

By the Committee on Military and Veterans' Affairs, Base Protection, and Spaceports; and Senator Hill

301-2105-03

1 A bill to be entitled
2 An act relating to military service family
3 relief; providing a short title; creating s.
4 220.1881, F.S.; providing definitions;
5 authorizing corporations to claim a credit
6 against certain taxes for salaries paid to
7 military reservists on active duty; providing a
8 limitation; providing requirements; creating s.
9 212.0961, F.S.; providing definitions;
10 authorizing sales credits; providing a
11 limitation; providing requirements; amending s.
12 220.02, F.S.; specifying order of application
13 of tax credits; amending s. 220.13, F.S.;
14 redefining the term "adjusted federal income"
15 to conform; providing an appropriation;
16 providing for emergency rulemaking; providing
17 for retroactive operation; providing an
18 effective date.

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

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22 Section 1. This act may be cited as the "First
23 Sergeant Carey Baker Military Relief Act."

24 Section 2. Section 220.1881, Florida Statutes, is
25 created to read:

26 220.1881 Credits for salary paid to military
27 reservists while on active duty.--

28 (1) DEFINITIONS.--As used in this section, the term:

29 (a) "Salary" means the cash compensation for personal
30 services or labor rendered for a specific period of time.

31 Benefits, including, but not limited to, life insurance,

1 health insurance, cafeteria plans, or pension contributions,
2 are excluded from the term salary.

3 (b) "Full month" means either a calendar month or the
4 time period from any day of any month to the corresponding day
5 of the next succeeding month or, if there is no corresponding
6 day in the next succeeding month, the last day of the next
7 succeeding month.

8 (c) "Military reservist" includes any Florida resident
9 who is a member of the National Guard or reserve forces of the
10 United States Military and has been called to federal active
11 duty.

12 (2) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS ON
13 INDIVIDUAL AND TOTAL CREDITS.--

14 (a) There is allowed a credit against the tax due in
15 this chapter for the salary paid to a military reservist while
16 the military reservist is on active duty. The credit for each
17 military reservist is limited to the salary paid to the
18 military reservist prior to being called to active duty less
19 the amount of the military reservist's active duty base pay,
20 special duty pay, and housing allowance. The determination of
21 the salary paid to the military reservist prior to being
22 called to active duty shall be based on the first full month
23 of employment immediately prior to activation.

24 (b) Taxpayers may claim credit for each military
25 reservist under this section, s. 212.0961, or both, so long as
26 the total credit claimed for each reservist does not exceed
27 the amount determined in paragraph (a).

28 (c) If the credit granted pursuant to this section is
29 not fully used in any one year, the unused amount may be
30 carried forward for a period of up to 5 years.

31 (3) ADMINISTRATION; RULES.--

1 (a) A taxpayer may not convey, assign, or transfer the
2 credit authorized by this section to another entity unless all
3 of the assets of the taxpayer are conveyed, assigned, or
4 transferred to that entity in the same transaction.

5 (b) Taxpayers claiming this credit must substantiate,
6 by means of adequate records, their eligibility for this
7 credit, and the amount of credit claimed.

8 (c) The provisions of this section, except for the
9 carryover provision in subsection (2), shall expire December
10 31, 2005.

11 Section 3. Section 212.0961, Florida Statutes, is
12 created to read:

13 212.0961 Credits for salary paid to military
14 reservists while on active duty.

15 (1) DEFINITIONS.--As used in this section, the term:

16 (a) "Salary" means the cash compensation for personal
17 services or labor rendered for a specific period of time.
18 Benefits, including, but not limited to, life insurance,
19 health insurance, cafeteria plans, or pension contributions,
20 are excluded from the term salary.

21 (b) "Full month" means either a calendar month or the
22 time period from any day of any month to the corresponding day
23 of the next succeeding month or, if there is no corresponding
24 day in the next succeeding month, the last day of the next
25 succeeding month.

26 (c) "Military reservist" includes any Florida resident
27 who is a member of the National Guard or reserve forces of the
28 United States Military and has been called to federal active
29 duty.

30 (2) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS ON
31 INDIVIDUAL AND TOTAL CREDITS.--

1 (a) There is allowed a credit against the tax due in
2 the chapter for the salary paid to a military reservist while
3 the military reservist is on active duty. The credit for each
4 military reservist is limited to the salary paid to the
5 military reservist prior to being called to active duty less
6 the amount of the military reservist's active duty base pay,
7 special duty pay, and housing allowance. The determination of
8 the salary paid to the military reservist prior to being
9 called to active duty shall be based on the first full month
10 of employment immediately prior to activation.

11 (b) Taxpayers may claim credit for each military
12 reservist under this section, s. 220.1881, or both, so long as
13 the total credit claimed for each reservist does not exceed
14 the amount determined in paragraph (a).

15 (c) If the credit granted pursuant to this section is
16 not fully used in any one year, the unused amount may be
17 carried forward for a period of up to 5 years.

18 (3) ADMINISTRATION; RULES.--

19 (a) A taxpayer may not convey, assign, or transfer the
20 credit authorized by this section to another entity unless all
21 of the assets of the taxpayer are conveyed, assigned, or
22 transferred to that entity in the same transaction.

23 (b) Taxpayers claiming this credit must substantiate,
24 by means of adequate records, their eligibility for this
25 credit, and the amount of credit claimed.

26 (c) The provisions of this section, except for the
27 carryover provision in subsection (2), shall expire December
28 31, 2005.

29 Section 4. Subsection (8) of section 220.02, Florida
30 Statutes, is amended to read:

31 220.02 Legislative intent.--

1 (8) It is the intent of the Legislature that credits
2 against either the corporate income tax or the franchise tax
3 be applied in the following order: those enumerated in s.
4 631.828, those enumerated in s. 220.191, those enumerated in
5 s. 220.181, those enumerated in s. 220.183, those enumerated
6 in s. 220.182, those enumerated in s. 220.1895, those
7 enumerated in s. 221.02, those enumerated in s. 220.184, those
8 enumerated in s. 220.186, those enumerated in s. 220.1845,
9 those enumerated in s. 220.19, those enumerated in s. 220.185,
10 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.
11 220.1881.

12 Section 5. Paragraph (a) of subsection (1) of section
13 220.13, Florida Statutes, is amended to read:

14 220.13 "Adjusted federal income" defined.--

15 (1) The term "adjusted federal income" means an amount
16 equal to the taxpayer's taxable income as defined in
17 subsection (2), or such taxable income of more than one
18 taxpayer as provided in s. 220.131, for the taxable year,
19 adjusted as follows:

20 (a) Additions.--There shall be added to such taxable
21 income:

22 1. The amount of any tax upon or measured by income,
23 excluding taxes based on gross receipts or revenues, paid or
24 accrued as a liability to the District of Columbia or any
25 state of the United States which is deductible from gross
26 income in the computation of taxable income for the taxable
27 year.

28 2. The amount of interest which is excluded from
29 taxable income under s. 103(a) of the Internal Revenue Code or
30 any other federal law, less the associated expenses disallowed
31 in the computation of taxable income under s. 265 of the

1 Internal Revenue Code or any other law, excluding 60 percent
2 of any amounts included in alternative minimum taxable income,
3 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
4 taxpayer pays tax under s. 220.11(3).

5 3. In the case of a regulated investment company or
6 real estate investment trust, an amount equal to the excess of
7 the net long-term capital gain for the taxable year over the
8 amount of the capital gain dividends attributable to the
9 taxable year.

10 4. That portion of the wages or salaries paid or
11 incurred for the taxable year which is equal to the amount of
12 the credit allowable for the taxable year under s. 220.181.
13 The provisions of this subparagraph shall expire and be void
14 on June 30, 2005.

15 5. That portion of the ad valorem school taxes paid or
16 incurred for the taxable year which is equal to the amount of
17 the credit allowable for the taxable year under s. 220.182.
18 The provisions of this subparagraph shall expire and be void
19 on June 30, 2005.

20 6. The amount of emergency excise tax paid or accrued
21 as a liability to this state under chapter 221 which tax is
22 deductible from gross income in the computation of taxable
23 income for the taxable year.

24 7. That portion of assessments to fund a guaranty
25 association incurred for the taxable year which is equal to
26 the amount of the credit allowable for the taxable year.

27 8. In the case of a nonprofit corporation which holds
28 a pari-mutuel permit and which is exempt from federal income
29 tax as a farmers' cooperative, an amount equal to the excess
30 of the gross income attributable to the pari-mutuel operations
31 over the attributable expenses for the taxable year.

1 9. The amount taken as a credit for the taxable year
2 under s. 220.1895.

3 10. Up to nine percent of the eligible basis of any
4 designated project which is equal to the credit allowable for
5 the taxable year under s. 220.185.

6 11. The amount taken as a credit for the taxable year
7 under s. 220.187.

8 12. The amount taken as a credit for the taxable year
9 under s. 220.1881.

10 Section 6. The sum of \$200,000 is appropriated from
11 the General Revenue Fund to the Department of Revenue for the
12 purpose of administering this act.

13 Section 7. The provisions of chapter 120, Florida
14 Statutes, to the contrary notwithstanding, the Department of
15 Revenue may adopt emergency rules to carry out this act, which
16 rules shall remain in effect for 6 months from the date of
17 adoption.

18 Section 8. This act shall take effect upon becoming a
19 law and shall operate retroactively to January 1, 2003.

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21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 Senate Bill 1794

24 The committee substitute redesignates the act as the "First
25 Sergeant Carey Baker Military Relief Act". The committee
26 substitute codifies the tax credit provisions and provides for
27 administration, rule-making, and an appropriation. The
28 committee substitute deletes provisions revising compensation
29 for active-duty military reservists employed by state and
30 local governments.
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