

May 3, 2002

Corporate Income Tax -- Bonus Depreciation. CORPORATE TAXPAYERS RECEIVING BONUS DEPRECIATION UNDER THE FEDERAL JOB CREATION AND WORKER ASSISTANCE ACT OF 2002 (SECTIONS 168(k) OR 1400L OF THE INTERNAL REVENUE CODE), MUST ADJUST THEIR NEBRASKA INCOME TAX RETURNS TO ADD BACK A PORTION OF SUCH BONUS DEPRECIATION.

Advice has been requested as to whether corporations which received bonus depreciation under certain federal law provisions must adjust their Nebraska income tax returns to add back a portion of such bonus depreciation.

Due to recent legislation enacted by the Nebraska Legislature, for Nebraska income tax returns filed after September 10, 2001, corporate taxpayers must increase federal taxable income by eighty-five percent of any amount of bonus depreciation received under the Job Creation and Worker Assistance Act of 2002 (sections 168(k) or 1400L of the Internal Revenue Code of 1986, as amended), for assets placed in service after September 10, 2001, and before September 11, 2004.

Specifically, eighty-five percent of bonus depreciation deducted on a tax year 2000 or 2001 federal income tax return should be entered as an "other adjustment" on line 6, Nebraska Schedule A, Form 1120N (for 2001 returns), or line 5, Nebraska Schedule A, Form 1120N (for 2000 returns). If an original Nebraska Form 1120N has already been filed, report the increase on an Amended Nebraska Corporation Income Tax Return, Form 1120XN.

For a corporation with a unitary business having activity both inside and outside the state, federal taxable income shall be increased by the full amount of bonus depreciation received and the increase shall be apportioned to Nebraska in the same manner as income is apportioned to the state pursuant to Neb. Rev. Stat. § 77-2734.05.

The amount of bonus depreciation added to federal taxable income for Nebraska purposes shall be subtracted in later taxable years as follows:

Twenty percent of the total amount of bonus depreciation added back may be subtracted in the corporation's first taxable year beginning or deemed to begin on or after January 1, 2005, as determined under the Internal Revenue Code of 1986, as amended; and

Twenty percent in each of the next four following taxable years.

APPROVED:



Mary Jane Egr  
State Tax Commissioner

May 3, 2002