

Income/Franchise:

Mississippi DOR Explains New Law on Depreciation and Expensing for Some Qualifying Expenditures and Property

Notice 80-23-003, Miss. Dept. of Rev. (10/20/23). The Mississippi Department of Revenue (Department) issued guidance on legislation enacted earlier this year [see H.B. 1733, signed by gov. 3/27/23, and *State Tax Matters*, Issue 2023-13, for more details on this legislation], that revises methods of Mississippi corporate and individual income tax depreciation and expensing that may be used for certain qualifying expenditures and property. In it, the Department explains that for tax years beginning after December 31, 2022, a taxpayer may treat specified research or experimental expenditures that were paid or incurred by the taxpayer during the tax year in connection with the taxpayer's trade or business as expenses that are not chargeable to the capital account, and may elect to take a full and immediate deduction for such expenditures and/or to depreciate the expenditures in accordance with Internal Revenue Code (IRC) section 174 as it existed on January 1, 2021.

URL: <https://www.dor.ms.gov/sites/default/files/News/Depreciation%20Notice%20Draft%2010-20-23.pdf>

URL: <http://billstatus.ls.state.ms.us/2023/pdf/history/HB/HB1733.xml>

URL: https://dhub.deloitte.com/Newsletters/Tax/2023/STM/230331_4.html

Furthermore, for tax years beginning after December 31, 2022, the Department explains that expenditures for business assets that are qualified property or qualified improvement property (QIP) shall be eligible for 100% bonus depreciation and may be deducted as an expense incurred by the taxpayer during the tax year in which the property was placed in service. For such purposes, "qualified property" has the same meaning as defined in IRC section 168(k) as it existed on January 1, 2021, and QIP has the same meaning as defined in IRC section 168(e)(6) as it existed on January 1, 2021. The Department also explains that a taxpayer may elect to take a bonus depreciation deduction for such expenditures and/or to depreciate the expenditures in accordance with IRC section 168.

Lastly, the Department explains that a taxpayer may also elect to treat the cost of any IRC section 179 property that was placed in service during the taxable year as an expense which is not chargeable to a capital account, and "any cost so treated shall be allowed as a deduction for that year" – concluding that Mississippi's treatment of the deduction shall conform to the provisions of IRC section 179 in effect for that year. Please contact us with any questions.

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