

**NEW JERSEY DIVISION OF TAXATION
REGULATORY SERVICES BRANCH
TECHNICAL ADVISORY MEMORANDUM**

TAM - 2011 - 19

ISSUED: 9-7-11

TAX: Gross Income Tax

TOPIC: Tax Relief Act of 2010

The federal Tax Relief Act of 2010, H.R. 4853(TRA), signed December 17, 2010, contained certain income tax incentives. Such features include the extension of Internal Revenue Code (IRC) Section 168(k) bonus depreciation and temporary 100 % expensing for certain business assets, and a temporary extension of IRC Section 179 increased small business expensing.

Bonus Depreciation

The TRA extended the bonus depreciation amount from Section 2022 of the Small Business Jobs Act of 2010 federally, through tax year 2011 and increased the bonus depreciation allowable to 50% to 100%. It also extends the 50% bonus depreciation provision through tax year 2012. For New Jersey Gross Income Tax purposes, New Jersey decoupled from IRC with respect to bonus depreciation as of January 1, 2004. See, N.J.S.A. 54A:5-1.2a(1). These adjustments are made on Form GIT-DEP available at http://www.state.nj.us/treasury/taxation/pdf/other_forms/tgi-ee/gitdep.pdf. New Jersey does not conform to the provisions of the TRA related to bonus depreciation.

Section 179 Expensing

The TRA extends the expanded IRC Section 179 expensing from Section 2021 of the Small Business Jobs Act through 2011. For New Jersey Gross Income Tax purposes, the deduction limit and phase-out are the same as the IRC Section 179 in effect on December 31, 2002. The deduction limit claimed as cost expense pursuant to Section 179 is \$25,000. The only property that the Section 179 expensing would be allowed for is such property of the type that was allowed by IRC Section 179 on December 31, 2002. New Jersey does not conform to the new deduction limit and phase-out in Section 179. The adjustments are made on Form GIT-DEP.

Charitable Deductions

Sections 740, 741, and 742 of the TRA extended certain enhanced charitable deduction. For New Jersey Gross Income Tax purposes, only charitable contributions made pursuant to IRC Section 170(h) are allowable. Sections 740, 741, and 742 extended other sections of IRC Section 170, therefore, these deductions are not allowable for New Jersey Gross Income Tax purposes.