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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.

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

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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 100 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. For
139 the taxable year and for each of the 6 subsequent taxable years,
140 there shall be subtracted from such taxable income an amount
141 equal to one-seventh of the amount by which taxable income was
142 increased pursuant to this subparagraph, notwithstanding any
143 sale or other disposition of the property that is the subject of
144 the adjustments and regardless of whether such property remains
145 in service in the hands of the taxpayer.

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146 2. There shall be added to such taxable income an amount
147 equal to 100 percent of any amount in excess of \$128,000
148 deducted for federal income tax purposes for the taxable year
149 pursuant to s. 179 of the Internal Revenue Code of 1986, as
150 amended by s. 102 of Pub. L. No. 110-185, for taxable years
151 beginning after December 31, 2007, and before January 1, 2009.
152 For the taxable year and for each of the 6 subsequent taxable
153 years, there shall be subtracted from such taxable income one-
154 seventh of the amount by which taxable income was increased
155 pursuant to this subparagraph, notwithstanding any sale or other
156 disposition of the property that is the subject of the
157 adjustments and regardless of whether such property remains in
158 service in the hands of the taxpayer.

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

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

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

174 Section 4. The executive director of the Department of

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

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