

**House File 2366 - Introduced**

HOUSE FILE 2366

BY LUKAN

**A BILL FOR**

1 An Act relating to state income taxes by authorizing taxpayers  
2 to elect to take an additional first-year depreciation  
3 allowance for purposes of the individual and corporate  
4 income tax and franchise tax, and including effective date  
5 and retroactive applicability provisions.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 422.5, subsection 2, paragraph b,  
2 subparagraph (1), Code Supplement 2011, is amended to read as  
3 follows:

4 (1) Add items of tax preference included in federal  
5 alternative minimum taxable income under section 57, except  
6 subsections (a)(1), (a)(2), and (a)(5), of the Internal Revenue  
7 Code, make the adjustments included in federal alternative  
8 minimum taxable income under section 56, except subsections  
9 (a)(4), (b)(1)(C)(iii), and (d), of the Internal Revenue Code,  
10 and add losses as required by section 58 of the Internal  
11 Revenue Code. To the extent that any preference or adjustment  
12 is determined by an individual's federal adjusted gross income,  
13 the individual's federal adjusted gross income is computed  
14 in accordance with section 422.7, subsections 39, 39A, 39B,  
15 39C, and 53. In the case of an estate or trust, the items of  
16 tax preference, adjustments, and losses shall be apportioned  
17 between the estate or trust and the beneficiaries in accordance  
18 with rules prescribed by the director.

19 Sec. 2. Section 422.7, subsection 39A, unnumbered paragraph  
20 1, Code Supplement 2011, is amended to read as follows:

21 ~~The~~ In the case of qualified property placed in service  
22 before January 1, 2012, the additional first-year depreciation  
23 allowance authorized in section 168(k) of the Internal Revenue  
24 Code, as enacted by Pub. L. No. 110-185, § 103, Pub. L. No.  
25 111-5, § 1201, Pub. L. No. 111-240, § 2022, and Pub. L. No.  
26 111-312, § 401, does not apply in computing net income for  
27 state tax purposes. If the taxpayer has taken the additional  
28 first-year depreciation allowance for purposes of computing  
29 federal adjusted gross income, then the taxpayer shall make the  
30 following adjustments to federal adjusted gross income when  
31 computing net income for state tax purposes:

32 Sec. 3. Section 422.7, Code Supplement 2011, is amended by  
33 adding the following new subsection:

34 NEW SUBSECTION. 39C. a. Notwithstanding any provision  
35 of law to the contrary, a taxpayer may elect to apply the

1 additional first-year depreciation allowance authorized in  
2 section 168(k), excluding subparagraph (5), of the Internal  
3 Revenue Code, as amended by Pub. L. No. 111-312, § 401,  
4 excluding paragraph (b), for qualified property placed  
5 in service on or after January 1, 2012. The additional  
6 depreciation allowance shall be allowed for qualified property  
7 placed in service any time on or after January 1, 2012, and  
8 that otherwise meets the requirements of section 168(k) of  
9 the Internal Revenue Code, regardless of any acquisition  
10 or placed-in-service date restriction to the contrary in  
11 that section. If the taxpayer elects to take the additional  
12 first-year depreciation allowance authorized in section  
13 168(k) of the Internal Revenue Code for state tax purposes,  
14 the deduction may be taken on amended state tax returns,  
15 if necessary. If the taxpayer does not elect to take the  
16 additional first-year depreciation allowance authorized in  
17 section 168(k) of the Internal Revenue Code for state tax  
18 purposes, the following adjustment shall be made:

19 (1) Add the total amount of depreciation taken under section  
20 168(k) of the Internal Revenue Code for the tax year.

21 (2) Subtract the amount of depreciation allowable under the  
22 modified accelerated cost recovery system described in section  
23 168 of the Internal Revenue Code and calculated without regard  
24 to section 168(k).

25 (3) Any other adjustments to gains or losses necessary  
26 to reflect the adjustments made in subparagraphs (1) or (2).  
27 The director shall adopt rules for the administration of this  
28 paragraph.

29 *b.* For purposes of this subsection, "*Internal Revenue Code*"  
30 means the Internal Revenue Code in effect on January 1, 2012.

31 Sec. 4. Section 422.9, subsection 2, paragraph h, Code  
32 Supplement 2011, is amended to read as follows:

33 *h.* For purposes of calculating the deductions in this  
34 subsection that are authorized under the Internal Revenue Code,  
35 and to the extent that any of such deductions is determined by

1 an individual's federal adjusted gross income, the individual's  
2 federal adjusted gross income is computed in accordance with  
3 section 422.7, subsections 39, 39A, 39B, 39C, and 53.

4 Sec. 5. Section 422.35, subsection 19A, unnumbered  
5 paragraph 1, Code Supplement 2011, is amended to read as  
6 follows:

7 ~~The~~ In the case of qualified property placed in service  
8 before January 1, 2012, the additional first-year depreciation  
9 allowance authorized in section 168(k) of the Internal Revenue  
10 Code, as enacted by Pub. L. No. 110-185, § 103, Pub. L. No.  
11 111-5, § 1201, Pub. L. No. 111-240, § 2022, and Pub. L. No.  
12 111-312, § 401, does not apply in computing net income for  
13 state tax purposes. If the taxpayer has taken the additional  
14 first-year depreciation allowance for purposes of computing  
15 federal taxable income, then the taxpayer shall make the  
16 following adjustments to federal taxable income when computing  
17 net income for state tax purposes:

18 Sec. 6. Section 422.35, Code Supplement 2011, is amended by  
19 adding the following new subsection:

20 NEW SUBSECTION. 19C. a. Notwithstanding any provision  
21 of law to the contrary, a taxpayer may elect to apply the  
22 additional first-year depreciation allowance authorized in  
23 section 168(k), excluding subparagraph (5), of the Internal  
24 Revenue Code, as amended by Pub. L. No. 111-312, § 401,  
25 excluding paragraph (b), for qualified property placed  
26 in service on or after January 1, 2012. The additional  
27 depreciation allowance shall be allowed for qualified property  
28 placed in service any time on or after January 1, 2012, and  
29 that otherwise meets the requirements of section 168(k) of  
30 the Internal Revenue Code, regardless of any acquisition  
31 or placed-in-service date restriction to the contrary in  
32 that section. If the taxpayer elects to take the additional  
33 first-year depreciation allowance authorized in section  
34 168(k) of the Internal Revenue Code for state tax purposes,  
35 the deduction may be taken on amended state tax returns,

1 if necessary. If the taxpayer does not elect to take the  
2 additional first-year depreciation allowance authorized in  
3 section 168(k) of the Internal Revenue Code for state tax  
4 purposes, the following adjustment shall be made:

5 (1) Add the total amount of depreciation taken under section  
6 168(k) of the Internal Revenue Code for the tax year.

7 (2) Subtract the amount of depreciation allowable under the  
8 modified accelerated cost recovery system described in section  
9 168 of the Internal Revenue Code and calculated without regard  
10 to section 168(k).

11 (3) Any other adjustments to gains or losses necessary  
12 to reflect the adjustments made in subparagraphs (1) or (2).  
13 The director shall adopt rules for the administration of this  
14 paragraph.

15 *b.* For purposes of this subsection, "*Internal Revenue Code*"  
16 means the Internal Revenue Code in effect on January 1, 2012.

17 Sec. 7. EFFECTIVE UPON ENACTMENT. This Act, being deemed of  
18 immediate importance, takes effect upon enactment.

19 Sec. 8. RETROACTIVE APPLICABILITY. This Act applies  
20 retroactively to January 1, 2012, for tax years beginning on  
21 or after that date.

22 EXPLANATION

23 This bill allows a taxpayer to elect to take an additional  
24 first-year depreciation allowance in computing the individual,  
25 corporate, and franchise taxes and specifies the adjustments  
26 to be made in determining net income if such election is not  
27 made. The additional first-year depreciation allowance is  
28 permanent and available for any qualified property placed in  
29 service by the taxpayer on or after January 1, 2012, and that  
30 otherwise meets the requirements of section 168(k) of the  
31 Internal Revenue Code as it is presently enacted, regardless of  
32 any acquisition or placed-in-service date restriction to the  
33 contrary in that section. The additional allowance is equal to  
34 50 percent of the adjusted basis of the qualified property.

35 The bill also makes conforming amendments to Code sections

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1 422.5 and 422.9 to include the additional first-year  
2 depreciation allowance in the computation of federal adjusted  
3 gross income for purposes of calculating alternative minimum  
4 taxable income and certain deductions for the state individual  
5 income tax.

6 The bill takes effect upon enactment and applies  
7 retroactively to January 1, 2012, for tax years beginning on  
8 or after that date.