

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: SB 7064

INTRODUCER: Finance and Tax Committee

SUBJECT: Corporate Income Tax

DATE: March 2, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AP</u>	FT Submitted as Committee Bill
	<u>Babin</u>	<u>Kynoch</u>		Pre-meeting

I. Summary:

SB 7064 updates Florida's Corporate Income Tax Code by adopting the Internal Revenue Code in effect on January 1, 2016.

The federal Consolidated Appropriations Act, 2016, grants extraordinary deductions for depreciation for the next five years. Similar to past treatment, the bill requires Florida taxpayers to spread the benefit of these deductions over a seven year period.

The federal Consolidated Appropriations Act, 2016, also increases the first-year expensing deduction limitation from \$25,000 to \$500,000 and makes the change permanent. The bill adopts this change for purposes of Florida's corporate income tax.

The federal Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 amends the Internal Revenue Code to change the tax return due dates for corporate returns. The bill makes corresponding changes to Florida's corporate income tax return filing dates and estimated payment due dates.

The Revenue Estimating Conference has determined that the bill will reduce General Revenue receipts by \$3.2 million in Fiscal Year 2015-2016, and by \$16.8 million in Fiscal Year 2016-2017, with an indeterminate recurring impact.

The bill takes effect upon becoming law.

II. Present Situation:

Discussion of the present situation is included in the section-by-section analysis below.

III. Effect of Proposed Changes:

Sections 1 through 3, and 10

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 determined 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 its relationship with the federal taxable income determination 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.

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).¹ Additionally, a taxpayer is allowed to treat a certain amount of the cost of capital assets as a business expense that can be deducted entirely in the year of purchase (expensing).² Until recently, the amount that could be expensed was limited to \$25,000.

The federal Consolidated Appropriations Act, 2016 (the Act),³ became law on December 18, 2015, and contained significant amendments to the Internal Revenue Code. Similar to federal legislation during the past several years,⁴ the Act grants an additional, first-year depreciation deduction (bonus depreciation) for the next five years. For the next three years, the bonus depreciation amount is 50 percent, and then the percentage is reduced to 40 percent and 30 percent in the last two years, respectively. The Act also permanently increases the expensing limitation from \$25,000 to \$500,000.

Proposed Change: SB 7064 adopts the Internal Revenue Code in effect on January 1, 2016. The bill does not adopt the bonus depreciation deductions provided by the Act. Instead, the bill requires taxpayers to spread the effect of these deductions over seven taxable years. The bill accomplishes this by requiring taxpayers to add-back the bonus depreciation deduction and then subtract from income one-seventh (1/7) of these deductions for the current taxable year and the following six taxable years. This mechanism was used to address the impacts of similar federal legislation in 2009, 2011, 2013, and 2015.⁵

SB 7064 adopts the permanent increase in the expensing limitation from \$25,000 to \$500,000.

SB 7064 makes these changes retroactive to January 1, 2016.

¹ See generally ss. 167 and 168, Internal Revenue Code.

² See generally s. 179, Internal Revenue Code.

³ Pub. Law No. 114-113, Division Q, s. 143, H.R. 2029, 114th Cong. (December 18, 2015).

⁴ The Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, and the Tax Increase Prevention Act of 2014.

⁵ Chapters 2009-132, 2011-229, 2013-40, and 2015-35, Laws of Fla.

SB 7064 grants the Department of Revenue emergency rulemaking authority to implement these provisions of the bill.

Sections 4 through 9

Present situation: Under Florida law, the due dates to file tax returns related to corporate income tax are tied to the due dates of the related federal return. Florida corporations must file income tax returns on or before the first day of the 4th month following the close of the taxable year or the 15th day following the federal due date.⁶

When a Florida corporation is granted an extension of time to file its federal return – usually six months – the taxpayer may file an extension of time to file its Florida return;⁷ if granted, the extended Florida due date will be the 15th day after the expiration of the federal extension, or until the expiration of six months from the original due date, whichever occurs first.⁸

Florida requires corporate income taxpayers to make estimated payments of tax throughout the taxable year. The taxpayer must file a declaration of estimated tax before the 1st day of the 5th month of each tax year.⁹ Taxpayers then typically make estimated payments of tax before the first day of the 5th, 7th, and 10th months of the taxable year, and the final estimated payment is due before the 1st day of the next taxable year.¹⁰ The first estimated payment – due before the first day of the 5th month of the taxable year – is timed so that it occurs after the taxpayer's tax return due date for the prior taxable year, which is the 4th month. Estimated payment rules allow the taxpayer to use the prior taxable year's tax liability to calculate the next taxable year's estimated payments.

On July 31, 2015, the federal government passed the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015.¹¹ This federal legislation moves the filing dates for most federal corporate income taxpayers to one month later than is currently required. A small group of corporate taxpayers (those with a taxable year ending on June 30) continue using their current filing date until 2026, at which time their filing date will also move one month later.

The federal legislation also adjusts the normal federal six month extension for the next 10 years. Under this adjustment, calendar year corporate taxpayers (the majority of corporate taxpayers in Florida) will receive a five month extension. Taxpayers with a taxable year ending on June 30 receive a seven month extension. All other taxpayers continue with six month extensions, and after 2026, all extensions will return to six months.

Proposed Change: SB 7064 amends the due dates for Florida corporate income tax returns to correspond with the changes in due dates for the federal returns and the temporary changes in

⁶ Section 220.222(1), F.S. Some partnerships are also required to file informational returns. These returns are due on or before the first day of the 5th month after the close of the taxable year.

⁷ If a taxpayer extends the time to file its Florida return, the taxpayer must file a tentative tax return and make a tentative tax payment pursuant to s. 220.32, F.S.

⁸ Section 220.222(2), F.S.

⁹ Section 220.241, F.S. The time for filing a declaration is delayed for certain taxpayers. *See id.* A declaration is not required if the taxpayer reasonably expects to pay less than \$2,500 or less. Section 220.24, F.S.

¹⁰ Section 220.33(1), F.S.

¹¹ Pub. Law No. 114-41, H.R. 3236, 114th Cong. (July 31, 2015).

federal extension periods. The bill also extends the first estimated payment for corporate taxpayers by one month to accommodate the tax return due date change.

The changes to tax return due dates apply for taxable years beginning on or after January 1, 2016, and the changes to estimated payments apply to estimated payments for taxable years beginning on or after January 1, 2017.

Section 11 provides that SB 7064 is effective upon becoming law.

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:

The Revenue Estimating Conference has determined that the provisions of SB 7064 that adopt the Internal Revenue Code and require taxpayers to spread the benefit of the bonus depreciation deductions will reduce General Revenue receipts by \$3.2 million in Fiscal Year 2015-2016, and by \$3.2 million in Fiscal Year 2016-2017, with an indeterminate recurring impact.

The adoption of the increased expensing limitation will reduce General Revenue receipts by \$1.5 million, recurring.

The provisions of SB 7064 that move the due dates for tax returns and the first estimated payment will reduce General Revenue receipts by \$13.6 million in Fiscal Year 2016-2017, with an indeterminate recurring impact.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 220.03, 220.13, 220.222, 220.241, 220.33, and 220.34.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.