

By the Committee on Finance and Tax; and Senator Haridopolos

593-06530-08

20081586c1

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; amending s. 220.13, F.S., relating  
6 to the determination of adjusted federal income;  
7 conforming provisions; amending ss. 220.241 and 220.33,  
8 F.S.; revising the due date for filing and paying  
9 estimated corporate income tax; authorizing the Department  
10 of Revenue to adopt rules; providing for retroactive  
11 application; providing effective dates.

12  
13 Be It Enacted by the Legislature of the State of Florida:

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

18 220.03 Definitions.--

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

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

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

593-06530-08

20081586c1

29 (c) Any term used in this code shall have the same meaning  
30 as when used in a comparable context in the Internal Revenue Code  
31 and other statutes of the United States relating to federal  
32 income taxes, as such code and statutes are in effect on January  
33 1, 2008 ~~2007~~. However, if subsection (3) is implemented, the  
34 meaning of any term shall be taken at the time the term is  
35 applied under this code.

36 (3) FUTURE FEDERAL AMENDMENTS.--

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

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

53 2. Section 103 of Pub. L. No. 110-185 amends s. 168(k) of  
54 the Internal Revenue Code of 1986, as amended, for specified  
55 property acquired after December 31, 2007, and before January 1,  
56 2009. Section 103 provides an additional allowance equal to 50  
57 percent of the adjusted basis of the qualified property entitled

593-06530-08

20081586c1

58 to a depreciation deduction by s. 167(a) for the taxable year in  
59 which such property is placed in service. The amount of such  
60 special depreciation allowances may not be used in computing  
61 adjusted federal income for the purpose of determining corporate  
62 income tax liability in this state.

63 3. It is the intent of the Legislature that ss. 102 and 103  
64 of Pub. L. No. 110-185 be construed to disallow a deduction for  
65 bonus depreciation allowed under s. 168 of the Internal Revenue  
66 Code of 1986, as amended, in computing state net income. The  
67 applicable depreciation conventions and recovery periods shall be  
68 computed in the same manner as they are computed by the taxpayer  
69 in determining federal taxable income. As used in this chapter,  
70 the term "bonus depreciation" includes all amounts allowed as a  
71 special allowance under s. 168(k) of the Internal Revenue Code of  
72 1986, as amended.

73 Section 2. Paragraph (a) of subsection (1) of section  
74 220.13, Florida Statutes, is amended to read:

75 220.13 "Adjusted federal income" defined.--

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

80 (a) Additions.--There shall be added to such taxable  
81 income:

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

593-06530-08

20081586c1

87           2. The amount of interest which is excluded from taxable  
88 income under s. 103(a) of the Internal Revenue Code or any other  
89 federal law, less the associated expenses disallowed in the  
90 computation of taxable income under s. 265 of the Internal  
91 Revenue Code or any other law, excluding 60 percent of any  
92 amounts included in alternative minimum taxable income, as  
93 defined in s. 55(b)(2) of the Internal Revenue Code, if the  
94 taxpayer pays tax under s. 220.11(3).

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

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

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

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

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

593-06530-08

20081586c1

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

121 9. The amount taken as a credit for the taxable year under  
122 s. 220.1895.

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

126 11. The amount taken as a credit for the taxable year under  
127 s. 220.187.

128 12. The amount taken as a credit for the taxable year under  
129 s. 220.192.

130 13. The amount taken as a credit for the taxable year under  
131 s. 220.193.

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

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

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

142 220.241 Declaration; time for filing.--A declaration of  
143 estimated tax under this code shall be filed on or before the 1st

593-06530-08

20081586c1

144 day of the 5th month of each taxable year, except that if the  
145 minimum tax requirement of s. 220.24(1) is first met:

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

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

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

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

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

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

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

593-06530-08

20081586c1

173 the declaration; the second installment shall be paid ~~on or~~  
174 before the 1st day of the 10th month of the taxable year; and the  
175 third installment shall be paid ~~on or~~ before the 1st day of the  
176 next taxable year.

177 Section 5. The Department of Revenue may adopt rules  
178 necessary to administer the provisions of this act, including  
179 rules, forms, and guidelines for computing, claiming, and adding  
180 back bonus depreciation under s. 168(k) and deductions under s.  
181 179 of the Internal Revenue Code of 1986, as amended.

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