

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Finance and Tax Committee

BILL: CS/SB 1586

INTRODUCER: Finance and Tax Committee and Senator Haridopolos

SUBJECT: Taxation

DATE: April 2, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	ODonnell	Johansen	FT	Fav/CS
2.			GA	
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Sections 1 of the Committee Substitute amends Ch. 220, F.S., the Florida Corporate Income Tax Code. Section 220.03, F.S., is amended to adopt the federal Internal Revenue Code as amended and in effect on January 1, 2008. Subsection 220.03(3)F.S., is amended to provide for exceptions to adoption of those provisions in the federal Code that provide temporary increases to the limitations on expensing certain depreciable business assets for tax years beginning after December 31, 2007, and to those that provide additional allowances to the adjusted basis of property acquired after December 31, 2007, and before January 1, 2009. Legislative intent language is also added.

Section 2 of the CS amends s.220.13, F.S., providing for the definition of adjusted federal income. The CS requires an addition to Florida adjusted federal income of amounts in excess of \$25,000 in federal depreciation deduction allowed under s. 179 of the federal Code. An addition is also required for any amount allowable under s. 167 or s. 168 of the federal Code to the extent the amount includes any bonus depreciation under s. 168(k) of the federal Code.

Sections 3 and 4 of the CS require that, for a calendar year corporation, a declaration of estimated tax and the payment of estimated corporate tax that would have been due on the first

day of July and October, now be paid before the first day of July and October. Corporations with non-calendar year fiscal years will have their due dates for estimated payments changed in similar fashion.

Section 5 of the CS grants the Department rulemaking authority to carry out the purposes of the bill.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 220.03; 220.13(1)(a);220.241.

II. Present Situation:

Florida's Corporate Income Tax Code is routinely amended to follow the federal Internal Revenue Code by using federal rules and starting with federal taxable income as the tax base for the Florida income tax. Section 220.03, F.S., defines specific terms as they apply to Florida's Corporate Income Tax Code. The term "Internal Revenue Code" is currently defined to mean those provisions of the United States Internal Revenue Code of 1986, as amended, in effect on January 1, 2007.

Pursuant to s. 220.222, F.S., the Florida corporate income tax return is generally due on or before the first day of the fourth month following the close of the tax year. If a corporation reasonably can be expected to owe more than \$2,500 in Florida corporate income tax for the taxable year, the taxpayer must make a declaration of estimated tax. Taxpayers who are required to file a declaration must make estimated tax payments. Four equal payments are usually required. The first payment is due at the time the declaration is filed; the second and third installments are due "on or before" the first day of the 7th and 10th months of the taxable year.

III. Effect of Proposed Changes:

General Update

This bill generally updates the Florida Income Tax Code to reflect changes in the U.S. Internal Revenue Code enacted by Congress in during 2008. This definition provides for "piggybacking" each change made during 2006 in the Internal Revenue Code. This bill takes effect upon becoming a law and operates retroactively to January 1, 2008.

Exceptions to Adoption of Certain Federal Code Provisions.

The CS provides for exceptions to adoption of federal code changes that would otherwise include those brought about as part of the Economic Stimulus Act of 2008. Absent the exceptions, adoption would have a negative fiscal impact on the state budget. The effects to the revenues of the State of Florida occur from reductions in the Line 1 (Federal taxable income) of Form F-1120, Florida Corporate Income/Franchise and Emergency Excise Tax Return.

Section 179 Expensing

Federal changes to Sec. 102¹ allow a temporary increase in limitations on expensing of certain depreciable business assets. In general, a qualifying taxpayer can elect to treat the cost of certain property as an expense and deduct it in the year the property is placed in service instead of

¹IR-2008-22, Feb. 21, 2008, Internal Revenue Service, www.irs.gov.

depreciating it over several years. This property is frequently referred to as section 179 property, after the relevant section in the Internal Revenue Code. Under the new federal Code provision, a qualifying business can expense up to \$250,000 of section 179 property purchased by the taxpayer in a tax year.

The CS provides for an exception to adoption of this provision of the federal Code.

50-Percent Bonus Depreciation Allowance

Federal changes to Sec. 103. includes a special 50-percent depreciation allowance for 2008 purchases.

The CS provides for an exception to adoption of this provision of the federal Code.

Estimated Tax Payment Speed-up

The impact is primarily limited to estimated payments from calendar your corporations currently due on July 1st, which will now be due on June 30th. Corporate income taxpayers required to file a declaration must continue to make estimated tax payments. The first remains due at the time the declaration is filed. However; under the CS, the second and third installments are due before the first day of the 7th and 10th months of the taxable year. The first day of the 7th month (July 1), would otherwise fall into state fiscal year 2009-2010. By requiring the due date to be fall in June, 2008, before the beginning of the next fiscal year, the expected revenue is available for appropriation in the fiscal year 2008-2009.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

This bill generally maintains the link between Florida's corporate income tax code and the federal income tax code. Failure to decouple from the temporary federal increased deductions would have an immediate negative revenue impact on Florida.

According to the Revenue Estimating Conference consensus impact statement, adoption of the 2008 federal Code without the exceptions contained in the CS would have a negative \$146.8 million general revenue cash impact in state fiscal year 2008-2009, and a negative \$ 76 million general revenue cash impact in state fiscal year 2009-2010. Thereafter, without these exceptions, it is expected that there would be positive impacts of \$51.1 in fiscal year 2010-2011 and of \$38.4 in 2011-2012.

The speed-up of corporate tax estimated payments has been determined by the Revenue Estimating Conference to have a positive fiscal year 2008-2009 cash impact of \$93.8 million and a recurring impact of \$1.5 million.

B. Private Sector Impact:

This bill requires corporations subject to Florida corporate income tax to adjust their tax calculations from those made under the federal Code. This can be expected to result in increased bookkeeping burdens for these entities since they must add an additional

accounting step to file Florida returns. However, in the past, many states have decoupled from federal provisions, like bonus depreciation, or have implemented much lower ceilings on the maximum Section 179 deduction.

Most corporate estimated payments are paid before July 1. Therefore, the CS should have little impact on the day-to-day operations of corporations making estimated payments

C. Government Sector Impact:

Since Florida's corporate income tax is based upon a taxpayer's income as calculated for federal tax purposes, Florida can rely on the efforts of the IRS to ensure the accuracy of the starting point for determining tax liability. Passage of the CS will generally maintain this relationship, which significantly decreases the cost of enforcing Florida's income tax law. The Department of Revenue can be expected to add steps to its audit process to account for failure to adopt the federal bonus depreciation and expensing deductions.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on April 2, 2008:

Senate Bill 1586 was originally filed as a shell bill expressing legislative intent to revise laws relating to taxation. The Finance and Tax Committee adopted the committee substitute as described in this bill analysis.

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Section 5 of the CS grants the Department rulemaking authority to carry out the purposes of the bill.

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B. Amendments:

None.