

Bill No. SB 704
Amendment No. ____

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Klein moved the following amendment:

13 **Senate Amendment (with title amendment)**

14 On page 1, line 21, through page 2, line 26, delete
15 those lines

17 and insert:

18 Section 1. Subsection (1) of section 220.02, Florida
19 Statutes, is amended and subsection (11) is added to that
20 section to read:

21 220.02 Legislative intent.--

22 (1) It is the intent of the Legislature in enacting
23 this code to impose a tax upon all corporations,
24 organizations, associations, and other artificial entities
25 which derive from this state or from any other jurisdiction
26 permanent and inherent attributes not inherent in or available
27 to natural persons, such as perpetual life, transferable
28 ownership represented by shares or certificates, and limited
29 liability for all owners. It is intended that any limited
30 liability company that is classified as a partnership for
31 federal income tax purposes and formed under chapter 608 or

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1 qualified to do business in this state as a foreign limited
2 liability company not companies be subject to the tax imposed
3 by this code. It is the intent of the Legislature to subject
4 such corporations and other entities to taxation hereunder for
5 the privilege of conducting business, deriving income, or
6 existing within this state. This code is not intended to tax,
7 and shall not be construed so as to tax, any natural person
8 who engages in a trade, business, or profession in this state
9 under his or her own or any fictitious name, whether
10 individually as a proprietorship or in partnership with
11 others, or as a member or a manager of a limited liability
12 company classified as a partnership for federal income tax
13 purposes; any estate of a decedent or incompetent; or any
14 testamentary trust. However, a corporation or other taxable
15 entity which is or which becomes partners with one or more
16 natural persons shall not, merely by reason of being a
17 partner, exclude from its net income subject to tax its
18 respective share of partnership net income. This statement of
19 intent shall be given preeminent consideration in any
20 construction or interpretation of this code in order to avoid
21 any conflict between this code and the mandate in s. 5, Art.
22 VII of the State Constitution that no income tax be levied
23 upon natural persons who are residents and citizens of this
24 state.

25 (11) Notwithstanding any other provision in this
26 chapter, it is the intent of the Legislature that, except as
27 otherwise provided under the Internal Revenue Code, for
28 purposes of this chapter a "qualified subsidiary
29 subsidiary," as that term is defined in s. 1361(b)(3) of the
30 Internal Revenue Code, shall not be treated as a separate
31 corporation or entity from the S corporation parent to which

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1 the subsidiary's assets, liabilities, income, deductions, and
2 credits are attributed under s. 1361(b)(3) thereof.

3 (2) This section shall take effect upon this act
4 becoming a law. The provisions of this section are intended to
5 clarify the intent of the Legislature under existing law and
6 are effective with respect to tax years beginning on or after
7 January 1, 1997.

8 Section 2. (1) Subsection (4) is added to section
9 220.22, Florida Statutes, to read:

10 220.22 Returns; filing requirement.--

11 (4) For the year in which an election is made pursuant
12 to s. 1361(b)(3) of the Internal Revenue Code, the qualified
13 subchapter S subsidiary shall file an informational return
14 with the department, which return shall be restricted to
15 information identifying the subsidiary, the electing S
16 corporation parent, and the effective date of the election.

17 (2) This section shall take effect upon this act
18 becoming a law. The provisions of this section are intended to
19 clarify the intent of the Legislature under existing law and
20 are effective with respect to tax years beginning on or after
21 January 1, 1997; however, no penalty shall be assessed for
22 failure to file the information return required by this
23 section if the return would have been due on or before the
24 date this act becomes a law.

25
26 (Redesignate subsequent sections.)

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28
29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 On page 1, line 4, after the second semicolon

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1 insert:

2 amending s. 220.02, F.S.; providing legislative
3 intent regarding taxation of a "qualified
4 subchapter S subsidiary"; amending s. 220.22,
5 F.S.; requiring certain returns by such
6 subsidiaries; providing retroactive
7 application;

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