

By the Committees on Commerce, Economic Opportunities, and Consumer Services; Military and Veterans' Affairs, Base Protection, and Spaceports; and Senator Hill

310-2366-03

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 member of the
9 National Guard or reserve forces of the United States Military
10 who has been called to federal active duty, who is an employee
11 of a taxpayer that has a business unit in this state, and who
12 is employed in this state as part of that business unit.

13 (d) "Business unit" means an employing unit, as
14 defined in s. 443.036, that is registered with the Agency for
15 Workforce Innovation for unemployment compensation purposes or
16 means a subcategory or division of an employing unit that is
17 accepted by the Agency for Workforce Innovation as a reporting
18 unit.

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

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

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

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

8 (3) ADMINISTRATION; RULES.--

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

13 (b) Taxpayers claiming this credit must substantiate,
14 by means of adequate records, their eligibility for this
15 credit, and the amount of credit claimed.

16 (c) The provisions of this section, except for the
17 carryover provision in subsection (2), shall expire December
18 31, 2005.

19 Section 3. Section 212.0961, Florida Statutes, is
20 created to read:

21 212.0961 Credits for salary paid to military
22 reservists while on active duty.

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

24 (a) "Salary" means the cash compensation for personal
25 services or labor rendered for a specific period of time.
26 Benefits, including, but not limited to, life insurance,
27 health insurance, cafeteria plans, or pension contributions,
28 are excluded from the term salary.

29 (b) "Full month" means either a calendar month or the
30 time period from any day of any month to the corresponding day
31 of the next succeeding month or, if there is no corresponding

1 day in the next succeeding month, the last day of the next
2 succeeding month.

3 (c) "Military reservist" includes any member of the
4 National Guard or reserve forces of the United States Military
5 who has been called to federal active duty, who is an employee
6 of a taxpayer that has a business unit in this state, and who
7 is employed in this state as part of that business unit.

8 (d) "Business unit" means an employing unit, as
9 defined in s. 443.036, that is registered with the Agency for
10 Workforce Innovation for unemployment compensation purposes or
11 means a subcategory or division of an employing unit that is
12 accepted by the Agency for Workforce Innovation as a reporting
13 unit.

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

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

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

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

4 (3) ADMINISTRATION; RULES.--

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

9 (b) Taxpayers claiming this credit must substantiate,
10 by means of adequate records, their eligibility for this
11 credit, and the amount of credit claimed.

12 (c) The provisions of this section, except for the
13 carryover provision in subsection (2), shall expire December
14 31, 2005.

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

17 220.02 Legislative intent.--

18 (8) It is the intent of the Legislature that credits
19 against either the corporate income tax or the franchise tax
20 be applied in the following order: those enumerated in s.
21 631.828, those enumerated in s. 220.191, those enumerated in
22 s. 220.181, those enumerated in s. 220.183, those enumerated
23 in s. 220.182, those enumerated in s. 220.1895, those
24 enumerated in s. 221.02, those enumerated in s. 220.184, those
25 enumerated in s. 220.186, those enumerated in s. 220.1845,
26 those enumerated in s. 220.19, those enumerated in s. 220.185,
27 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.
28 220.1881.

29 Section 5. Paragraph (a) of subsection (1) of section
30 220.13, Florida Statutes, is amended to read:

31 220.13 "Adjusted federal income" defined.--

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

6 (a) Additions.--There shall be added to such taxable
7 income:

8 1. The amount of any tax upon or measured by income,
9 excluding taxes based on gross receipts or revenues, paid or
10 accrued as a liability to the District of Columbia or any
11 state of the United States which is deductible from gross
12 income in the computation of taxable income for the taxable
13 year.

14 2. The amount of interest which is excluded from
15 taxable income under s. 103(a) of the Internal Revenue Code or
16 any other federal law, less the associated expenses disallowed
17 in the computation of taxable income under s. 265 of the
18 Internal Revenue Code or any other law, excluding 60 percent
19 of any amounts included in alternative minimum taxable income,
20 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
21 taxpayer pays tax under s. 220.11(3).

22 3. In the case of a regulated investment company or
23 real estate investment trust, an amount equal to the excess of
24 the net long-term capital gain for the taxable year over the
25 amount of the capital gain dividends attributable to the
26 taxable year.

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

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

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

10 7. That portion of assessments to fund a guaranty
11 association incurred for the taxable year which is equal to
12 the amount of the credit allowable for the taxable year.

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

18 9. The amount taken as a credit for the taxable year
19 under s. 220.1895.

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

23 11. The amount taken as a credit for the taxable year
24 under s. 220.187.

25 12. The amount taken as a credit for the taxable year
26 under s. 220.1881.

27 Section 6. The sum of \$200,000 is appropriated from
28 the General Revenue Fund to the Department of Revenue for the
29 purpose of administering this act during the 2003-2004 fiscal
30 year.

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1 Section 7. The provisions of chapter 120, Florida
2 Statutes, to the contrary notwithstanding, the Department of
3 Revenue may adopt emergency rules to carry out this act, which
4 rules shall remain in effect for 6 months from the date of
5 adoption.

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

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 CS/SB 1794

12 The committee substitute changes the eligibility criteria for
13 the tax credits from benefiting any military reservist called
14 to active duty who is a Florida resident to any military
15 reservist called to active duty who is employed in Florida as
16 part of a business unit located in this state. The committee
17 substitute also specifies that the appropriation in the act is
18 provided for fiscal year 2003-2004.
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