reconciled and recovered.

As it would do with adjustments made under s. 220.13(1)(e)1., F.S., a taxpayer should maintain a schedule reflecting the adjustments it makes under s. 220.13(1)(e)5., F.S., for qualified improvement property.

Florida Net Operating Losses (NOL)
Pursuant to s. 220.13(1)(b)1., F.S., Florida piggybacks the federal NOL provisions to treat them in the same manner, to the same extent, and for the same time periods as are provided federally in s. 172, IRC. However, Florida law does not allow NOLs to be carried back to prior taxable years. Therefore,

- Florida NOLs generated in taxable years beginning **before** January 1, 2018, are carried forward up to 20 taxable years.
- Florida NOLs generated in taxable years beginning **after** December 31, 2017, are carried forward indefinitely until used and never expire.
- For taxable years beginning **before** January 1, 2021, a Florida NOL deduction may be taken against 100% of Florida tentative apportioned adjusted federal income.
- For taxable years beginning **after** December 31, 2020, a Florida NOL deduction may be taken as follows:
    - First, any carryover(s) generated in a taxable year beginning **before** January 1, 2018, is applied against Florida tentative apportioned adjusted federal income;
    - Then, any carryover(s) generated in a taxable year beginning **after** December 31, 2017, is applied against 80% of the remaining Florida tentative adjusted federal income.

Taxpayers should maintain a schedule of NOLs with information substantiating the amount of the NOL, including tax returns where an NOL is generated, used, or carried forward.

Business Meal Expenses
For taxable years beginning after December 31, 2020, and before January 1, 2026, the changes made to the Internal Revenue Code by Public Law 116-260, Division EE, Title II, s. 210, making business meals provided by a restaurant 100% deductible, will not be followed. Taxpayers will need to add back to federal taxable income the amount of the deduction that exceeds the amount that would have been allowed without this change to the Internal Revenue Code (generally 50%). A new line for this addition will be provided on the Florida Corporate Income/Franchise Tax Return (Form F-1120) that will be published in January of 2022 for taxable years beginning on or after January 1, 2021. If you use an earlier form, include this adjustment on the “Other Additions” Line of Schedule I.

Film, Television, and Live Theatrical Production Expenses
For taxable years beginning after December 31, 2020, and before January 1, 2026, the changes made to the Internal Revenue Code by Public Law 116-260, Division EE, Title I, s. 116, allowing certain qualified film and television and live theatrical productions commencing after December 31, 2020, to be expensed under s. 181, IRC, will not be followed. Taxpayers will need to add back to federal taxable income the amount of the deduction taken on the federal return under s. 181, IRC, and subtract the amount that would have been allowed without application of s. 181, IRC, if any. A new line for this addition and subtraction will be provided on the Florida Corporate Income/Franchise Tax Return (Form F-1120) that will be published in January 2022 for taxable years beginning on or after January 1, 2021. If you use an earlier form, include this adjustment on the "Other Additions" Line of Schedule I and "Other Subtractions" Line of Schedule II.

Bonus Depreciation
Section 220.13(1)(e), F.S., requires the addition of amounts deducted as bonus depreciation under s. 168(k), IRC (the "addback"), for assets placed in service before January 1, 2027. Amounts required to be added to federal taxable income for bonus depreciation are provided back to a taxpayer through an annual subtraction over a seven-year period, equal to one-seventh of the amount of the addition, beginning with the taxable year of the addition.

Federal Credits
Florida does not allow any adjustment to income for federal credits unless specifically stated in the Florida Statutes. Section 220.13(1)(b)3., F.S., allows a deduction for wages and salaries paid in Florida when a federal deduction is not allowed pursuant to s. 280C(a), IRC. However, for other federal credits, a Florida deduction is not included in the Florida Statutes and, therefore, not allowed.

References: Chapter 2021-242, Laws of Florida; Sections 220.03 and 220.13, 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.

For forms and other information, visit the Department's website at floridarevenue.com or call Taxpayer Services at 850-488-6800, Monday through Friday (excluding holidays).

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.

Want the latest tax information?

✓ Subscribe to our tax publications or sign up for due date reminders at **floridarevenue.com/dor/subscribe**

✓ Visit the Taxpayer Education webpage at **floridarevenue.com/taxes/education** for news about live and recorded tax webinars

✓ Follow us on Twitter **@FloridaRevenue**