

May 3, 2002

Individual Income Tax -- Bonus Depreciation. INDIVIDUALS 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 individuals who 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, individual taxpayers must increase federal adjusted gross 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 on line 43, Nebraska Schedule I, Form 1040N (for 2001 returns), or line 41, Nebraska Schedule I, Form 1040N (for 2000 returns). If an original Nebraska Form 1040N has already been filed, report the increase on the appropriate amended Nebraska return.

For any bonus depreciation received by partnerships, limited liability companies, cooperatives (including any cooperative exempt from income taxes under section 521 of the Internal Revenue Code of 1986, as amended), S corporations, or joint ventures, the increase shall be distributed to the partners, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for purposes of calculating their tax liabilities on their Nebraska Individual Income Tax Returns, Forms 1040N. The increase shall be modified to exclude the portion of bonus depreciation received from an S corporation or a limited liability company that is not derived from or connected with Nebraska sources as determined in Neb. Rev. Stat. §77-2734.01.

The amount of bonus depreciation added to federal adjusted gross 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 individual'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

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