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 HB 5065, Engrossed 1

2008 Legislature

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
 27 neither otherwise distinctly expressed nor manifestly
 28 incompatible with the intent thereof:

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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
 31 Code 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
 39 given effect under this code in such manner and for such periods
 40 as are prescribed in the Internal Revenue Code, to the same
 41 extent as if such amendment had been adopted by the Legislature
 42 of this state. However, any such amendment shall have effect
 43 under this code only to the extent that the amended provision of
 44 the Internal Revenue Code shall be taken into account in the
 45 computation of 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
 51 not be used in computing adjusted federal income for the purpose
 52 of 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

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57 percent of the adjusted basis of the qualified property entitled
 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
 64 103 of Pub. L. No. 110-185 be construed to disallow a deduction
 65 for bonus depreciation allowed under s. 168 of the Internal
 66 Revenue Code of 1986, as amended, in computing state net income.
 67 The applicable depreciation conventions and recovery periods
 68 shall be computed in the same manner as they are computed by the
 69 taxpayer in determining federal taxable income. As used in this
 70 chapter, the term "bonus depreciation" includes all amounts
 71 allowed as a special allowance under s. 168(k) of the Internal
 72 Revenue Code of 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
 79 provided in s. 220.131, for the taxable year, adjusted as
 80 follows:

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

83 1. The amount of any tax upon or measured by income,
 84 excluding taxes based on gross receipts or revenues, paid or

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85 accrued as a liability to the District of Columbia or any state
 86 of the United States which is deductible from gross income in
 87 the computation of taxable income for the taxable year.

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

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

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

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

110 6. The amount of emergency excise tax paid or accrued as a
 111 liability to this state under chapter 221 which tax is

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112 deductible from gross income in the computation of taxable
 113 income for the taxable year.

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

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

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

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

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

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

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

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

136 15. Any amount allowable as a deduction for federal income
 137 tax purposes under s. 167 or s. 168 of the Internal Revenue Code
 138 of 1986, as amended, for the taxable year to the extent that

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139 such amount includes bonus depreciation allowable as deduction
 140 under s. 168(k).

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

143 220.241 Declaration; time for filing.--A declaration of
 144 estimated tax under this code shall be filed ~~en-or~~ before the
 145 1st day of the 5th month of each taxable year, except that if
 146 the minimum tax requirement of s. 220.24(1) is first met:

147 (1) After the 3rd month and before the 6th month of the
 148 taxable year, the declaration shall be filed ~~en-or~~ before the
 149 1st day of the 7th month;

150 (2) After the 5th month and before the 9th month of the
 151 taxable year, the declaration shall be filed ~~en-or~~ before the
 152 1st day of the 10th month; or

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

156 Section 4. Effective January 1, 2009, subsections (1),
 157 (2), and (3) of section 220.33, Florida Statutes, are amended to
 158 read:

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

162 (1) If the declaration is required to be filed ~~en-or~~
 163 before the 1st ~~first~~ day of the 5th ~~fifth~~ month of the taxable
 164 year, the estimated tax shall be paid in four equal
 165 installments. The first installment shall be paid at the time of
 166 the required filing of the declaration; the second and third

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167 installments shall be paid ~~on or~~ before the 1st day of the 7th
168 month and before the 1st day of the 10th month ~~months~~ of the
169 taxable year, respectively; and the fourth installment shall be
170 paid ~~on or~~ before the 1st day of the next taxable year.

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

179 (3) If the declaration is required to be filed ~~on or~~
180 before the 1st day of the 10th month of the taxable year, the
181 estimated tax shall be paid in two equal installments: at the
182 time of required filing of the declaration for such taxable year
183 and ~~on or~~ before the 1st day of the next taxable year,
184 respectively.

185 Section 5. The Department of Revenue may adopt rules
186 necessary to administer the provisions of this act, including
187 rules, forms, and guidelines for computing, claiming, and adding
188 back bonus depreciation under s. 168(k) and deductions under s.
189 179 of the Internal Revenue Code of 1986, as amended.

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