The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	SPB 7128
INTRODUCER:	For consideration by the Appropriations Committee
SUBJECT:	The Internal Revenue Code
DATE:	March 28, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Babin	Hansen		**Submitted as committee bill**
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7128 updates Florida's corporate Income Tax Code by adopting the Internal Revenue Code as in effect on January 1, 2013.

The American Taxpayer Relief Act of 2012 grants extraordinary deductions for capital asset expensing and depreciation. Similar to past treatment, the bill requires Florida taxpayers to spread the benefit of these deductions over a 7-year period.

The bill authorizes the Department of Revenue to adopt emergency rules to implement this legislation.

The Revenue Estimating Conference (REC) estimates that this bill will have an indeterminate impact on general revenue.

The bill substantially amends sections 220.03 and 220.13, Florida Statutes.

II. Present Situation:

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida. The determination of taxable income for Florida tax purposes begins with the taxable income used for federal income tax purposes. This means that a corporation paying taxes in Florida receives the same treatment in Florida as is allowed in determining its federal taxable income.

Florida maintains this relationship with the federal Internal Revenue Code by each year adopting the federal Internal Revenue Code as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income.

III. Effect of Proposed Changes:

General Update

The bill updates the Florida corporate Income Tax Code to reflect changes in the federal Internal Revenue Code enacted by Congress. The bill takes effect upon becoming a law and operates retroactively to January 1, 2013.

Additions due to Bonus Depreciation and Increased Expensing

President Obama signed into law the American Taxpayer Relief Act of 2012[1] on January 2, 2013. The act contained several significant amendments to the Internal Revenue Code.

The Internal Revenue Code allows a taxpayer to deduct the cost of capital assets by deducting a portion of the cost over the useful life of the property (depreciation).[2] Additionally, the Internal Revenue Code allows a taxpayer to treat a certain amount of the cost of capital assets as a business expense that can be taken entirely in the year of purchase (expensing).[3] Until recently, the amount that could be expensed was limited to $25,000.

Similar to other federal legislation during the past several years,[4] the American Taxpayer Relief Act of 2012 grants an additional depreciation deduction (bonus depreciation) and increases the expensing limitation. The American Taxpayer Relief Act of 2012 grants a bonus depreciation amount of 50 percent of the cost of the property placed in service during 2013 and it increases the expensing limitation to $500,000 for taxable years beginning in 2012 and 2013.

In order to slow the fiscal impact of these increased federal deductions on Florida, the bill requires taxpayers to spread the effect of these deductions over 7 taxable years. The bill accomplishes this by requiring taxpayers to "add-back" the bonus depreciation deduction and the amount of the increased expensing deductions above $125,000. The taxpayer is then permitted to subtract from income one-seventh (1/7) of these deductions for the current taxable year and the following 6 taxable years. This mechanism was used to address the impacts of similar federal legislation in 2009 and 2011.[5]

The bill grants the Department of Revenue emergency rulemaking authority to implement the provisions of the bill.

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[1] Pub.L. 112-240
[2] See generally ss. 167 and 168, Internal Revenue Code
[3] See generally s. 179, Internal Revenue Code
[4] See The Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.
[5] Chapters 2009-132 and 2011-229, Laws of Florida

The bill is effective upon becoming law and operates retroactively to January 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By adopting recent changes to the Internal Revenue Code, Florida provides ease of administration for Florida corporate taxpayers.

C. Government Sector Impact:

The REC estimates that this bill will have an indeterminate impact on general revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.