

Florida legislative update

Overview

Florida Governor Rick Scott recently signed into law House Bill 7099 (H.B. 7099),¹ which makes various changes to Florida's tax laws. Notable provisions of the new law include:

- Updating Florida's federal tax conformity date to the Internal Revenue Code (IRC) as in effect on January 1, 2016
- Decoupling from federal bonus depreciation for property placed in service after December 31, 2014 and before January 1, 2021
- Changing the due dates for corporate income tax returns, partnership information returns and estimated payments
- Making permanent the sales and use tax exemption for industrial machinery and equipment purchased by an eligible manufacturing business for use in manufacturing
- Establishing a three-day back-to-school sales tax holiday beginning August 5, 2016

This Tax Alert summarizes these changes and provide a brief overview of some of the more significant provisions of the new law.

Federal conformity

H.B. 7099 updates the Florida Income Tax Code to adopt the IRC as in effect on January 1, 2016.² However, as discussed below, H.B. 7099 expressly decouples from federal bonus depreciation provided under the Consolidated Appropriations Act of 2016 (Pub. L. No. 114-113).³

Bonus depreciation

Prior to the enactment of H.B. 7099, a bonus *addition* modification was required for Florida tax purposes for property placed in service after December 31, 2007 and before January 1, 2015. H.B. 7099 updates Florida 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 IRC §§ 167 and 168(k) for property placed in service after December 31, 2014 and before January 1, 2021.⁴

H.B. 7099 made no changes to the *subtraction* modifications relating to bonus depreciation.⁵ A subtraction equal to one-seventh of the addition modification for bonus depreciation is provided for the taxable year in which the addition modification is required, and for each of the six subsequent taxable years. As was the case with the prior Florida bonus depreciation provisions, the subtraction modifications are to be made regardless of whether the property remains in the taxpayer's possession.

Prior to H.B. 7099, an addition modification was required for Florida tax purposes for IRC § 179 expense in excess of \$128,000 for property placed in service during taxable years ending after December 31, 2007 and before January 1, 2015. However, H.B. 7099 does not include a decoupling provision for IRC § 179 expenses for property placed in service during taxable years ending after December 31, 2014.

Corporate income tax return and partnership information return filing due dates for taxable years beginning on or after January 1, 2016 are changed

H.B. 7099 changes the due dates for Florida corporate income tax returns and partnership information returns for taxable years beginning on or after January 1, 2016⁶ and are a response to the federal tax return due date changes enacted by the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (Pub. L. No. 114-41). Prior to H.B. 7099, Fla. Stat. § 220.222(1) provided that partnership information returns were due on the

¹ H.B. 7099, 2016 Leg. Reg. Sess. (Fla. 2016), Chap. 2016-220, Laws of Florida (signed by Governor Scott on April 13, 2016); a copy of the enrolled version, [available here](#).

² H.B. 7099, Sec. 13, amending Fla. Stat. § 220.03(1)(n).

³ H.B. 7099, Sec. 14, amending Fla. Stat. § 220.13(1)(e).

⁴ H.B. 7099, Sec. 14, amending Fla. Stat. § 220.13(1)(e)1.

⁵ As previously provided in Fla. Stat. § 220.13(1)(e)1.

⁶ H.B. 7099, Sec. 16, amending Fla. Stat. § 220.222.

first day of the fifth month following the close of the taxable year and that corporate income tax returns were due on the first day of the fourth month following the close of the taxable year or the fifteenth day following the due date of the related federal return without extensions.

For taxable years beginning on or after January 1, 2016, H.B. 7099 amends Fla. Stat. § 220.222(1) to provide that partnership information returns are due on the first day of the fourth month following the close of the taxable year and corporate income tax returns are due on the first day of the fifth month following the close of the taxable year or the fifteenth day following the due date of the related federal return without extensions.⁷ The following chart illustrates changes to the Florida original and extended due dates:

Return type	Prior law	New law ⁸
Partnership (calendar year)	Taxable years beginning before January 1, 2016 (extension due date in parentheses) May 1 (November 1)	Taxable years beginning on or after January 1, 2016, and before December 31, 2025 (extension due date in parentheses) April 1 (September 1)
Partnership (fiscal year ending other than June 30 or December 31)⁹	1st day of the 5th month following the close of taxable year (6 months)	1st day of the 4th month following the close of taxable year (6 months)
C-corporation (calendar year)	April 1 (October 1)	May 1 (October 1)
C-corporation (fiscal year ending other than June 30 or December 31)	1st day of the 4th month following the close of taxable year or the 15th day following the due date of the related federal return without extensions (6 months)	1st day of the 5th month ¹⁰ following the close of taxable year or the 15th day following the due date of the related federal return without extensions (6 months)

H.B. 7099 changes the date many taxpayers are required to file a declaration of estimated tax. Applicable for taxable years beginning on or after January 1, 2017, the first date taxpayers may be required to file a declaration of estimated tax is changed to the first day of the sixth month of each taxable year, except for taxpayers with a June 30 year end, which may be required to file the declaration on the first day of the fifth month of the taxable year.¹¹

Sales tax exemption for industrial machinery and equipment used in manufacturing

Effective July 1, 2016, H.B. 7099 amends Fla. Stat. § 212.08(7)(kkk) to make permanent the sales and use tax exemption for industrial machinery and equipment used at a fixed location within Florida by an eligible manufacturing business.¹² The definition of manufacturing businesses eligible for the exemption is expanded to include businesses whose primary activity (activity representing greater more than 50 percent of all activities) at the location where the industrial machinery and equipment is located is within 2007 North American Industry Classification System (NAICS) code 423930 (metal recyclers). In addition, certain businesses primarily engaged in postharvest activity within 2007 NAICS code 115114 are now made eligible for the exemption. The sales and use tax exemption for a mixer drum affixed to a mixer truck and the parts and labor required to affix the drum to the truck continues to be subject to an April 30, 2017, repeal date.¹³

⁷ H.B. 7099 Sec. 16, amending Fla. Stat. § 220.222(1)(a)-(b).

⁸ H.B. 7099 Sec. 16, amending Fla. Stat. § 220.222(1)-(2); The Chart does not address due dates for taxable years beginning on or after January 1, 2026.

⁹ H.B. 7099 Sec. 16, amending Fla. Stat. § 220.222(2)(d); providing that a taxpayer with a June 30 taxable year end is entitled to a seven-month extension.

¹⁰ Id. H.B. 7099 Sec. 16, amending Fla. Stat. § 220.222(1)(b); providing that a taxpayer with a June 30 taxable year end is required to file a return on the first day of the fourth month following the close of tax year or the fifteenth day following the due date of the related federal return without extensions. A June 30 taxable year-end taxpayer is entitled to a seven-month extension.

¹¹ H.B. 7099 Sec. 17, amending Fla. Stat. § 220.241(1)-(2).

¹² H.B. 7099 Sec. 12, amending Fla. Stat. § 212.08(7)(kkk). Note – the exemption, prior to the enactment of H.B. 7099, was slated to be repealed on April 30, 2017.

¹³ Id. H.B. 7099 moves the sales and use tax exemption for a mixer drum affixed to a mixer truck in Fla. Stat. § 212.08(7)(kkk)1 to Fla. Stat. § 212.08(7)(kkk)4.

A three-day, back-to-school sales tax holiday beginning August 5, 2016

Beginning August 5, 2016, through August 7, 2016, H.B. 7099 provides that no sales tax may be collected on the retail sale of the following items:¹⁴

- Clothing, footwear, wallets, and certain bags (including handbags, backpacks, fanny packs, and diaper bags), having a sales price of \$60 or less per item; and
- School supplies having a sales price of \$15 or less per item.

This three-day, sales tax holiday does not extend to items sold in a theme park, within a public lodging establishment, or within an airport.¹⁵ In addition, 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.¹⁶

Other provisions

Other notable provisions of H.B. 7099, effective July 1, 2016 unless otherwise noted, include:

- Changes to certain limits for the aviation fuel tax exemptions.¹⁷
- Modifications to the alcohol and tobacco taxes imposed on cruise ships.¹⁸
- Clarifies provisions governing certain local economic development property tax exemptions.¹⁹
- Provides a sales tax exemption for certain sales by veteran's service organizations.²⁰
- Reduces the beverage tax rate on pear cider.²¹
- Modifies provisions governing purchases of airplanes for registration in a foreign country.²²

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¹⁴ H.B. 7099 Sec. 24, amending Fla. Stat. Ch. 212.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ H.B. 7099 Secs. 6-7, amending Fla. Stat. § 206.9825 effective July 1, 2016 and July 1, 2019.

¹⁸ H.B. 7099, Sec. 22, amending Fla. Stat. § 565.02.

¹⁹ H.B. 7099, Secs. 2-3, amending Fla. Stat. §§196.012 and 196.1995 effective April 13, 2016.

²⁰ H.B. 7099, Sec. 12, amending Fla. Stat. § 212.08(7)(n).

²¹ H.B. 7099 Sec. 21, amending Fla. Stat. § 564.06(4).

²² H.B. 7099, Sec. 10, amending Fla. Stat. § 212.05(1)(a)2.a.