

Notice concerning O.R.C. 5701.11 and "miscellaneous federal tax adjustments"

Because of recent amendments to Ohio Revised Code section 5701.11 (reproduced below), taxpayers will not have to make any "miscellaneous federal tax adjustments" on their year 2008 Ohio income tax returns, their year 2008 school district income tax returns, and their year 2009 corporate franchise tax reports. Furthermore, residents of "earned income only" school districts should enter -0- on line 18 on page 2 of form SD 100 for year 2008. In the case of the Ohio income tax, miscellaneous adjustments are made on lines 33d and 45d on page 3 of the 2008 IT 1040 (examples below):

d. Nonmedical withdrawals from an Ohio medical savings account, lump sum distribution add-back and miscellaneous federal income tax adjustments	d.
d. Repayment of income reported in a prior year and miscellaneous federal tax adjustments	d.

HOWEVER, the recent legislation does not change taxpayer responsibilities when it comes to Internal Revenue Code (I.R.C.) section 168(k) bonus depreciation and I.R.C. section 179 first-year depreciation. Taxpayers must continue to make the "5/6 add-back" for taxable year 2008 and may continue to take the "1/5 deduction" each year for the five years immediately following the year of the "5/6 add-back."

See, for example, lines 33g and 45f on page 3 of the 2008 form IT 1040. See also Ohio Revised Code sections 5733.04(I)(17), 5733.04(I)(18), 5733.40(A)(5), 5747.01(A)(20), 5747.01(A)(21), and 5747.01(14).

Taxpayers with additional questions about this subject may wish to visit tax.ohio.gov. Taxpayers may submit a question to the department by choosing the "Contact Us" option found on the last entry of the menu on the left-hand side of the page.

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Ohio Revised Code section 5701.11 as amended by Substitute House Bill 458, 127th General Assembly; effective December 30, 2008, the date on which Governor Strickland signed this bill: ¹

The effective date to which this section refers is the effective date of this section as amended by H.B. 157 Sub. H.B. 458 of the 127th general assembly.

(A)(1) Except as provided under division (A)(2) or (B) of this section, any reference in Title LVII of the Revised Code to the Internal Revenue Code, to the Internal Revenue Code "as amended," to other laws of the United States, or to other laws of the United States, "as amended," means the Internal Revenue Code or other laws of the United States as they exist on the effective date.

(2) This section does not apply to any reference in Title LVII of the Revised Code to the Internal Revenue Code as of a date certain specifying the day, month, and year, or to other laws of the United States as of a date certain specifying the day, month, and year.

¹ Section 4 of the bill reads as follows: "SECTION 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to immediately clarify the terms governing the provision of health care to township officers and employees and preclude unnecessary recoveries. Therefore, this act shall go into immediate effect."

(B)(1) For purposes of applying section 5733.04, 5745.01, or 5747.01 of the Revised Code to a taxpayer's taxable year ending after December 28, 2006 December 21, 2007, and before the effective date, a taxpayer may irrevocably elect to incorporate the provisions of the Internal Revenue Code or other laws of the United States that are in effect for federal income tax purposes for that taxable year if those provisions differ from the provisions that, under division (A) of this section, would otherwise apply. The filing by the taxpayer for that taxable year of a report or return that incorporates the provisions of the Internal Revenue Code or other laws of the United States applicable for federal income tax purposes for that taxable year, and that does not include any adjustments to reverse the effects of any differences between those provisions and the provisions that would otherwise apply, constitutes the making of an irrevocable election under this division for that taxable year.

(2) Elections under prior versions of division (B)(1) of this section remain in effect for the taxable years to which they apply.