

By the Committee on Ways and Means and Senator Ostalkiewicz

301-2018-98

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A bill to be entitled  
An act relating to the corporate income tax;  
amending s. 220.03, F.S.; updating references  
to the United States Internal Revenue Code for  
purposes of the corporate income tax; amending  
s. 220.02, F.S.; providing legislative intent  
regarding taxation of a "qualified subchapter S  
subsidiary;" amending s. 220.22, F.S.;  
requiring certain returns; providing for  
retroactive effect; providing an effective  
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (n) of subsection (1) and  
subsection (2) of section 220.03, Florida Statutes, are  
amended to read:

220.03 Definitions.--

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

(n) "Internal Revenue Code" means the United States  
Internal Revenue Code of 1986, as amended and in effect on  
January 1, 1998 ~~1997~~, except as provided in subsection (3).

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

(a) The word "corporation" or "taxpayer" shall be  
deemed to include the words "and its successors and assigns"  
as if these words, or words of similar import, were expressed;

1 (b) Any term used in any section of this code with  
2 respect to the application of, or in connection with, the  
3 provisions of any other section of this code shall have the  
4 same meaning as in such other section; and

5 (c) Any term used in this code shall have the same  
6 meaning as when used in a comparable context in the Internal  
7 Revenue Code and other statutes of the United States relating  
8 to federal income taxes, as such code and statutes are in  
9 effect on January 1, 1998 ~~1997~~. However, if subsection (3) is  
10 implemented, the meaning of any term shall be taken at the  
11 time the term is applied under this code.

12 Section 2. Subsection (11) is added to section 220.02,  
13 Florida Statutes, to read:

14 220.02 Legislative intent.--

15 (11) Notwithstanding any other provision in this  
16 chapter, it is the intent of the Legislature that, except as  
17 otherwise provided under the Internal Revenue Code, for  
18 purposes of this chapter a "qualified subchapter S  
19 subsidiary," as that term is defined in s. 1361(b)(3) of the  
20 Internal Revenue Code, shall not be treated as a separate  
21 corporation or entity from the S corporation parent to which  
22 the subsidiary's assets, liabilities, income, deductions, and  
23 credits are attributed under s. 1361(b)(3) thereof.

24 Section 3. Subsection (4) is added to section 220.22,  
25 Florida Statutes, to read:

26 220.22 Returns; filing requirement.--

27 (4) For the year in which an election is made pursuant  
28 to s. 1361(b)(3) of the Internal Revenue Code, the qualified  
29 subchapter S subsidiary shall file an informational return  
30 with the department, which return shall be restricted to  
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1 information identifying the subsidiary, the electing S  
2 corporation parent, and the effective date of the election.

3 Section 4. The provisions of sections 2 and 3 are  
4 intended to clarify the intent of the Legislature under  
5 existing law and are effective with respect to tax years  
6 beginning on or after January 1, 1997; however, no penalty  
7 shall be assessed for failure to file the information return  
8 required by section 3 if the return would have been due on or  
9 before the date this enactment becomes law.

10 Section 5. This act shall take effect upon becoming a  
11 law and, except as otherwise provided, shall operate  
12 retroactively to January 1, 1998.

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14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
15 COMMITTEE SUBSTITUTE FOR  
16 SB 608

17 This committee substitute provides that qualified subchapter S  
18 subsidiaries are not treated as separate entities from their  
19 parent corporations for purposes of Florida income tax. For  
20 the year in which an election is made to file as a qualified  
21 subchapter S subsidiary under s. 1361(b)(3) of the IRS Code,  
22 the qualified subchapter S subsidiary shall file an  
23 informational return with the Department of Revenue. The  
24 committee substitute states that the provisions pertaining to  
25 qualified subchapter S subsidiaries are intended to clarify  
26 the intent of the Legislature under existing law and are  
27 effective with respect to tax years beginning on or after  
28 January 1, 1997.  
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