

By Senator Altman

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1                   A bill to be entitled  
2       An act relating to the corporate income tax; amending  
3       s. 220.03, F.S.; deleting certain provisions relating  
4       to federal amendments to federal law dealing with  
5       bonus depreciation for purposes of adjusted federal  
6       income and corporate income tax liability; amending s.  
7       220.13, F.S.; deleting certain adjustments to federal  
8       income; specifying the treatment by this state of  
9       certain depreciation and expensing of assets that are  
10      allowed for federal income tax purposes; requiring the  
11      Department of Revenue to compromise certain penalties  
12      and interest under certain circumstances; specifying  
13      application; authorizing the department to adopt  
14      emergency rules for certain administrative purposes;  
15      providing for retroactive operation; providing an  
16      effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20       Section 1. Subsection (3) of section 220.03, Florida  
21       Statutes, is amended to read:

22       220.03 Definitions.—

23       (3) FUTURE FEDERAL AMENDMENTS.—

24       ~~(a)~~ On or after January 1, 1972, when expressly authorized  
25       by law, any amendment to the Internal Revenue Code shall be  
26       given effect under this code in such manner and for such periods  
27       as are prescribed in the Internal Revenue Code, to the same  
28       extent as if such amendment had been adopted by the Legislature  
29       of this state. However, any such amendment shall have effect

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30 under this code only to the extent that the amended provision of  
31 the Internal Revenue Code shall be taken into account in the  
32 computation of net income subject to tax hereunder.

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

40 ~~2. Section 103 of Pub. L. No. 110-185 amends s. 168(k) of~~  
41 ~~the Internal Revenue Code of 1986, as amended, for specified~~  
42 ~~property acquired after December 31, 2007, and before January 1,~~  
43 ~~2009. Section 103 provides an additional allowance equal to 50~~  
44 ~~percent of the adjusted basis of the qualified property entitled~~  
45 ~~to a depreciation deduction by s. 167(a) for the taxable year in~~  
46 ~~which such property is placed in service. The amount of such~~  
47 ~~special depreciation allowances may not be used in computing~~  
48 ~~adjusted federal income for the purpose of determining corporate~~  
49 ~~income tax liability in this state.~~

50 ~~3. It is the intent of the Legislature that ss. 102 and 103~~  
51 ~~of Pub. L. No. 110-185 be construed to disallow a deduction for~~  
52 ~~bonus depreciation allowed under s. 168 of the Internal Revenue~~  
53 ~~Code of 1986, as amended, in computing state net income. The~~  
54 ~~applicable depreciation conventions and recovery periods shall~~  
55 ~~be computed in the same manner as they are computed by the~~  
56 ~~taxpayer in determining federal taxable income. As used in this~~  
57 ~~chapter, the term "bonus depreciation" includes all amounts~~  
58 ~~allowed as a special allowance under s. 168(k) of the Internal~~

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59 ~~Revenue Code of 1986, as amended.~~

60 Section 2. Paragraph (a) of subsection (1) of section  
61 220.13, Florida Statutes, is amended, and paragraph (e) is added  
62 to that subsection, to read:

63 220.13 "Adjusted federal income" defined.—

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

69 (a) *Additions.*—There shall be added to such taxable income:

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

75 2. The amount of interest which is excluded from taxable  
76 income under s. 103(a) of the Internal Revenue Code or any other  
77 federal law, less the associated expenses disallowed in the  
78 computation of taxable income under s. 265 of the Internal  
79 Revenue Code or any other law, excluding 60 percent of any  
80 amounts included in alternative minimum taxable income, as  
81 defined in s. 55(b)(2) of the Internal Revenue Code, if the  
82 taxpayer pays tax under s. 220.11(3).

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

87 4. That portion of the wages or salaries paid or incurred

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88 for the taxable year which is equal to the amount of the credit  
89 allowable for the taxable year under s. 220.181. This  
90 subparagraph shall expire on the date specified in s. 290.016  
91 for the expiration of the Florida Enterprise Zone Act.

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

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

101 7. That portion of assessments to fund a guaranty  
102 association incurred for the taxable year which is equal to the  
103 amount of the credit allowable for the taxable year.

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

109 9. The amount taken as a credit for the taxable year under  
110 s. 220.1895.

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

114 11. The amount taken as a credit for the taxable year under  
115 s. 220.187.

116 12. The amount taken as a credit for the taxable year under

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117 s. 220.192.

118 13. The amount taken as a credit for the taxable year under  
119 s. 220.193.120 ~~14. Any amount in excess of \$25,000 allowable as a~~  
121 ~~deduction for federal income tax purposes under s. 179 of the~~  
122 ~~Internal Revenue Code of 1986, as amended, for the taxable year.~~123 ~~15. Any amount allowable as a deduction for federal income~~  
124 ~~tax purposes under s. 167 or s. 168 of the Internal Revenue Code~~  
125 ~~of 1986, as amended, for the taxable year to the extent that~~  
126 ~~such amount includes bonus depreciation allowable as deduction~~  
127 ~~under s. 168(k).~~128 (e) Adjustments related to the Federal Economic Stimulus  
129 Act of 2008.—Taxpayers shall be required to make the adjustments  
130 prescribed in this paragraph for Florida tax purposes in  
131 relation to certain tax benefits received pursuant to the  
132 Economic Stimulus Act of 2008.133 1. There shall be added to such taxable income an amount  
134 equal to 80 percent of any amount deducted for federal income  
135 tax purposes as bonus depreciation for the taxable year pursuant  
136 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as  
137 amended by s. 103 of Pub. L. No. 110-185, for property placed in  
138 service after December 31, 2007, and before January 1, 2009. In  
139 each of the 4 subsequent taxable years, there shall be  
140 subtracted from such taxable income 25 percent of the amount by  
141 which taxable income was increased pursuant to this  
142 subparagraph, notwithstanding any sale or other disposition of  
143 the property that is the subject of the adjustments and  
144 regardless of whether such property remains in service in the  
145 hands of the taxpayer.

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146       2. There shall be added to such taxable income an amount  
147 equal to 80 percent of any amount in excess of \$128,000 deducted  
148 for federal income tax purposes for the taxable year under s.  
149 179 of the Internal Revenue Code of 1986, as amended by s. 102  
150 of Pub. L. No. 110-185, for taxable years beginning after  
151 December 31, 2007, and before January 1, 2009. In each of the 4  
152 subsequent taxable years, there shall be subtracted from such  
153 taxable income 25 percent of the amount by which taxable income  
154 was increased pursuant to this subparagraph, notwithstanding any  
155 sale or other disposition of the property that is the subject of  
156 the adjustments and regardless of whether such property remains  
157 in service in the hands of the taxpayer.

158       3. Subtractions available under this paragraph may be  
159 transferred to the surviving or acquiring entity following a  
160 merger or acquisition and used in the same manner and with the  
161 same limitations as specified by this paragraph.

162       4. The additions and subtractions specified in this  
163 paragraph are intended to adjust taxable income for Florida tax  
164 purposes, and, notwithstanding any other provision of this code,  
165 such additions and subtractions shall be permitted to change a  
166 taxpayer's net operating loss for Florida tax purposes.

167       Section 3. The Department of Revenue shall compromise all  
168 penalties and interest imposed on taxpayers who file returns  
169 prior to the effective date of this act and subsequently file  
170 amended returns based upon this act. This section only applies  
171 to changes in tax liability directly resulting from the  
172 provisions of this act.

173       Section 4. The executive director of the Department of  
174 Revenue may, and all conditions are deemed met to, adopt

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175 emergency rules under ss. 120.536(1) and 120.54(4), Florida  
176 Statutes, for the purpose of implementing this act.  
177 Notwithstanding any other provision of law, such emergency rules  
178 shall remain in effect for 18 months after the date adopted and  
179 may be renewed during the pendency of any procedures to adopt  
180 rules addressing the subject of the emergency rules.

181       Section 5. This act shall take effect upon becoming a law,  
182 and shall operate retroactively to January 1, 2008.