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Proposed Committee Substitute by the Committee on Finance and Tax

1 A bill to be entitled

2 An act relating to corporate income tax; amending s.
3 220.03, F.S.; providing for the adoption of the 2008
4 version of the Internal Revenue Code; providing for
5 exceptions to adoption; providing retroactivity; amending
6 s. 220.13(1)(a), F.S., to apply the exceptions and
7 authorizing rules; amending s. 220.241, F.S.; changing one
8 due date for filing of estimated corporate income taxes;
9 providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Paragraph (n) of subsection (1), paragraph (c)
14 of subsection (2), and subsection (3) of section 220.03, Florida
15 Statutes, are amended to read:

16 220.03 Definitions.--

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

21 (n) "Internal Revenue Code" means the United States
22 Internal Revenue Code of 1986, as amended and in effect on
23 January 1, 2008 ~~2007~~, except as provided in subsection (3).

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

27 (c) Any term used in this code shall have the same meaning
28 as when used in a comparable context in the Internal Revenue Code
29 and other statutes of the United States relating to federal



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30 income taxes, as such code and statutes are in effect on January
31 1, 2008 ~~2007~~. However, if subsection (3) is implemented, the
32 meaning of any term shall be taken at the time the term is
33 applied under this code.

34 (3) FUTURE FEDERAL AMENDMENTS.--

35 (a) On or after January 1, 1972, when expressly authorized
36 by law, any amendment to the Internal Revenue Code shall be given
37 effect under this code in such manner and for such periods as are
38 prescribed in the Internal Revenue Code, to the same extent as if
39 such amendment had been adopted by the Legislature of this state.
40 However, any such amendment shall have effect under this code
41 only to the extent that the amended provision of the Internal
42 Revenue Code shall be taken into account in the computation of
43 net income subject to tax hereunder.

44 (b)1. Section 102 of Pub. L. No. 110-185 amends s. 179(b)
45 of the Internal Revenue Code of 1986, as amended, and provides
46 temporary increases in the limitations of expensing specified
47 depreciable business assets for tax years beginning after
48 December 31, 2007. The amount of such temporary increases may not
49 be used in computing adjusted federal income for the purpose of
50 determining corporate income tax liability in this state.

51 2. Section 103 of Pub. L. No. 110-185 amends s. 168(k) of
52 the Internal Revenue Code of 1986, as amended, for specified
53 property acquired after December 31, 2007, and before January 1,
54 2009. Section 103 provides an additional allowance equal to 50
55 percent of the adjusted basis of the qualified property entitled
56 to a depreciation deduction by s. 167(a) for the taxable year in
57 which such property is placed in service. The amount of such
58 special depreciation allowances may not be used in computing
59 adjusted federal income for the purpose of determining corporate



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60 income tax liability in this state.

61 3. It is the intent of the Legislature that ss. 102 and 103
62 of Pub. L. No. 110-185 be construed to disallow a deduction for
63 bonus depreciation allowed under s. 168 of the Internal Revenue
64 Code of 1986, as amended, in computing state net income. The
65 applicable depreciation conventions and recovery periods shall be
66 computed in the same manner as they are computed by the taxpayer
67 in determining federal taxable income. As used in this chapter,
68 the term "bonus depreciation" includes all amounts allowed as a
69 special allowance under s. 168(k) of the Internal Revenue Code of
70 1986, as amended.

71 Section 2. Paragraph (a) of subsection (1) of section
72 220.13, Florida Statutes, is amended to read:

73 220.13 "Adjusted federal income" defined.--

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

78 (a) Additions.--There shall be added to such taxable
79 income:

80 1. The amount of any tax upon or measured by income,
81 excluding taxes based on gross receipts or revenues, paid or
82 accrued as a liability to the District of Columbia or any state
83 of the United States which is deductible from gross income in the
84 computation of taxable income for the taxable year.

85 2. The amount of interest which is excluded from taxable
86 income under s. 103(a) of the Internal Revenue Code or any other
87 federal law, less the associated expenses disallowed in the
88 computation of taxable income under s. 265 of the Internal
89 Revenue Code or any other law, excluding 60 percent of any



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90 amounts included in alternative minimum taxable income, as
91 defined in s. 55(b)(2) of the Internal Revenue Code, if the
92 taxpayer pays tax under s. 220.11(3).

93 3. In the case of a regulated investment company or real
94 estate investment trust, an amount equal to the excess of the net
95 long-term capital gain for the taxable year over the amount of
96 the capital gain dividends attributable to the taxable year.

97 4. That portion of the wages or salaries paid or incurred
98 for the taxable year which is equal to the amount of the credit
99 allowable for the taxable year under s. 220.181. This
100 subparagraph shall expire on the date specified in s. 290.016 for
101 the expiration of the Florida Enterprise Zone Act.

102 5. That portion of the ad valorem school taxes paid or
103 incurred for the taxable year which is equal to the amount of the
104 credit allowable for the taxable year under s. 220.182. This
105 subparagraph shall expire on the date specified in s. 290.016 for
106 the expiration of the Florida Enterprise Zone Act.

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

111 7. That portion of assessments to fund a guaranty
112 association incurred for the taxable year which is equal to the
113 amount of the credit allowable for the taxable year.

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



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119 9. The amount taken as a credit for the taxable year under
120 s. 220.1895.

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

124 11. The amount taken as a credit for the taxable year under
125 s. 220.187.

126 12. The amount taken as a credit for the taxable year under
127 s. 220.192.

128 13. The amount taken as a credit for the taxable year under
129 s. 220.193.

130 14. Any amount in excess of \$25,000 allowable as a
131 deduction for federal income tax purposes under s. 179 of the
132 Internal Revenue Code of 1986, as amended, for the taxable year.

133 15. Any amount allowable as a deduction for federal income
134 tax purposes under s. 167 or s. 168 of the Internal Revenue Code
135 of 1986, as amended, for the taxable year to the extent that such
136 amount includes bonus depreciation allowable as deduction under
137 s. 168(k).

138 Section 3. Effective January 1, 2009, section 220.241,
139 Florida Statutes, is amended to read:

140 220.241 Declaration; time for filing.--A declaration of
141 estimated tax under this code shall be filed on or before the 1st
142 day of the 5th month of each taxable year, except that if the
143 minimum tax requirement of s. 220.24(1) is first met:

144 (1) After the 3rd month and before the 6th month of the
145 taxable year, the declaration shall be filed ~~on or~~ before the 1st
146 day of the 7th month;



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147 (2) After the 5th month and before the 9th month of the
148 taxable year, the declaration shall be filed ~~on or~~ before the 1st
149 day of the 10th month; or

150 (3) After the 8th month and before the 12th month of the
151 taxable year, the declaration shall be filed for the taxable year
152 ~~on or~~ before the 1st day of the succeeding taxable year.

153 Section 4. Effective January 1, 2009, subsections (1) and
154 (2) of section 220.33, Florida Statutes, are amended to read:

155 220.33 Payments of estimated tax.--A taxpayer required to
156 file a declaration of estimated tax pursuant to s. 220.24 shall
157 pay such estimated tax as follows:

158 (1) If the declaration is required to be filed on or before the
159 1st ~~first~~ day of the 5th ~~fifth~~ month of the taxable year, the
160 estimated tax shall be paid in four equal installments. The first
161 installment shall be paid at the time of the required filing of
162 the declaration; the second and third installments shall be paid
163 ~~on or~~ before the 1st day of the 7th month and before the 1st day
164 of the 10th month ~~months~~ of the taxable year, respectively; and
165 the fourth installment shall be paid on or before the 1st day of
166 the next taxable year.

167 (2) If the declaration is required to be filed ~~on or~~ before
168 the 1st ~~first~~ day of the 7th ~~seventh~~ month of the taxable year,
169 the estimated tax shall be paid in three equal installments. The
170 first installment shall be paid at the time of required filing of
171 the declaration; the second installment shall be paid ~~on or~~
172 before the 1st day of the 10th month of the taxable year; and the
173 third installment shall be paid ~~on or~~ before the 1st day of the
174 next taxable year.

175 Section 5. The Department of Revenue may adopt rules
176 necessary to administer the provisions of this act, including



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177 rules, forms, and guidelines for computing, claiming, and adding
178 back bonus depreciation under s. 168(k) and deductions under s.
179 179 of the Internal Revenue Code of 1986, as amended.

180 Section 6. Except as otherwise expressly provided in this
181 act, this act shall take effect upon becoming a law and shall
182 apply retroactively to January 1, 2008.

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