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Tax Policy

The new year began with President Obama signing a legislative compromise that extended many Bush-era tax provisions set to expire in 2013. While the marginal tax rates of the American Taxpayer Relief Act of 2012 (ATRA), have no direct impact on state tax codes, certain other key provisions are likely to shape state policy. ATRA's repeal of the credit for state death taxes means states will need to revamp their estate taxes. Extended bonus depreciation and enhanced expensing fuels a growing disconnect between federal and state tax codes, but on a positive note, the one-year extension of the production tax credit for wind energy increases the likelihood that this industry will be a source of revenue and jobs.

Fiscal Cliff Compromise Wipes Out State 'Pick-Up' Estate Taxes, Continues Depreciation Disconnect, Bolsters Renewable Energy

By Steven Roll, Melissa Fernley, and Kathleen Caggiano

Steven Roll is an assistant managing editor with Bloomberg BNA. Melissa Fernley and Kathleen Caggiano are state tax law editors with Bloomberg BNA.

The American Taxpayer Relief Act of 2012 (ATRA), which President Obama signed into law Jan. 2 leaves intact most of the business tax breaks such as bonus depreciation that first took effect under President Bush. Tax incentives for alternative energy producers were extended. Large estates remain protected by a $5 million exemption.

For the most part, ATRA keeps things at the status quo for most states' tax codes, said Michael Mazerov, a senior fellow with the Center on Budget and Policy Priorities in Washington, D.C. Many aspects of ATRA, such as federal tax rates will not be reflected in state tax codes. The more significant provisions for states are those affecting the federal tax base, which is used as a starting point for computing income tax in most jurisdictions. But even here, the impact is likely to be minimal, he said. The legislation extends bonus depreciation, but Mazerov noted that the vast majority of states have already decoupled from this provision. For the handful of states that do allow bonus depreciation, the extension into 2013 will mean they will forgo a small revenue gain, he said. Renewable energy credits were also extended under ATRA, including the production tax credit for qualified wind energy facilities. States will likely see additional income and sales tax revenue from the renewable energy industry.

What is significant from the standpoint of the states is what ATRA did not do. "It could have brought back the state death tax credit, but that didn't happen," said Mazerov.

Of greater importance to the states, he said, is likely to be the tax reform proposals that Congress might consider later in the year, such as eliminating the federal deduction for state taxes. But the extent to which any changes in federal law will be reflected in state tax codes depends on the approach each jurisdiction takes to conforming to the Internal Revenue Code. Twenty four states adopt the current version of the Internal Revenue Code. Each of these jurisdictions automatically conforms their tax codes to federal changes. The remaining states conform to the Internal Revenue Code as of a specific day.

One interesting question is whether the states may want to forego the uncertainties created by tying their business tax regimes so closely to the federal Internal Revenue Code, said Steven N.J. Wlodychak, a principal with Ernst & Young in Washington, D.C. "It will be very interesting to see whether the states seek greater control and certainty in their own tax regimes by decoupling even more from federal tax law changes, perhaps even throwing out the income tax laws in their entirety," he added.

Even without federal tax reform, the outcome of the 2012 elections is likely to trigger significant changes to state tax codes. One of most important results of the elections is that in many states the same party controls both the legislature and the governor's office, said Wlodychak. "In California, for example, for the first time since 1933 one party, the Democrats, has a super-majority control in both the Senate and the House and also controls the Governor's office," he said. "The legislature and governor now have the power to completely reform California's tax laws—something unheard of even just last year when Governor Brown was unable to obtain the vote of the legislature to increase taxes and appealed to the people through referendum—Proposition 30, which temporarily increased sales and personal income tax rates," he noted.

"The same is the case in many states in the Midwest, although in these cases, it's the Republicans that have the super majority control," Wlodychak said. "This solidification of political power in one party may mean that the respective states will take direct action to reform their tax laws in ways we can't yet determine."

Estate Tax

From a state fiscal standpoint, one of the most significant aspects of ATRA was its elimination of the federal credit for state estate taxes.

At the time of the 2001 Economic Growth and Tax Relief Reconciliation Act (EGTRRA), every state had a "pick-up" estate tax which was based on the federal estate tax credit for state estate taxes. Most states imposed an estate tax exactly equal to the credit. About a dozen states imposed their own estate tax, but made sure that in the event their estate tax calculations did not result in an amount equal to or greater than the credit amount, the total tax would be raised to equal that amount.

With the passage of the 2001 EGTRRA, Congress phased out the federal credit for state estate taxes, replacing the credit with a deduction. As a result, by 2005 none of the states imposing pick-up estate taxes received any revenue. "Until 2001 the estate tax was a great gravy train for all 50 states. Now they have to blaze their own trails," said Alan S. Gassman, a partner at Gassman Law Associates, P.A. "EGTRRA's impact was severe on states that did not enact state estate taxes, or states that couldn't due to restrictions such as the state constitution in Florida," Gassman added.

Even states which retained their individual estate tax regimes lost significant revenue, as independent state regimes still took advantage of the federal credit with a residual pick-up tax. As Walter Hellerstein, Professor of Taxation at University of Georgia Law School, stated in April before the Senate Committee on Finance, by 2005 the states were "mere shadows of their former selves, because their residual pickup taxes had disappeared and they were left with only their relatively modest 'independent' inheritance or estate taxes."

While Congress temporarily reinstated the estate tax from 2010 to 2012, it did not reinstate the state estate tax credit. As a result, few were hopeful for its return in 2013, and Hellerstein predicted it was "the final chapter in federal-state tax cooperation in the death tax field." Ever hopeful, some states, like New Mexico, chose to risk including anticipated tax credit revenue in their budgets, the Tax Policy Center reported.

The American Taxpayer Relief Act of 2012 (ATRA) repealed the state estate tax credit for good, leading some states scrambling to reassess their systems. At least two states have already acknowledged the need to scrap their pick-up tax regimes and develop a new estate tax approach. The California Legislative Analyst's Office recently acknowledged that the state would not receive revenue from estate taxes without the enactment of state legislation. Similarly, the Wisconsin Department of Revenue announced on its website that "the credit for state death taxes paid, which would have been the basis for Wisconsin's estate tax, has been eliminated."

As state legislatures contemplate the future of their estate tax systems, potential residents will take the changes to the estate tax into consideration as well. States should "consider the potential negative impact such taxes have had on their citizens' wallets and the state's populations—estate taxes could be driving citizens out while also discouraging people from moving to the state," Gassman said. "We have already seen kids say 'no way you are moving back up here Dad, we can give you a private nurse for the cost of inheritance tax if you live up here with us,'" he said. It is, as Gassman stated, "a sad testament to what people will do to avoid taxes," but it is also the new reality of a system without a state estate tax credit.

Bonus Depreciation, Enhanced Expensing

ATRA extends for one additional year the current I.R.C. § 168(k) 50 percent bonus depreciation provision that applied to qualified property acquired in 2008 through 2012. As a result, instead of sunsetting in 2013, bonus 50 percent depreciation will apply to property acquired and placed in service before Jan. 1, 2014. For certain aircraft and longer production period property, the "placed in service" deadline is extended to Jan. 1, 2015.

The amendment marks the fifth time in five years that Congress has allowed accelerated depreciation of capital assets in an effort to stimulate investment. The Economic Stimulus Act of 2008 (P.L. 110-185), enacted Feb. 13, 2008, allowed an additional first-year depreciation deduction equal to 50 percent of the adjusted basis of qualified property, for both regular tax and alternative minimum tax purposes for property placed in service during 2008. The "placed in service" deadline was extended to 2009 for most types of property under the American Recovery and Reinvestment Act of 2009 (ARRA) (P.L. 111-5), enacted Feb. 17, 2009. The deadline was further extended to 2010 under the Small Business Jobs Act of 2010 (P.L. 111-240, Title II), enacted Sept. 27, 2010, and to 2012 under the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Pub. L. No. 111-312), enacted Dec. 17, 2010.

ATRA also extends the increased expensing limitations and treatment of certain real property as I.R.C. § 179 property. Like bonus depreciation, the so-called "enhanced expensing" provision was first enacted in 2008 and has been extended through successive legislative measures over the past five years. Under ATRA for taxable years beginning in 2012, after statutory amendments and IRS inflation adjustments, small businesses may elect to expense up to $139,000 of capital investment. As in previous years, this limit is reduced dollar-for-dollar, but not below zero, for each dollar of first-year expensing property placed in service in the tax year that exceeds a threshold amount. ATRA sets this threshold amount at $560,000. Prior to ATRA the threshold amount was $200,000.

Neither extension is likely to have a significant impact on the states. Many states elected against adopting either tax break. Currently, 31 states have decoupled from bonus depreciation. In these states, taxpayers must add back to federal adjusted gross income all or a portion of the federal deduction before computing state income tax. "If history is any guide, at least two-thirds of the states that impose corporate income taxes will decouple from this new round of 50 percent federal bonus depreciation provisions for 2013 adopted as part of the fiscal cliff legislation," said Jamie Yesnowitz, a principal with Grant Thornton LLP in Washington, D.C. A similar modification is required by 18 states for taxpayers who utilize the federal enhanced expensing provision.

Compliance Headaches

More likely to bear the brunt of the continuation of these federal tax breaks are tax practitioners who must grapple with disconnect between the federal and state tax codes. Further complicating matters is the disparate policies among the states. Some states allow neither bonus depreciation nor enhanced expensing, while others may allow one tax break but not the other, explained Kelly T. Bugg a manager with the accounting firm Biegel & Waller, LLP in Columbia, Maryland. Practitioners will likely need to research which states conform and do not conform with the ATRA extending provisions, conforming and nonconforming states could differ from prior years, she said.

"The lack of uniformity among the states forces taxpayers to keep multiple sets of records," said Yesnowitz. "Depreciation needs to be tracked for book purposes, for federal tax purposes, for states that completely decouple from the federal bonus depreciation provisions, and for states that provide a partial benefit for federal bonus depreciation," he said. "The issues become even more challenging in decoupling states when a taxpayer sells property subject to federal bonus depreciation during the useful life of the property," Yesnowitz added.

Differences between the federal and state adoption of "enhanced expensing" under I.R.C. § 179 also continues to vex practitioners. Small businesses frequently elect enhanced expensing at the federal level and " the poor tax preparer needs to track it for say Maryland or Virginia," said Joe Flack, a partner with Biegel & Waller. The adjustments, Flack said, can slip through the cracks. If a taxpayer changes accountants, the state adjustments taken over five to seven years can disappear if the new accountant doesn't ask for the workpapers," Flack added.

While the trend has been for states to decouple from bonus depreciation, at least one jurisdiction is using the tax break as a way to encourage businesses to hire more employees within its borders. Ohio recently enacted legislation (H.B. 365) amending its personal income tax to allow owners of pass-through entities that increase income tax withholding by at least 10 percent in the preceding tax year to greater deductions for bonus depreciation and enhanced expensing at the state level. "Clearly, these new Ohio provisions are being implemented to give business owners of pass-through entities an incentive to increase the business footprint in Ohio—by hiring more employees subject to Ohio income tax withholding, said Yesnowitz. "For states that plan on partially or fully decoupling from the federal bonus depreciation provisions for personal or corporate income tax purposes, it may be desirable for them to consider whether preferential state-specific bonus depreciation for in-state job creators could be adopted as a means to encourage economic development," he said. "Of course," Yesnowitz added, "such a plan, if adopted in a number of states, could make determining the proper amount of depreciation to be taken on a state-by-state basis that much more of a challenge."

Extension of Renewable Energy Credits

A more positive development for the states is ATRA's extension of federal energy credits, including the production tax credit under I.R.C. § 45. The credit is extended for qualified wind energy facilities from Jan. 1, 2013 to Jan. 1, 2014. The states are likely to see additional income and sales tax revenue from the renewable energy industry, said Karl Gawell, Executive Director of the Geothermal Energy Association. Also, "the states will likely see more jobs created in the geothermal industry sector," Gawell said. In addition, "[w]ith the extension now in place, . . . the [wind] industry can proceed with the development process of pursuing power purchase agreements, raising capital, placing orders for turbines, activating the supply chain, and construction, all of which create and maintain jobs" a spokesman for the American Wind Energy Association (AWEA) told BNA.

While many states offer their own tax credits for the production of renewable energy, these incentives are not sufficient, by themselves, to sustain growth, said Gawell. Despite the fact "[s]tates have always served as leaders in renewable energy policy, . . . [a] national policy is needed to maintain U.S. manufacturing working in tandem with policy leadership from the states," the AWEA spokesman said.

But ATRA did not resolve the uncertainty surrounding the federal tax production credit. Because the provision was extended only for one year, it makes it difficult for the renewable energy industry to engage in long-term investments and planning that would likely benefit the states.

The chart below shows each state's approach to conforming to the Internal Revenue Code, treatment of bonus depreciation and enhanced expensing, and estate tax regime.

State Conformity to Federal Tax Breaks

State	I.R.C. Conformity.	Bonus Depreciation (I.R.C. § 168(k))	Enhanced Expensing (I.R.C. § 179)	Estate Tax
Alabama	Current [Ala. Code § 40-18.1.1; Ala. Admin. Code r. 810-3-1.1-.01]	Conforms beginning with the 2009 tax year, but not for certain assets placed in service in the 2008 tax year. [Ala. Code §40-18-33; Ala. Admin. Code r. 810-3-1.1-.01; *see also* I.R.C. §168(k). Alabama Revenue Policy - Decoupling from Federal Bonus Depreciation and Additional Federal Section 179 Provisions]	Conforms to the federal treatment of asset expensing beginning with the 2009 tax year. [Ala. Code §40-18-33; Ala. Code §40-18-1.1; Ala. Admin. Code r. 810-3-1.1-.01. *See also* I.R.C. §179. See Alabama Revenue Policy - Decoupling from Federal Bonus Depreciation and Additional Federal Section 179 Provisions]	Pick-up tax. [Ala. Code § 40-15-2]

Alaska	Current. [Alaska Stat. §§43.20.021 and 43.20.300]	Conforms. [Alaska Stat. §43.20.021(a); Alaska Stat. §43.20.300; Alaska Stat. §43.20.340(6)]	Conforms. [Alaska Stat. §43.20.021(a); Alaska Stat. §43.20.300; Alaska Stat. §43.20.340(6)]	Pick-up tax. [Alaska Stat. § 43.31.011]
Arizona	Jan. 1, 2012 [Ariz. Rev. Stat. Ann. §§42-102, -105, -1121, and -1122]	Does not conform. [Ariz. Rev. Stat. Ann. §43-105; Ariz. Rev. Stat. Ann. §43-1021(26); Ariz. Rev. Stat. Ann. §43-1022(28); Ariz. Rev. Stat. Ann. §43-1121(1); Ariz. Rev. Stat. Ann. §43-1122(1); Arizona Corporation Income Tax Return, Form 120. *See also* I.R.C. §168(k)]	Does not conform. [Ariz. Rev. Stat. Ann. §43-1021(27); Ariz. Rev. Stat. Ann. §43-1121(1); Arizona Corporation Income Tax Return, Form 120]	No state estate tax. [Ariz. Rev. Stat. Ann. § 42-4051]
Arkansas	Various versions of the I.R.C., as amended, and in effect Jan. 1, 2009, with some exceptions for specific provisions. [Ark. Code Ann. §26-51-404]	Does not conform. [Ark. Code Ann. §26-51-428; Ark. Code Ann. §26-51-404. See Ark. Dept. of Fin. & Admin., Corporation Income Tax Booklet; Ark. Dept. of Fin. & Admin., Corporation Income Tax Return, Form AR1100CT]	Arkansas conforms to I.R.C. §179 as in effect on Jan. 1, 2009, for property purchased in tax years beginning on or after Jan. 1, 2009. [Ark. Code Ann. §26-51-428]	Pick-up tax. [Ark. Code Ann. §§ 26-59-106, 26-59-107]
California	Jan. 1, 2009 [Cal. Rev. & Tax. Code §§17024.5 and 23051.5]	Does not conform. [Cal. Rev. & Tax. Code §23051.5; California FTB Form 3885	Does not conform. [Cal. Rev. & Tax. Code §24356(b); California Form 3885: Corporation Depreciation and Amortization. *See also* I.R.C. §179]	Pick-Up Tax [Cal. Rev. & Tax. Code § 13302]
Colorado	Current. [Colo. Rev. Stat. §39-22-103(5.3)]	Conforms. [Colo. Rev. Stat. §§ 39-22-103, -103(5.3), and -304]	Conforms. [Colo. Rev. Stat. §§39-22-103, and -304(1)]	Pick-up tax. [Colo. Rev. Stat. § 39-23.5-103]
Connecticut	Current. [Conn. Gen. Stat. §12-213(a)(23)]	Does not conform. [Conn. Gen. Stat. §12-217(b)(1); Connecticut Announcement AN 2008(7); *See also* I.R.C. §168(k)]	Conforms. [Conn. Gen. Stat. §12-213(a)(23); Conn. Gen. Stat. §12-217(a)(1)]	Separate estate tax, $2 million exemption. [Conn. Gen. Stat. § 12-391]
Delaware	Current. [Del. Code Ann. tit. 30, §1903]	Conforms. [Del. Code Ann. tit. 30, §1903]	Conforms. [Del. Code Ann. tit. 30, §1901(10); Del. Code Ann. tit. 30, §1903; I.R.C. §179]	Pick-up tax. [Del. Code Ann. tit. 30, § 1502]

District of Columbia	Current. [D.C. Code Ann. §47-1801.04(28A)]	Does not conform. [D.C. Code Ann. §47-1803.03(a)(7); District of Columbia Form D-20: Corporate Franchise Tax Forms and Instructions]	Does not conform. [D.C. Code Ann. §47-1803.03(a)(18); District of Columbia Form D-20: Corporate Franchise Tax Forms and Instructions]	Separate estate tax, $1 million exemption. [D.C. Code Ann. §§ 47-3701, 47-3702]
Florida	Jan. 1, 2012 [Fla. Stat. §220.03(1)(n)]	Follows federal rules for tax years before 2008. However, federal bonus depreciation under I.R.C. §168(k) must be added back for property placed in service in 2008 or later. For those tax years and the next six subsequent taxable years, the taxpayer may subtract $^{1}/_{7}$ of the addition. [Fla. Stat. §220.13(1)(e); Florida Tax Information Publication 11C01-01 (July 18, 2011); Fla. Stat. §220.03(1)(n), Fla. Admin. Code Ann. r. 12C-1.013(14) (a)-(b)]	Does not conform. [Fla. Stat. §§ 220.03(1)(n), 220.03(3), and 220.13(1)(e)(2); Fla. Admin. Code Ann. r. 12C-1.013(14) (a)-(b); Florida Tax Information Publication 11C01-01 (July 18, 2011)]	Pick-up tax. [Fla. Stat. § 198.02]
Georgia	Jan. 1, 2012 [Ga. Code Ann. §48-1-2(14)]	Does not conform. [Ga. Code Ann. §48-1-2(14); Georgia Form 600 Instructions]	Does not conform. [Ga. Code Ann. §48-1-2(14); Ga. Dept. of Rev., Corporation Income Tax Return Form and General Instructions; Ga. Dept. of Rev., Form 4562 and Instructions; Ga. Dept. of Rev., Federal Tax Changes and How They Affect 2010 Returns (Apr. 2011)]	Pick-up tax. [Ga. Code Ann. § 48-12-2]
Hawaii	Dec. 31, 2011 [Haw. Rev. Stat. §235-2.3]	Does not conform. [Haw. Rev. Stat. §§235-2.3(a), and -2.4(k); Hawaii Announcement No. 2002-05 (May 14, 2002)]	Does not conform. [Form N-30, Corporation Income Tax Return, Instructions]	Separate estate tax, $3.6 million exemption. [Haw. Rev. Stat. §§ 136D-1 to -18, as amended by 2010 H.B. 2866]

Idaho	Jan. 1, 2012 [Idaho Code §63-3004]	Conforms except for those changes made for property acquired and placed in service after 2007 and before 2010. [Idaho Code §§63-3004, and -3022O(1); Idaho Tax Update (June 2011); Idaho State Tax Comn., Idaho Tax Commission News Release (Feb. 24, 2011); Idaho Conformity to Federal Internal Revenue Code]	Conforms. [Idaho Code §63-3004]	Pick-up tax. [Idaho Code § 14-403]
Illinois	Current. [35 ILCS 5/1501(a)(11)]	With the exception of the 100 percent bonus depreciation deduction for property placed in service after Sept. 8, 2010, through Dec. 31, 2011, does not conform to the bonus depreciation deduction under I.R.C. §168(k). [35 ILCS 5/203(b)(2)(E-10); Illinois Form IL-4562; Ill. Dept. of Rev., Information Bulletin FY 2003-02, Illinois Decouples From Federal Law (Aug. 2002)]	Conforms. [35 ILCS 5/102, and 5/1501(a)(11)]	Separate estate tax, $2 million exemption. [35 ILCS 405/3(a)]
Indiana	Jan. 1, 2011 [Ind. Code Ann. §6-3-1-11]	Does not conform. [Ind. Code Ann. §§6-3-1-11,-3.5(b)(5), and -33; Ind. Dept. of Rev., Indiana Form IT-20: Corporate Income Tax Booklet. *See also* I.R.C. §168(k)]	Does not conform. [Ind. Code Ann. §6-3-1-3.5(b)(7); Ind. Dept. of Rev., Indiana Form IT-20: Corporate Income Tax Booklet]	Pick-up tax. [Ind. Code Ann. § 6-4.1-11-2]
Iowa	Jan. 1, 2012 [Iowa Code Ann. §422.3]	Does not conform. [Iowa Code Ann. §422.35(19); Iowa Admin. Code r. 701-53.22(422); Iowa Dept. of Rev., Iowa Tax e-News (Dec. 2010)]	Iowa conforms for 2010 and 2011. [Iowa Code Ann. §422.32(7); Iowa Dept. of Rev., Iowa Corporate Income Tax Return Instructions; Tax Year 2011 Income Tax Information for Iowa Taxpayers]	Pick-up tax. [Iowa Code Ann. § 451.13]

Kansas	Current. [Kan. Stat. Ann. §79-32,109(a)]	Conforms. [Kan. Stat. Ann. §§79-32,109(a), and -32,138. *See also* I.R.C. §168(k)]	Conforms. [Kan. Stat. Ann. §§79-32,109(a), and -32,138]	No state estate tax. [Kan. Stat. Ann. § 79-15]
Kentucky	Dec. 31, 2006 [Ky. Rev. Stat. Ann. §141.010(3)]	Does not conform. [Ky. Rev. Stat. Ann. §§141.010(3), (10) and (12), and 141.0101; Ky. Dept. of Rev., Kentucky Form 720(I): Corporate Income Tax & LLET Return Instructions]	Does not conform. [Ky. Rev. Stat. Ann. §141.010(3), (10) and (12); Ky. Rev. Stat. Ann. §141.0101; Ky. Dept. of Rev., Kentucky Form 720(I); Corporate Income Tax & LLET Return Instructions]	Pick-up tax. [Ky. Rev. Stat. Ann. § 140.130(1)]
Louisiana	Current. [La. Rev. Stat. Ann. §47:287.701(A)]	Conforms. [La. Rev. Stat. Ann. §47:287.701(A); La. Dept. of Rev., Louisiana Revenue Information Bulletin 08-008 (May 6, 2008)]	Conforms. [La. Rev. Stat. Ann. §§47:287.65, and .701(A)]	Pick-up tax. [La. Rev. Stat. Ann. § 2431]
Maine	Dec. 31, 2011 [Me. Rev. Stat. Ann. §§111(1-A) and 5102(1-C)]	Does not conform. [Me. Rev. Stat. Ann. §§5200-A(1)(T) and 5200-A(2)(R); Maine Rev. Svcs., Maine Income Modifications Related to Bonus Depreciation and Section 179 Expensing (revised Feb. 2012)]	Conforms for property placed in service in 2011 and later years. [Me. Rev. Stat. Ann. §5200-A(1)(N). *See* Maine Rev. Svcs., "Maine Income Modifications Related to Bonus Depreciation and Section 179 Expensing," (revised Feb. 2012)]	Separate estate tax, $2 million exemption. [Me. Rev. Stat. Ann. § 4103, as amended by L.D. 1043]
Maryland	Current. [Md. Code Ann. Tax-Gen. §§10-107 and 10-304]	Does not conform. [Md. Code Ann. Tax-Gen. §§10-210.1(b)(3) and 10-310; Maryland Administrative Release No. 38 (Sept. 2010)]	Does not conform. [Md. Code Ann. Tax-Gen. §§10-210.1(b)(3) and 10-310; Maryland Administrative Release No. 38 (Sept. 2010); Md. Comp. of the Treas., Maryland Form 500DM: Decoupling Modification]	Separate estate tax, $1 million exemption. [Md. Code Ann., Tax-Gen. §§ 7-302, 7-304, 7-309]
Massachusetts	Current. [Mass. Gen. L. ch 63, §1]	Does not conform. [Mass. Gen. L. ch. 63, §30(4)(iv); Massachusetts Technical Information Release TIR 02-11 (Aug. 1, 2002); Massachusetts Technical Information	Conforms. [Mass. Gen. L. ch. 63, §30(4)]	Separate estate tax, $1 million exemption. [Mass. Gen L. ch. 65C, § 2A]

		Release TIR 03-25 (April 29, 2004)]		
Michigan	Either the Jan. 1, 2012, or the current at the taxpayer's option. [Mich. Comp. Laws §208.1111(3)]	Does not conform. [Mich. Comp. Laws §§ 206.607(1), 208.1109(3); Mich. Dept. of Treas., Michigan Form 4600: Michigan Business Tax Forms & Instructions for Standard Taxpayers]	Conforms. [Mich. Comp. Laws §208.1111]	Pick-up tax. [Mich. Comp. Laws § 205.232]
Minnesota	April 14, 2011 [Minn. Stat. §290.01(19)]	Does not conform. [I.R.C. §168(k); Minn. Stat. §290.01(19c)(15)]	Does not conform. [Minn. Stat. §290.01(19c)(16)]	Separate estate tax, $1 million exemption. [Minn. Stat. § 291.03]
Mississippi	Current. [Miss. Code Ann. §27-7-103]	Does not conform. [Miss. Code Ann. §§27-7-15, -17(1)(f); Miss. Regs. §35.III.05.04.101]	Does not conform. [Miss. Code Ann. §27-7-17(1)(f); Miss. Regs. §35.III.05.04.103]	Pick-Up Tax [Miss. Code Ann. § 27-9-5]
Missouri	Current. [Mo. Rev. Stat. §143.091]	Conforms. [Mo. Rev. Stat. §143.121(3)(g); Mo. Dept. of Rev., Missouri Form MO-1120: Corporation Income Tax Instructions]	Does not conform. [Mo. Rev. Stat. §143.091; Mo. Dept. of Rev., Form MO-1120: Corporation Income Tax Instructions]	Pick-up tax. [Mo. Rev. Stat. § 145.011]
Montana	Current. [Mont. Code Ann. §15-31-113]	Conforms. [Mont. Code Ann. §§15-31-114, -113]	Conforms. [Mont. Code Ann. §15-31-114]	Pick-up tax. [Mont. Code Ann. §§ 72-16-904, 72-16-905]
Nebraska	Current. [Neb. Rev. Stat. §77-2714]	Conforms. [Neb. Rev. Stat. §§77-2714, and -2734.04(6)] But, for tax years 2000 through 2005, does not conform to the federal rules and requires taxpayer to make an additional modification to federal taxable income when computing Nebraska taxable income. [Neb. Rev. Stat. §77-2716(9)(a); Nebraska Revenue Ruling 24-08-2, Oct. 6, 2008; Nebraska Revenue Ruling 24-02-1, May 3, 2002]	Conforms.	No state estate tax. [Neb. Rev. Stat. § 77-2101.01(1)]
Nevada	N/A	Does not impose a corporate income tax.	Does not impose a corporate income tax.	Pick-up tax. [Nev. Rev. Stat. § 375A.100]

New Hampshire	Dec. 31, 2000 [N.H. Rev. Stat. Ann. §77-A:1,XX]	Does not conform. [N.H. Rev. Stat. Ann. §77-A:1(XX); N.H. Dept. of Rev. Admin., TIR 2002-002, April 15, 2002]	Does not conform. [N.H. Rev. Stat. Ann. §77-A:1(XX)(l); N.H. Dept. of Rev. Admin., Schedule R, Corporate Business Profits Tax Reconciliation of New Hampshire Gross Business Profits, Instructions]	Pick-up tax. [N.H. Rev. Stat. Ann. § 87:1]
New Jersey	No specific conformance policy. [N.J. Rev. Stat. §54:10a-4(k)]	Does not conform. [N.J. Rev. Stat. §54:10A-4(k)(12); N.J. Admin. Code tit. 18, §7-5.2(a)(2)(iv); N.J. Div. of Taxn., Technical Advisory Memorandum No. 12 (Feb. 15, 2011); N.J. Div. of Taxn., New Jersey Form CBT-100: Corporation Business Tax Instructions]	Does not conform. [N.J. Rev. Stat. §54:10A-4(k)(13); N.J. Admin. Code tit. 18, §7-5.2(a)(1)(xxi); N.J. Div. of Taxn., Technical Advisory Memorandum No. 12 (Feb. 15, 2011); New Jersey Technical Advisory Memorandum No. 20 (Sept. 8, 2011); Schedule S Part II(B) of the New Jersey CBT-100 return]	Separate estate tax, $675,000 exemption. [N.J. Rev. Stat. § 54:38-1]
New Mexico	Current. [N.M. Stat. Ann. §7-2A-2(G)]	Conforms. [N.M. Stat. Ann. §7-2A-2 (G)]	Conforms. [N.M. Stat. Ann. §7-2A-2]	Pick-up tax. [N.M. Stat. Ann. §§ 7-7-3, 7-7-4]
New York	Current. [N.Y. Tax Law §208]	Does not conform, except for qualified resurgence zone property and qualified New York Liberty Zone Property. [N.Y. Tax Law §208(9)(b)(17); N.Y. Dept. of Taxn. and Fin., TSB-M-08(8)C (June 9, 2008); Form CT-399, Depreciation Adjustment Schedule]	Conforms. [N.Y. Tax Law §208(9)(a)(16)]	Separate estate tax, $1 million exemption. [N.Y. Tax Law §§ 951, 971]
North Carolina	Jan. 1, 2012 [N.C. Gen. Stat. §105-228.90(b)(1b)]	Does not conform. [N.C. Gen. Stat. §§105-130.5(a)(15b), and -130.5(c)(8b); N.C. Dept. of Rev., Notice (May 24, 2011)]	Conforms for 2008 and 2009, but not for 2010 and 2011. [N.C. Gen. Stat. §105-228.90; N.C. Dept. of Rev., Adjustment for §179 Expense Deduction, May 24, 2011]	Separate estate tax, $5 million exemption. [N.C. Gen. Stat. § 105-32.2]
North Dakota	Current. [N.D. Cent. Code §57-38-01(5)]	Conforms. [N.D. Cent. Code §§57-38-01(5), (12), and -01.3]	Conforms. [N.D. Cent. Code §§57-38-01(5),(12), and -01.3]	Pick-up tax. [N.D. Cent. Code § 57-37.1-04]

Ohio	March 7, 2011 [Ohio Rev. Code Ann. §§5733.04(G), 5701.11]	Does not conform. [Ohio Rev. Code Ann. §§5733.04(I)(17)(a)(i), and 5747.01(A)(20); Ohio Dept. of Taxn., Ohio Information Release CFT 2002-01 (2002)]	Does not conform. [Ohio Rev. Code Ann. §5733.04(I)(17)(a)(ii); Ohio Rev. Code Ann. §5747.01(A)(20); Ohio Dept. of Taxn., Ohio Information Release CFT 2002-01 (July 31, 2002)]	No state estate tax. [Ohio Rev. Code Ann. § 5731.02]
Oklahoma	Current. [Okla. Stat. Ann. tit. 68, §2353(2)]	Does not conform. [Okla. Stat. Ann. tit. 68, §2358.6] But no adjustment is required for those entities claiming the 100% bonus depreciation received under the federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Pub. L. No. 111-312). [Okla. Tax Commn, How Does Oklahoma Deal with Federal Bonus Depreciation?]	Conforms, but for the 2009 tax year, taxpayers must make an additional modification to federal taxable income amounts in excess of $175,000. [Okla. Stat. Ann. tit. 68, §2353(2); Oklahoma Corporation Income Tax Return Instructions]	Pick-up tax. [Okla. Stat. Ann. tit. 68, § 804]
Oregon	Current [Or. Rev. Stat. §314.011]	For tax year 2011, the legislature has reinstated a full, rolling reconnect including the depreciation provisions. [*See* Or. Rev. Stat. §317.301, amended by S.B. 301, effective Sept. 29, 2011. Oregon Form 20I Instructions] For tax years 2009 and 2010, does not conform. [Or. Rev. Stat. §317.010(7); Or. Dept. of Rev., 2009 Corporate Tax Law Changes]	Conforms for tax years 2008 and beginning after 2011. [Or. Rev. Stat. §317.010(7); Or. Dept. of Rev., 2009 Corporate Tax Law Changes; 2011 Corporate Tax Law Changes]	Separate estate tax, $1 million exemption. [Or. Rev. Stat. § 118.010]
Pennsylvania	Current. [72 Pa. Cons. Stat. §7401(3)]	Does not conform for property placed in service before Sept. 8, 2010. But conforms to the federal treatment of bonus depreciation which temporarily allows 100 percent	Conforms. [72 Pa. Cons. Stat. §7401(3); 61 Pa. Code §153.11]	Pick-up tax. [72 Pa. Cons. Stat. § 9117(a)]

		bonus depreciation for property placed in service after Sept. 8, 2010, and before Jan. 1, 2012. [72 Pa. Con. Stat. §7401(3) 1(q)-(r); Pennsylvania Corporate Tax Bulletin No. CT 2011-01; Press Release, Pa. Dept. of Rev., Revenue Department Adopts Business-Friendly Approach to Corporate Tax Bonus Depreciation, (Feb. 24, 2011). *See also* I.R.C. §168(k)]		
Rhode Island	Current. [R.I. Gen. Laws §44-11-11]	Does not conform. [R.I. Gen. Laws §44-61-1; Form RI-1120C, Rhode Island Business Corporation Tax Return and Instructions]	Does not conform. [R.I. Gen. Laws §44-61-1.1.] Rhode Island limits the deduction to $25,000. [R.I. Gen. Laws §44-61-1.1; Form RI-1120C, Rhode Island Business Corporation Tax Return and Instructions]	Separate estate tax, $892,865 million exemption. [R.I. Gen. Laws § 44-22-1]
South Carolina	Dec. 31, 2011 [S.C. Code Ann. §§12-6-40, and -50]	Does not conform. [S.C. Code Ann. §12-6-50(4); South Carolina Information Letter No. IL 03-17]	Conforms. [S.C. Code Ann. §12-6-40. *See also* I.R.C. §179]	Pick-up tax. [S.C. Code Ann. §§ 12-16-510, 12-16-520]
South Dakota	N/A	Does not impose a corporate income tax.	Does not impose a corporate income tax.	Pick-up tax. [S.D. Codified Laws Ann. § 10-40A-3]
Tennessee	Current. [Tenn. Code Ann. §67-4-2004(28)]	Does not conform. [Tenn. Code Ann. §67-4-2006(b)(1); Tenn. Franchise and Excise Taxes Notice No. 04-27 (June 25, 2004)]	Conforms. [Tenn. Code Ann. §67-4-2006(b); Tenn. Franchise and Excise Taxes Notice No. 04-27 (June 25, 2004)]	Separate estate tax, $1 million exemption. [Tenn. Code Ann. § 67-8-204]
Texas	Jan. 1, 2007 [Tex. Tax Code Ann. §171.0001(9)]	Does not conform. [Tex. Tax Code Ann. §171.0001(9); Tex. Comp. of Pub. Accts., Comptroller's Letter No. 200810219L (Oct. 9, 2008); Tex. Comp. of Pub. Accts., Texas Form 05-394: Franchise Tax Report Information and Instructions]	Conforms to the version Internal Revenue Code as it existed on Jan. 1, 2007, and therefore does not conform to the current federal rules relating to enhanced asset expensing. [Tex. Tax Code Ann. §171.0001(9)]	Pick-up tax. [Tex. Tax Code Ann. § 211.051]

Utah	Current. [Utah Code Ann. §59-7-101(19)]	Conforms. [Utah Code Ann. §59-7-101(19). *See also* I.R.C. §168(k)]	Conforms. [Utah Code Ann. §59-7-101(19)]	Pick-up tax. [Utah Code Ann. § 59-11-103]
Vermont	Jan. 1, 2011. [Vt. Stat. Ann. tit. 32, §5811(7)]	Does not conform. [Vt. Stat. Ann. tit. 32, §§5811(18), (21); Vermont Corporate Income Tax Instructions]	Conforms. [Vt. Stat. Ann. tit. 32, §§5811, and 5824; Vermont Technical Bulletin TB-44 (Jan. 22, 2009). *See also* I.R.C. §179.]	Separate estate tax, $2.75 million exemption. [Vt. Stat. Ann. tit. 32, § 7475]
Virginia	Jan. 31, 2011. [Va. Code Ann. §58.1-301]	Does not conform. [Va. Code Ann. §58.1-301; Virginia Tax Bulletin VTB 12-1 (Feb. 9, 2012); Virginia Tax Bulletin VTB 11-1 (Feb. 18, 2011)]	Conforms. [Va. Code Ann. §58.1-301; Virginia Tax Bulletin VTB 09-1 (Feb. 12, 2009); Virginia Tax Bulletin VTB 10-4 (March 30, 2010)]	Pick-up tax [Va. Code Ann. § 58.1-902]
Washington	N/A	Does not impose a corporate income tax.	Does not impose a corporate income tax.	Separate estate tax, $2 million exemption. [Wash. Rev. Code § 83.100.040]
West Virginia	Dec. 31, 2010 through Jan. 1, 2012 [W. Va. Code §11-24-3]	Conforms. [W. Va. Code §11-24-3(a), as amended by 2012 S.B. 210, effective Feb. 16, 2012, updating West Virginia's conformity to the Internal Revenue Code; W. Va. Code §11-24-3a(a)(44); W.Va. Code R. tit. 110, §110-24-2]	Conforms. [W. Va. Code §11-24-3(a), as amended by 2012 S.B. 210, effective Feb. 16, 2012, updating West Virginia's conformity to the Internal Revenue Code; W. Va. Code §11-24-3a(a)(44); W.Va. Code R. tit. 110, §110-24-2]	Pick-up tax. [W. Va. Code § 11-11-3]
Wisconsin	Dec. 31, 2010 [Wis. Stat. §71.22(4)(t), and (4m)(r)]	Does not conform. [Wis. Stat. §71.22(4)(un); Form 4, Wisconsin Corporation Franchise or Income Tax Return, Instructions]	Does not conform. [Wis. Stat. §71.22(4)(un); Wis. Dept. of Rev., Internal Revenue Code Section 179 Expense for Farmers For 2010 (Oct. 12, 2010); Form 4, Wisconsin Corporation Franchise or Income Tax Return, Instructions]	Pick-up tax. [Wis. Stat. § 72.01(11m)]
Wyoming	N/A	Does not impose a corporate income tax.	Does not impose a corporate income tax.	Pick-up tax. [Wyo. Stat. § 39-19-103]

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5