

Bill No. CS for SB 2062

Amendment No. \_\_\_\_ Barcode 943482

CHAMBER ACTION

Senate

House

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Senator Lee moved the following amendment:

**Senate Amendment (with title amendment)**

On page 9, between lines 14 & 15,

and insert:

(8) This section shall apply to tax years beginning on or after January 1, 2003.

Section 3. Subsection (8) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.--

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

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1 220.1875.

2 Section 4. Subparagraph (12) is added to paragraph  
3 (1)(a) of section 220.13, Florida Statutes, to read:

4 220.13 "Adjusted federal income" defined.--

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

10 (a) Additions.--There shall be added to such taxable  
11 income:

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

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

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

31 4. That portion of the wages or salaries paid or

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1 incurred for the taxable year which is equal to the amount of  
2 the credit allowable for the taxable year under s. 220.181.  
3 The provisions of this subparagraph shall expire and be void  
4 on June 30, 2005.

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

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

14           7. That portion of assessments to fund a guaranty  
15 association incurred for the taxable year which is equal to  
16 the amount of the credit allowable for the taxable year.

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

22           9. The amount taken as a credit for the taxable year  
23 under s. 220.1895.

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

27           11. The amount taken as a credit for the taxable year  
28 under s. 220.187.

29           The amount taken as a credit for the taxable year under  
30 s. 220.1875.

31           (b) Subtractions.--

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1           1. There shall be subtracted from such taxable income:

2           a. The net operating loss deduction allowable for  
3 federal income tax purposes under s. 172 of the Internal  
4 Revenue Code for the taxable year,

5           b. The net capital loss allowable for federal income  
6 tax purposes under s. 1212 of the Internal Revenue Code for  
7 the taxable year,

8           c. The excess charitable contribution deduction  
9 allowable for federal income tax purposes under s. 170(d)(2)  
10 of the Internal Revenue Code for the taxable year, and

11           d. The excess contributions deductions allowable for  
12 federal income tax purposes under s. 404 of the Internal  
13 Revenue Code for the taxable year.

14  
15 However, a net operating loss and a capital loss shall never  
16 be carried back as a deduction to a prior taxable year, but  
17 all deductions attributable to such losses shall be deemed net  
18 operating loss carryovers and capital loss carryovers,  
19 respectively, and treated in the same manner, to the same  
20 extent, and for the same time periods as are prescribed for  
21 such carryovers in ss. 172 and 1212, respectively, of the  
22 Internal Revenue Code.

23           2. There shall be subtracted from such taxable income  
24 any amount to the extent included therein the following:

25           a. Dividends treated as received from sources without  
26 the United States, as determined under s. 862 of the Internal  
27 Revenue Code.

28           b. All amounts included in taxable income under s. 78  
29 or s. 951 of the Internal Revenue Code.

30  
31 However, as to any amount subtracted under this subparagraph,

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1 there shall be added to such taxable income all expenses  
2 deducted on the taxpayer's return for the taxable year which  
3 are attributable, directly or indirectly, to such subtracted  
4 amount. Further, no amount shall be subtracted with respect to  
5 dividends paid or deemed paid by a Domestic International  
6 Sales Corporation.

7           3. In computing "adjusted federal income" for taxable  
8 years beginning after December 31, 1976, there shall be  
9 allowed as a deduction the amount of wages and salaries paid  
10 or incurred within this state for the taxable year for which  
11 no deduction is allowed pursuant to s. 280C(a) of the Internal  
12 Revenue Code (relating to credit for employment of certain new  
13 employees).

14           4. There shall be subtracted from such taxable income  
15 any amount of nonbusiness income included therein.

16           5. There shall be subtracted any amount of taxes of  
17 foreign countries allowable as credits for taxable years  
18 beginning on or after September 1, 1985, under s. 901 of the  
19 Internal Revenue Code to any corporation which derived less  
20 than 20 percent of its gross income or loss for its taxable  
21 year ended in 1984 from sources within the United States, as  
22 described in s. 861(a)(2)(A) of the Internal Revenue Code, not  
23 including credits allowed under ss. 902 and 960 of the  
24 Internal Revenue Code, withholding taxes on dividends within  
25 the meaning of sub-subparagraph 2.a., and withholding taxes on  
26 royalties, interest, technical service fees, and capital  
27 gains.

28           6. Notwithstanding any other provision of this code,  
29 except with respect to amounts subtracted pursuant to  
30 subparagraphs 1. and 3., any increment of any apportionment  
31 factor which is directly related to an increment of gross

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1 receipts or income which is deducted, subtracted, or otherwise  
2 excluded in determining adjusted federal income shall be  
3 excluded from both the numerator and denominator of such  
4 apportionment factor. Further, all valuations made for  
5 apportionment factor purposes shall be made on a basis  
6 consistent with the taxpayer's method of accounting for  
7 federal income tax purposes.

8 (c) Installment sales occurring after October 19,  
9 1980.--

10 1. In the case of any disposition made after October  
11 19, 1980, the income from an installment sale shall be taken  
12 into account for the purposes of this code in the same manner  
13 that such income is taken into account for federal income tax  
14 purposes.

15 2. Any taxpayer who regularly sells or otherwise  
16 disposes of personal property on the installment plan and  
17 reports the income therefrom on the installment method for  
18 federal income tax purposes under s. 453(a) of the Internal  
19 Revenue Code shall report such income in the same manner under  
20 this code.

21 (d) Nonallowable deductions.--A deduction for net  
22 operating losses, net capital losses, or excess contributions  
23 deductions under ss. 170(d)(2), 172, 1212, and 404 of the  
24 Internal Revenue Code which has been allowed in a prior  
25 taxable year for Florida tax purposes shall not be allowed for  
26 Florida tax purposes, notwithstanding the fact that such  
27 deduction has not been fully utilized for federal tax  
28 purposes.

29 (2) For purposes of this section, a taxpayer's taxable  
30 income for the taxable year means taxable income as defined in  
31 s. 63 of the Internal Revenue Code and properly reportable for

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1 federal income tax purposes for the taxable year, but subject  
2 to the limitations set forth in paragraph (1)(b) with respect  
3 to the deductions provided by ss. 172 (relating to net  
4 operating losses), 170(d)(2) (relating to excess charitable  
5 contributions), 404(a)(1)(D) (relating to excess pension trust  
6 contributions), 404(a)(3)(A) and (B) (to the extent relating  
7 to excess stock bonus and profit-sharing trust contributions),  
8 and 1212 (relating to capital losses) of the Internal Revenue  
9 Code, except that, subject to the same limitations, the term:  
10       (a) "Taxable income," in the case of a life insurance  
11 company subject to the tax imposed by s. 801 of the Internal  
12 Revenue Code, means life insurance company taxable income;  
13 however, for purposes of this code, the total of any amounts  
14 subject to tax under s. 815(a)(2) of the Internal Revenue Code  
15 pursuant to s. 801(c) of the Internal Revenue Code shall not  
16 exceed, cumulatively, the total of any amounts determined  
17 under s. 815(c)(2) of the Internal Revenue Code of 1954, as  
18 amended, from January 1, 1972, to December 31, 1983;  
19       (b) "Taxable income," in the case of an insurance  
20 company subject to the tax imposed by s. 831(b) of the  
21 Internal Revenue Code, means taxable investment income;  
22       (c) "Taxable income," in the case of an insurance  
23 company subject to the tax imposed by s. 831(a) of the  
24 Internal Revenue Code, means insurance company taxable income;  
25       (d) "Taxable income," in the case of a regulated  
26 investment company subject to the tax imposed by s. 852 of the  
27 Internal Revenue Code, means investment company taxable  
28 income;  
29       (e) "Taxable income," in the case of a real estate  
30 investment trust subject to the tax imposed by s. 857 of the  
31 Internal Revenue Code, means the income subject to tax,

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1 computed as provided in s. 857 of the Internal Revenue Code;

2 (f) "Taxable income," in the case of a corporation

3 which is a member of an affiliated group of corporations

4 filing a consolidated income tax return for the taxable year

5 for federal income tax purposes, means taxable income of such

6 corporation for federal income tax purposes as if such

7 corporation had filed a separate federal income tax return for

8 the taxable year and each preceding taxable year for which it

9 was a member of an affiliated group, unless a consolidated

10 return for the taxpayer and others is required or elected

11 under s. 220.131;

12 (g) "Taxable income," in the case of a cooperative

13 corporation or association, means the taxable income of such

14 organization determined in accordance with the provisions of

15 ss. 1381-1388 of the Internal Revenue Code;

16 (h) "Taxable income," in the case of an organization

17 which is exempt from the federal income tax by reason of s.

18 501(a) of the Internal Revenue Code, means its unrelated

19 business taxable income as determined under s. 512 of the

20 Internal Revenue Code;

21 (i) "Taxable income," in the case of a corporation for

22 which there is in effect for the taxable year an election

23 under s. 1362(a) of the Internal Revenue Code, means the

24 amounts subject to tax under s. 1374 or s. 1375 of the

25 Internal Revenue Code for each taxable year;

26 (j) "Taxable income," in the case of a limited

27 liability company, other than a limited liability company

28 classified as a partnership for federal income tax purposes,

29 as defined in and organized pursuant to chapter 608 or

30 qualified to do business in this state as a foreign limited

31 liability company or other than a similar limited liability

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1 company classified as a partnership for federal income tax  
2 purposes and created as an artificial entity pursuant to the  
3 statutes of the United States or any other state, territory,  
4 possession, or jurisdiction, if such limited liability company  
5 or similar entity is taxable as a corporation for federal  
6 income tax purposes, means taxable income determined as if  
7 such limited liability company were required to file or had  
8 filed a federal corporate income tax return under the Internal  
9 Revenue Code;

10 (k) "Taxable income," in the case of a taxpayer liable  
11 for the alternative minimum tax as defined in s. 55 of the  
12 Internal Revenue Code, means the alternative minimum taxable  
13 income as defined in s. 55(b)(2) of the Internal Revenue Code,  
14 less the exemption amount computed under s. 55(d) of the  
15 Internal Revenue Code. A taxpayer is not liable for the  
16 alternative minimum tax unless the taxpayer's federal tax  
17 return, or related federal consolidated tax return, if  
18 included in a consolidated return for federal tax purposes,  
19 reflect a liability on the return filed for the alternative  
20 minimum tax as defined in s. 55(b)(2) of the Internal Revenue  
21 Code;

22 (l) "Taxable income," in the case of a taxpayer whose  
23 taxable income is not otherwise defined in this subsection,  
24 means the sum of amounts to which a tax rate specified in s.  
25 11 of the Internal Revenue Code plus the amount to which a tax  
26 rate specified in s. 1201(a)(2) of the Internal Revenue Code  
27 are applied for federal income tax purposes.

28  
29 (Redesignate subsequent sections.)

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1 ===== T I T L E    A M E N D M E N T =====

2 And the title is amended as follows:

3            On page 1, line 16, after the word "limitations;"

4

5 insert:

6            amending s. 220.02, F.S.; providing for the

7            order of tax credits; amending s. 220.13, F.S.;

8            providing an add-back to adjusted federal

9            income;

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