

Enacted Florida legislation provides for IRC conformity update and other tax law changes

Overview

On March 23, 2018, Florida Governor Rick Scott signed House Bills 7087 (H.B. 7087)¹ and 7093 (H.B. 7093),² which amended Florida's tax laws affecting corporate income tax, sales and use tax and fuel tax. Notable amendments include the following:

- Updating Florida's federal tax conformity date to the Internal Revenue Code (IRC) in effect on January 1, 2018.
- Extending Florida's current decoupling from federal bonus depreciation to include assets placed in service before January 1, 2027.
- Requiring the Department of Revenue to conduct a study to evaluate the impact of federal tax reform on the Florida Corporate Income Tax (CIT).
- Establishing a one year reduction to the current 5.5 percent CIT tax rate contingent upon satisfaction of a specified tax revenue target, for taxable years beginning on or after January 1, 2019.
- Reducing the sales tax rate on leases of commercial real property.
- Establishing a three-day back-to-school sales tax holiday beginning August 3, 2018.
- Establishing a seven-day disaster preparedness sales tax holidays beginning June 1, 2018.

This tax alert summarizes the more significant provisions of the tax amendments provided by H.B. 7087 and 7093 and provides some taxpayer considerations.

Conformity to IRC in effect on January, 1 2018 and bonus depreciation decoupling

H.B. 7093, effective retroactively to January 1, 2018, updates the Florida Income Tax Code definition of "Internal Revenue Code" to mean the IRC "as amended and in effect on January 1, 2018."³ H.B. 7093 also extends Florida's bonus depreciation decoupling provisions, requiring an addition modification for the calculation of Florida taxable income equal to 100 percent of any federal bonus depreciation deductions taken under I.R.C. §§ 167 and 168(k) for property placed in service after December 31, 2007 and before January 1, 2027.⁴

Department of Revenue Study of impact of federal tax reform

H.B. 7093 requires the Department of Revenue (Department) to examine how federal tax reform will affect the Florida Corporate Income Tax. The Department must conduct at least two public workshops to gather public input. The Department must also submit a report by February 1, 2019 addressing: (1) the effect of federal tax reform on the Florida

¹ A copy of H.B. 7087 is available [here](#).

² A copy of H.B. 7093 is available [here](#).

³ H.B. 7093, Secs. 1 and 8, amending Fla. Stat. § 220.03(1)(n). Prior to the enactment of H.B. 7093, the Florida definition of "Internal Revenue Code" referenced the IRC as amended and in effect on January 1, 2017.

⁴ H.B. 7093, Sec. 2, amending Fla. Stat. § 220.13(1)(e)1. Prior to the enactment of H.B. 7093, Florida's bonus depreciation decoupling provisions applied to property placed in service before January 1, 2021.

CIT, (2) options available to the Florida Legislature to integrate state law with federal law, (3) an estimated fiscal impact for each option and (4) a compilation of input received from the public during the study.⁵

Contingent Florida CIT tax rate reduction

H.B. 7093 creates Fla. Stat. Sec. 220.1105 which provides for a one year tax rate reduction to the current 5.5 percent Florida CIT tax rate contingent upon satisfaction of a revenue-based formula, as follows:

To the extent that net collections of Florida Corporate Income Tax for the 2018-2019 fiscal year exceed adjusted forecasted collections (defined as net collections forecasted by the Florida Revenue Estimating Conference for the same fiscal year, increased by 7%), the tax rate imposed for taxable years beginning on or after January 1, 2019 is computed by multiplying the current rate by the quotient of adjusted forecasted collections divided by the net collections.⁶

The Department is required to determine whether a CIT tax rate reduction is required by October 1, 2019. If the net CIT tax collections for the 2018-2019 fiscal year exceed the adjusted forecasted collections, the Department must refund to all eligible taxpayers a ratable share of the excess tax collections for that fiscal year. For these purposes, eligible taxpayers are those taxpayers with taxable years that begin between April 1, 2017, and March 31, 2018, and whose final tax liability for such taxable year is greater than zero.⁷ The CIT rate reduction provisions are repealed for taxable years beginning on or after January 1, 2020.

Sales tax rate reduction on commercial real property leases

H.B. 7087 reduces the sales tax on commercial real property leases from 5.8 percent to 5.7 percent. The new rate will go into effect on January 1, 2019.⁸

Back-to-school sales tax holiday - August 3, 2018 through August 5, 2018

Beginning August 3, 2018, through August 5, 2018, H.B. 7087 provides that no sales tax may be collected on the retail sale of certain clothing and school supplies. Under certain conditions, participation in the sales tax holiday is optional for dealers if less than 5 percent of the dealer's gross sales of tangible personal property in the prior calendar year were comprised of items that would be exempt during the sales tax holiday.⁹

Seven-day disaster preparedness sales tax holiday beginning June 1, 2018

H.B. 7087 provides a seven-day sales tax holiday beginning June 1, 2018 and ending June 7, 2018 for purchases of certain items used for hurricane and other disaster preparations.¹⁰

Tax-free motor fuel exports

H.B. 7087 provides an exemption from motor fuel taxes for otherwise taxable fuel purchased between terminal suppliers if the fuel is ultimately destined for export, providing certain documentation requirements are satisfied.¹¹

Aviation fuel tax exemption

H.B. 7087 creates an aviation fuel tax exemption of 1.42 cents per gallon for certain air carriers, effective July 1, 2019.¹²

Considerations

H.B. 7087 and 7093 result in significant changes to Florida's tax laws, most notably updating the IRC conformity to January 1, 2018 as well as providing for a potential one year reduction to the current 5.5 percent CIT tax rate. Taxpayers potentially impacted by the enactment of these laws should consult with their Florida tax advisors for further assistance.

⁵ H.B. 7093, Sec. 3.

⁶ H.B. 7093, Sec. 4.

⁷ H.B. 7093, Secs. 4-6, creating Fla. Stat. § 220.1105 and amending Fla. Stat. §§ 220.11 & 220.63. The Department is required to calculate refunds by February 15, 2020 and to issue refunds no later than March 1, 2020.

⁸ H.B. 7087, Sec. 33.

⁹ H.B. 7087, Sec. 54.

¹⁰ H.B. 7087, Sec. 55.

¹¹ H.B. 7087, Sec. 27.

¹² H.B. 7087, Sec. 28.

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