



1 A bill to be entitled
2 An act relating to the corporate income tax; amending
3 s. 220.03, F.S.; adopting the 2018 version of the
4 Internal Revenue Code; amending s. 220.13, F.S.;
5 revising the definition of the term "adjusted federal
6 income" relating to adjustments related to federal
7 acts; providing legislative findings; requiring the
8 Department of Revenue to make a certain examination,
9 monitor guidance by the Internal Revenue Service,
10 conduct workshops, and develop a certain process
11 regarding the Tax Cuts and Jobs Act of 2017; requiring
12 the department to submit a specified report to the
13 Governor and Legislature by a certain date; requiring
14 the department to provide certain status reports to
15 the Legislature on specified dates; requiring the
16 department to consult with the Revenue Estimating
17 Conference in developing required reports; requiring
18 the 2019 Legislature to consider the report concerning
19 the automatic tax rate adjustment mechanism; creating
20 s. 220.1105, F.S.; providing definitions; providing
21 for the adjustment of the corporate tax rate based on
22 net collections exceeding adjusted forecasted
23 collections for fiscal years 2018-2019 through 2020-
24 2021; specifying the treatment of net collections
25 amounts that exceed adjusted forecasted net



HB 7093, Engrossed 2

2018

26 | collections for fiscal years 2018-2019 through 2020-
27 | 2021; amending s. 220.11, F.S.; revising the
28 | adjustment of the tax rate imposed; amending s.
29 | 220.63, F.S.; revising the adjustment of the franchise
30 | tax rate imposed on banking and savings associations;
31 | providing emergency rulemaking authority; providing
32 | for retroactive operation; providing an effective
33 | date.
34 |

35 | Be It Enacted by the Legislature of the State of Florida:
36 |

37 | Section 1. Paragraph (n) of subsection (1) and paragraph
38 | (c) of subsection (2) of section 220.03, Florida Statutes, are
39 | amended to read:

40 | 220.03 Definitions.—

41 | (1) SPECIFIC TERMS.—When used in this code, and when not
42 | otherwise distinctly expressed or manifestly incompatible with
43 | the intent thereof, the following terms shall have the following
44 | meanings:

45 | (n) "Internal Revenue Code" means the United States
46 | Internal Revenue Code of 1986, as amended and in effect on
47 | January 1, 2018 ~~2017~~, except as provided in subsection (3).

48 | (2) DEFINITIONAL RULES.—When used in this code and neither
49 | otherwise distinctly expressed nor manifestly incompatible with
50 | the intent thereof:



51 (c) Any term used in this code has the same meaning as
52 when used in a comparable context in the Internal Revenue Code
53 and other statutes of the United States relating to federal
54 income taxes, as such code and statutes are in effect on January
55 1, 2018 ~~2017~~. However, if subsection (3) is implemented, the
56 meaning of a term shall be taken at the time the term is applied
57 under this code.

58 Section 2. Paragraph (e) of subsection (1) of section
59 220.13, Florida Statutes, is amended to read:

60 220.13 "Adjusted federal income" defined.—

61 (1) The term "adjusted federal income" means an amount
62 equal to the taxpayer's taxable income as defined in subsection
63 (2), or such taxable income of more than one taxpayer as
64 provided in s. 220.131, for the taxable year, adjusted as
65 follows:

66 (e) *Adjustments related to federal acts.*—Taxpayers shall
67 be required to make the adjustments prescribed in this paragraph
68 for Florida tax purposes with respect to certain tax benefits
69 received pursuant to the Economic Stimulus Act of 2008, the
70 American Recovery and Reinvestment Act of 2009, the Small
71 Business Jobs Act of 2010, the Tax Relief, Unemployment
72 Insurance Reauthorization, and Job Creation Act of 2010, the
73 American Taxpayer Relief Act of 2012, the Tax Increase
74 Prevention Act of 2014, ~~and~~ the Consolidated Appropriations Act,
75 2016, and the Tax Cuts and Jobs Act of 2017.



76 | 1. There shall be added to such taxable income an amount
77 | equal to 100 percent of any amount deducted for federal income
78 | tax purposes as bonus depreciation for the taxable year pursuant
79 | to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as
80 | amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.
81 | 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.
82 | 111-312, s. 331 of Pub. L. No. 112-240, s. 125 of Pub. L. No.
83 | 113-295, ~~and~~ s. 143 of Division Q of Pub. L. No. 114-113, and s.
84 | 13201 of Pub. L. No. 115-97, for property placed in service
85 | after December 31, 2007, and before January 1, 2027 ~~2021~~. For
86 | the taxable year and for each of the 6 subsequent taxable years,
87 | there shall be subtracted from such taxable income an amount
88 | equal to one-seventh of the amount by which taxable income was
89 | increased pursuant to this subparagraph, notwithstanding any
90 | sale or other disposition of the property that is the subject of
91 | the adjustments and regardless of whether such property remains
92 | in service in the hands of the taxpayer.

93 | 2. There shall be added to such taxable income an amount
94 | equal to 100 percent of any amount in excess of \$128,000
95 | deducted for federal income tax purposes for the taxable year
96 | pursuant to s. 179 of the Internal Revenue Code of 1986, as
97 | amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.
98 | 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.
99 | 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L.
100 | No. 113-295, for taxable years beginning after December 31,



101 2007, and before January 1, 2015. For the taxable year and for
102 each of the 6 subsequent taxable years, there shall be
103 subtracted from such taxable income one-seventh of the amount by
104 which taxable income was increased pursuant to this
105 subparagraph, notwithstanding any sale or other disposition of
106 the property that is the subject of the adjustments and
107 regardless of whether such property remains in service in the
108 hands of the taxpayer.

109 3. There shall be added to such taxable income an amount
110 equal to the amount of deferred income not included in such
111 taxable income pursuant to s. 108(i)(1) of the Internal Revenue
112 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There
113 shall be subtracted from such taxable income an amount equal to
114 the amount of deferred income included in such taxable income
115 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,
116 as amended by s. 1231 of Pub. L. No. 111-5.

117 4. Subtractions available under this paragraph may be
118 transferred to the surviving or acquiring entity following a
119 merger or acquisition and used in the same manner and with the
120 same limitations as specified by this paragraph.

121 5. The additions and subtractions specified in this
122 paragraph are intended to adjust taxable income for Florida tax
123 purposes, and, notwithstanding any other provision of this code,
124 such additions and subtractions shall be permitted to change a
125 taxpayer's net operating loss for Florida tax purposes.



126 Section 3. The Legislature recognizes that the Tax Cuts
127 and Jobs Act of 2017 will have significant effects on the state
128 corporate income tax and on corporate taxpayers when it is fully
129 implemented. To better understand these effects, the Legislature
130 finds the following actions are necessary:

131 (1) The Department of Revenue shall examine how the Tax
132 Cuts and Jobs Act of 2017 will affect the state corporate income
133 tax as a result of the state's adoption of the Internal Revenue
134 Code by this act.

135 (2) The Department of Revenue shall monitor guidance
136 provided by the Internal Revenue Service and other tax
137 authorities and advisory groups, and shall conduct at least two
138 public workshops to gather public input. In addition, the
139 department shall develop a process outside of the public
140 workshops for receiving public input regarding the Tax Cuts and
141 Jobs Act of 2017 and its potential effects on the state
142 corporate income tax and the businesses that pay the tax.

143 (3) By February 1, 2019, the Department of Revenue shall
144 submit a report to the Governor, the President of the Senate,
145 the Speaker of the House of Representatives, and the chairs of
146 appropriate legislative committees. At a minimum, the report
147 must include the following:

148 (a) A comprehensive discussion of the potential effects of
149 the Tax Cuts and Jobs Act of 2017 on the state corporate income
150 tax structure and revenues.



151 (b) Options for changes the Legislature could make to
152 state tax law which may be needed to integrate state law with
153 federal law.

154 (c) An estimate of the potential fiscal impact of each
155 option.

156 (d) A compilation of the input received from the public
157 through the public workshops and otherwise.

158 (e) Any other information the Department of Revenue
159 determines will assist the Legislature in evaluating the impact
160 of the Tax Cuts and Jobs Act of 2017 on the state corporate
161 income tax structure and revenues.

162 (4) The Department of Revenue shall submit status reports
163 to the chairs of appropriate legislative committees on August 3,
164 2018, and November 16, 2018. At a minimum, the status reports
165 must include a brief description of the department's activities
166 and any relevant guidance issued by the Internal Revenue
167 Service.

168 (5) The Department of Revenue shall consult with the
169 Revenue Estimating Conference on the development of the required
170 reports.

171 (6) The 2019 Legislature shall consider the report required
172 by subsection (3) to determine whether adjustments to the
173 automatic tax rate adjustment mechanism under s. 220.1105,
174 Florida Statutes, are needed.

175 Section 4. Section 220.1105, Florida Statutes, is created



176 to read:

177 220.1105 Tax imposed; automatic refunds and downward
178 adjustments to tax rates.-

179 (1) As used in this section, the term:

180 (a) "Net collections" means the total amount of taxes
181 collected under this chapter by the department in the 2018-2019
182 fiscal year, including related interest and penalties, minus the
183 total amount of refunds of taxes levied under this chapter and
184 issued by the department in that fiscal year. No later than
185 September 1, 2019, the Office of Economic and Demographic
186 Research shall determine net collections for the 2018-2019
187 fiscal year.

188 (b) "Forecasted net collections" means the amount of net
189 collections forecasted for the 2018-2019 fiscal year by the
190 Revenue Estimating Conference on February 23, 2018.

191 (c) "Adjusted forecasted collections" means forecasted net
192 collections for the 2018-2019 fiscal year multiplied by 1.07.

193 (d) "Tax rate imposed" is the tax rate as defined in ss.
194 220.11(2) and 220.63(2) adjusted as set forth in this section.

195 (2) The tax rate imposed shall be adjusted based on net
196 collections in the 2018-2019 fiscal year. If the net collections
197 exceed the adjusted forecasted collections, the tax rate imposed
198 for taxable years beginning on or after January 1, 2019, shall
199 be the tax rate imposed for taxable years beginning on or after
200 January 1, 2018, multiplied by the quotient of the adjusted



201 forecasted collections divided by the net collections. The
202 resulting tax rate shall be rounded to the nearest thousandth
203 and rounded down if the fourth digit to the right of the decimal
204 point is the number five.

205 (3) By October 1, 2019, the Department of Revenue shall
206 calculate the tax rate imposed, if it is to be adjusted pursuant
207 to subsection (2), and shall on that same date report the
208 results of such calculation to the Governor, the President of
209 the Senate, and the Speaker of the House of Representatives.

210 (4) Any amount by which net collections exceed adjusted
211 forecasted collections for the 2018-2019 fiscal year shall only
212 be used to provide refunds to corporate income tax payers as
213 follows:

214 (a) For purposes of this subsection:

215 1. "Eligible taxpayer" means a taxpayer whose taxable year
216 begins between April 1, 2017, and March 31, 2018, and whose
217 final tax liability for such taxable year is greater than zero.

218 2. "Excess collections" means the amount by which net
219 collections for the 2018-2019 year exceed adjusted forecasted
220 collections for that fiscal year.

221 3. "Final tax liability" means the taxpayer's amount of
222 tax due under this chapter for a taxable year, reported on a
223 return filed pursuant to s. 220.222, including a return filed
224 timely pursuant to a valid extension.

225 4. "Total eligible tax liability" means the sum of final



226 tax liabilities of all eligible taxpayers.

227 5. "Taxpayer refund share" means an eligible taxpayer's
228 final tax liability as a percentage of the total eligible tax
229 liability.

230 6. "Taxpayer refund" means the taxpayer refund share
231 multiplied by the excess collections.

232 (b) No later than February 15, 2020, the department shall
233 determine total eligible tax liability, the taxpayer refund
234 share for each eligible taxpayer, and the taxpayer refund for
235 each eligible taxpayer.

236 (c) No later than March 1, 2020, the department shall
237 refund a taxpayer refund to each eligible taxpayer.

238 (5) Tax rate adjustments pursuant to this section are
239 repealed for taxable years beginning on or after January 1,
240 2020.

241 Section 5. Subsection (2) of section 220.11, Florida
242 Statutes, is amended to read:

243 220.11 Tax imposed.—

244 (2) (a) The tax imposed by this section shall be an amount
245 equal to 5 1/2 percent of the taxpayer's net income for the
246 taxable year, except as provided in paragraph (b).

247 (b) The tax rate imposed in paragraph (a) shall be
248 adjusted as provided in s. 220.1105.

249 Section 6. Subsection (2) of section 220.63, Florida
250 Statutes, is amended to read:



251 220.63 Franchise tax imposed on banks and savings
252 associations.—

253 (2) (a) The tax imposed by this section shall be an amount
254 equal to 5 1/2 percent of the franchise tax base of the bank or
255 savings association for the taxable year, except as provided in
256 paragraph (b).

257 (b) The tax rate imposed in paragraph (a) shall be
258 adjusted as provided in s. 220.1105.

259 Section 7. (1) The Department of Revenue is authorized,
260 and all conditions are deemed to be met, to adopt emergency
261 rules pursuant to s. 120.54(4), Florida Statutes, for the
262 purpose of implementing this act.

263 (2) Notwithstanding any other provision of law, emergency
264 rules adopted pursuant to subsection (1) are effective for 6
265 months after adoption and may be renewed during the pendency of
266 procedures to adopt permanent rules addressing the subject of
267 the emergency rules.

268 (3) This section expires January 1, 2021.

269 Section 8. This act shall take effect upon becoming a law
270 and operate retroactively to January 1, 2018.