

HB 1247

2009

1                   A bill to be entitled  
2           An act relating to the corporate income tax; providing  
3           legislative findings and intent; amending s. 220.03, F.S.;  
4           revising a definition; defining the terms "tax haven" and  
5           "water's edge group"; amending s. 220.13, F.S.; conforming  
6           a cross-reference; redefining the term "adjusted federal  
7           income" to limit the subtraction of certain deductions and  
8           certain carryovers; requiring the subtraction of certain  
9           dividends from taxable income; creating s. 220.136, F.S.;  
10          providing rules and criteria to determine if a corporation  
11          is a member of a water's edge group; creating s. 220.1363,  
12          F.S.; providing a reporting method for a water's edge  
13          group; providing for the apportionment of income to the  
14          state; requiring a member of a water's edge group having  
15          nexus with this state to file a single return for the  
16          water's edge group; providing for the determination of  
17          income for a member of a water's edge group having a  
18          different tax year than the water's edge group; requiring  
19          a water's edge group return to include a computational  
20          schedule; requiring a water's edge group to file a  
21          domestic disclosure spreadsheet along with its return;  
22          authorizing the Department of Revenue to adopt rules;  
23          amending s. 220.14, F.S.; providing for the proration of  
24          an exemption during a leap year; limiting a water's edge  
25          group to a single claim of a specified exemption; amending  
26          s. 220.15, F.S.; deleting provisions relating to  
27          affiliated groups with respect to certain sales of a  
28          financial institution; amending s. 220.183, F.S.; deleting

29 provisions relating to affiliated groups with respect to  
 30 community contribution tax credits; amending s. 220.1845,  
 31 F.S.; deleting provisions relating to affiliated groups  
 32 with respect to the contaminated site rehabilitation tax  
 33 credit; amending s. 220.187, F.S.; deleting provisions  
 34 relating to affiliated groups with respect to the tax  
 35 credit for contributions to nonprofit scholarship funding  
 36 organizations; amending s. 220.191, F.S.; deleting  
 37 provisions relating to affiliated groups with respect to  
 38 the capital investment tax credit; amending s. 220.192,  
 39 F.S.; deleting provisions relating to affiliated groups  
 40 with respect to the renewable energy technologies  
 41 investment tax credit; amending s. 220.193, F.S.; deleting  
 42 provisions relating to affiliated groups with respect to  
 43 the Florida renewable energy production tax credit;  
 44 amending s. 220.51, F.S.; deleting provisions relating to  
 45 the rulemaking authority of the Department of Revenue with  
 46 respect to consolidated reporting for affiliated groups;  
 47 amending s. 220.64, F.S.; conforming cross-references;  
 48 providing transitional rules for corporate income tax  
 49 returns filed by water's edge groups and affiliated groups  
 50 of corporations; specifying the allocation of funds that  
 51 are recaptured under the act; amending s. 376.30781, F.S.;  
 52 correcting cross-references; repealing s. 220.131, F.S.,  
 53 relating to adjusted federal income for affiliated groups;  
 54 providing an effective date.

55  
 56 Be It Enacted by the Legislature of the State of Florida:

57  
 58           Section 1. Legislative findings and intent.--The  
 59 Legislature finds that the separate accounting system used to  
 60 measure the income of multistate and multinational corporations  
 61 for tax purposes often places Florida corporations at a  
 62 competitive disadvantage. Moreover, corporate business is  
 63 increasingly conducted through groups of commonly owned  
 64 corporations. Therefore, the Legislature intends to more  
 65 accurately measure the business activities of corporations by  
 66 adopting a combined system of income tax reporting.

67           Section 2. Paragraph (z) of subsection (1) of section  
 68 220.03, Florida Statutes, is amended and paragraphs (gg) and  
 69 (hh) are added to that subsection to read:

70           220.03 Definitions.--

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

75           (z) "Taxpayer" means any corporation subject to the tax  
 76 imposed by this code, and includes all corporations that are  
 77 members of a water's edge group ~~for which a consolidated return~~  
 78 ~~is filed under s. 220.131.~~ However, "taxpayer" does not include  
 79 a corporation having no individuals (including individuals  
 80 employed by an affiliate) receiving compensation in this state  
 81 as defined in s. 220.15 when the only property owned or leased  
 82 by said corporation (including an affiliate) in this state is  
 83 located at the premises of a printer with which it has  
 84 contracted for printing, if such property consists of the final

85 printed product, property which becomes a part of the final  
 86 printed product, or property from which the printed product is  
 87 produced.

88 (gg) "Tax haven" means a jurisdiction that, for a  
 89 particular tax year:

90 1. Is identified by the Organization for Economic Co-  
 91 operation and Development as a tax haven or as having a harmful  
 92 preferential tax regime; or

93 2.a. Is a jurisdiction that does not impose or imposes  
 94 only a nominal, effective tax on relevant income;

95 b. Has laws or practices that prevent the effective  
 96 exchange of information for tax purposes with other governments  
 97 regarding taxpayers who are subject to, or benefiting from, the  
 98 tax regime;

99 c. Lacks transparency;

100 d. Facilitates the establishment of foreign-owned entities  
 101 without the need for a local substantive presence or prohibits  
 102 these entities from having any commercial impact on the local  
 103 economy;

104 e. Explicitly or implicitly excludes the jurisdiction's  
 105 resident taxpayers from taking advantage of the tax regime's  
 106 benefits or prohibits enterprises that benefit from the regime  
 107 from operating in the jurisdiction's domestic market; or

108 f. Has created a tax regime that is favorable for tax  
 109 avoidance, based upon an overall assessment of relevant factors,  
 110 including whether the jurisdiction has a significant untaxed  
 111 offshore financial or other services sector relative to its  
 112 overall economy.

113  
 114 For purposes of this paragraph, a tax regime lacks transparency  
 115 if the details of legislative, legal, or administrative  
 116 requirements are not open to public scrutiny and apparent, or  
 117 are not consistently applied among similarly situated taxpayers.  
 118 As used in this paragraph, the term "tax regime" means a set or  
 119 system of rules, laws, regulations, or practices by which taxes  
 120 are imposed on any person, corporation, or entity, or on any  
 121 income, property, incident, indicia, or activity pursuant to  
 122 government authority.

123 (hh) "Water's edge group" means a group of corporations  
 124 related through common ownership whose business activities are  
 125 integrated with, dependent upon, or contribute to a flow of  
 126 value among members of the group.

127 Section 3. Subsection (1) of section 220.13, Florida  
 128 Statutes, is amended to read:

129 220.13 "Adjusted federal income" defined.--

130 (1) The term "adjusted federal income" means an amount  
 131 equal to the taxpayer's taxable income as defined in subsection  
 132 (2), or such taxable income of more than one taxpayer as  
 133 provided in s. 220.1363 ~~s. 220.131~~, for the taxable year,  
 134 adjusted as follows:

135 (a) *Additions*.--There shall be added to such taxable  
 136 income:

137 1. The amount of any tax upon or measured by income,  
 138 excluding taxes based on gross receipts or revenues, paid or  
 139 accrued as a liability to the District of Columbia or any state  
 140 of the United States which is deductible from gross income in

141 the computation of taxable income for the taxable year.

142 2. The amount of interest which is excluded from taxable  
 143 income under s. 103(a) of the Internal Revenue Code or any other  
 144 federal law, less the associated expenses disallowed in the  
 145 computation of taxable income under s. 265 of the Internal  
 146 Revenue Code or any other law, excluding 60 percent of any  
 147 amounts included in alternative minimum taxable income, as  
 148 defined in s. 55(b)(2) of the Internal Revenue Code, if the  
 149 taxpayer pays tax under s. 220.11(3).

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

154 4. That portion of the wages or salaries paid or incurred  
 155 for the taxable year which is equal to the amount of the credit  
 156 allowable for the taxable year under s. 220.181. This  
 157 subparagraph shall expire on the date specified in s. 290.016  
 158 for the expiration of the Florida Enterprise Zone Act.

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

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

168 7. That portion of assessments to fund a guaranty

169 association incurred for the taxable year which is equal to the  
 170 amount of the credit allowable for the taxable year.

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

176 9. The amount taken as a credit for the taxable year under  
 177 s. 220.1895.

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

181 11. The amount taken as a credit for the taxable year  
 182 under s. 220.187.

183 12. The amount taken as a credit for the taxable year  
 184 under s. 220.192.

185 13. The amount taken as a credit for the taxable year  
 186 under s. 220.193.

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

190 15. Any amount allowable as a deduction for federal income  
 191 tax purposes under s. 167 or s. 168 of the Internal Revenue Code  
 192 of 1986, as amended, for the taxable year to the extent that  
 193 such amount includes bonus depreciation allowable as deduction  
 194 under s. 168(k).

195 (b) *Subtractions.--*

196 1. There shall be subtracted from such taxable income:

197 a. The net operating loss deduction allowable for federal  
 198 income tax purposes under s. 172 of the Internal Revenue Code  
 199 for the taxable year,

200 b. The net capital loss allowable for federal income tax  
 201 purposes under s. 1212 of the Internal Revenue Code for the  
 202 taxable year,

203 c. The excess charitable contribution deduction allowable  
 204 for federal income tax purposes under s. 170(d)(2) of the  
 205 Internal Revenue Code for the taxable year, and

206 d. The excess contributions deductions allowable for  
 207 federal income tax purposes under s. 404 of the Internal Revenue  
 208 Code for the taxable year.

209  
 210 However, a net operating loss and a capital loss shall never be  
 211 carried back as a deduction to a prior taxable year, but all  
 212 deductions attributable to such losses shall be deemed net  
 213 operating loss carryovers and capital loss carryovers,  
 214 respectively, and treated in the same manner, to the same  
 215 extent, and for the same time periods as are prescribed for such  
 216 carryovers in ss. 172 and 1212, respectively, of the Internal  
 217 Revenue Code. A deduction is not allowed for net operating  
 218 losses, net capital losses, or excess contribution deductions  
 219 under 26 U.S.C. ss. 170(d)(2), 172, 1212, and 404 for a member  
 220 of a water's edge group that is not a United States member.  
 221 Carryovers of net operating losses, net capital losses, or  
 222 excess contribution deductions under 26 U.S.C. ss. 170(d)(2),  
 223 172, 1212, and 404 may be subtracted only by the member of the  
 224 water's edge group that generates a carryover.



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225 2. There shall be subtracted from such taxable income any  
 226 amount to the extent included therein the following:

227 a. Dividends treated as received from sources without the  
 228 United States, as determined under s. 862 of the Internal  
 229 Revenue Code.

230 b. All amounts included in taxable income under s. 78 or  
 231 s. 951 of the Internal Revenue Code.

232

233 However, as to any amount subtracted under this subparagraph,  
 234 there shall be added to such taxable income all expenses  
 235 deducted on the taxpayer's return for the taxable year which are  
 236 attributable, directly or indirectly, to such subtracted amount.  
 237 Further, no amount shall be subtracted with respect to dividends  
 238 paid or deemed paid by a Domestic International Sales  
 239 Corporation.

240 3. Amounts received by a member of a water's edge group as  
 241 dividends paid by another member of the water's edge group shall  
 242 be subtracted from the taxable income to the extent that the  
 243 dividends are included in the taxable income.

244 ~~4.3.~~ In computing "adjusted federal income" for taxable  
 245 years beginning after December 31, 1976, there shall be allowed  
 246 as a deduction the amount of wages and salaries paid or incurred  
 247 within this state for the taxable year for which no deduction is  
 248 allowed pursuant to s. 280C(a) of the Internal Revenue Code  
 249 (relating to credit for employment of certain new employees).

250 ~~5.4.~~ There shall be subtracted from such taxable income  
 251 any amount of nonbusiness income included therein.

252 ~~6.5.~~ There shall be subtracted any amount of taxes of

253 foreign countries allowable as credits for taxable years  
 254 beginning on or after September 1, 1985, under s. 901 of the  
 255 Internal Revenue Code to any corporation which derived less than  
 256 20 percent of its gross income or loss for its taxable year  
 257 ended in 1984 from sources within the United States, as  
 258 described in s. 861(a)(2)(A) of the Internal Revenue Code, not  
 259 including credits allowed under ss. 902 and 960 of the Internal  
 260 Revenue Code, withholding taxes on dividends within the meaning  
 261 of sub-subparagraph 2.a., and withholding taxes on royalties,  
 262 interest, technical service fees, and capital gains.

263 ~~7.6.~~ Notwithstanding any other provision of this code,  
 264 except with respect to amounts subtracted pursuant to  
 265 subparagraphs 1. and 4. 3., any increment of any apportionment  
 266 factor which is directly related to an increment of gross  
 267 receipts or income which is deducted, subtracted, or otherwise  
 268 excluded in determining adjusted federal income shall be  
 269 excluded from both the numerator and denominator of such  
 270 apportionment factor. Further, all valuations made for  
 271 apportionment factor purposes shall be made on a basis  
 272 consistent with the taxpayer's method of accounting for federal  
 273 income tax purposes.

274 (c) *Installment sales occurring after October 19, 1980.--*

275 1. In the case of any disposition made after October 19,  
 276 1980, the income from an installment sale shall be taken into  
 277 account for the purposes of this code in the same manner that  
 278 such income is taken into account for federal income tax  
 279 purposes.

280 2. Any taxpayer who regularly sells or otherwise disposes

281 of personal property on the installment plan and reports the  
 282 income therefrom on the installment method for federal income  
 283 tax purposes under s. 453(a) of the Internal Revenue Code shall  
 284 report such income in the same manner under this code.

285 (d) *Nonallowable deductions.*--A deduction for net  
 286 operating losses, net capital losses, or excess contributions  
 287 deductions under ss. 170(d)(2), 172, 1212, and 404 of the  
 288 Internal Revenue Code which has been allowed in a prior taxable  
 289 year for Florida tax purposes shall not be allowed for Florida  
 290 tax purposes, notwithstanding the fact that such deduction has  
 291 not been fully utilized for federal tax purposes.

292 Section 4. Section 220.136, Florida Statutes, is created  
 293 to read:

294 220.136 Determination of the members of a water's edge  
 295 group.--

296 (1) MEMBERSHIP RULES.--

297 (a) A corporation having 50 percent or more of its  
 298 outstanding voting stock directly or indirectly owned or  
 299 controlled by a water's edge group is presumed to be a member of  
 300 the group. A corporation having less than 50 percent of its  
 301 outstanding voting stock directly or indirectly controlled by a  
 302 water's edge group is a member of the group if the businesses  
 303 activities of the corporation show that the corporation is a  
 304 member of the group. All of the income of a corporation that is  
 305 a member of a water's edge group is presumed to be unitary.

306 (b) A corporation that conducts business outside the  
 307 United States is not a member of a water's edge group if 80  
 308 percent or more of the corporation's property and payroll, as

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309 determined by the apportionment factors described in ss. 220.15  
310 and 220.1363, may be assigned to locations outside the United  
311 States. However, such corporations that are incorporated in a  
312 tax haven may be a member of a water's edge group pursuant to  
313 paragraph (a). This paragraph does not exempt a corporation that  
314 is not a member of a water's edge group from the provisions of  
315 this chapter.

316 (2) MEMBERSHIP EVALUATION CRITERIA.--

317 (a) The attribution rules of 26 U.S.C. 318 shall be used  
318 to determine whether voting stock is owned indirectly.

319 (b) As used in this paragraph, the term "United States"  
320 means the 50 states, the District of Columbia, and Puerto Rico.

321 (c) The apportionment factors described in ss. 220.15 and  
322 220.1363 shall be used to determine whether a special industry  
323 corporation has engaged in a sufficient amount of activities  
324 outside the United States to exclude it from treatment as a  
325 member of a water's edge group.

326 Section 5. Section 220.1363, Florida Statutes, is created  
327 to read:

328 220.1363 Water's edge groups; special requirements.--

329 (1) All members of a water's edge group must use the  
330 water's edge reporting method. Under the water's edge reporting  
331 method:

332 (a) Adjusted federal income for purposes of s. 220.12  
333 means the sum of adjusted federal income for all members of the  
334 group as determined for a concurrent tax year.

335 (b) The numerators and denominators of the apportionment  
336 factors shall be calculated for all members of the group

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337 combined.

338 (c) Intercompany sales transactions between members of the  
339 group are not included in the numerator or denominator of the  
340 sales factor pursuant to ss. 220.15 and 220.151, regardless of  
341 whether indicia of a sale exist. As used in this subsection, the  
342 term "sale" includes, but is not limited to, loans, payments for  
343 the use of intangibles, dividends, and management fees.

344 (d) For sales of intangibles, including, but not limited  
345 to, accounts receivable, notes, bonds, and stock, which are made  
346 to entities outside of the group, only the net proceeds are  
347 included in the numerator and denominator of the sales factor.

348 (e) Sales that are not allocated or apportioned to any  
349 taxing jurisdiction, otherwise known as "nowhere sales," may not  
350 be included in the numerator or denominator of the sales factor.

351 (f) The income attributable to the Florida activities of a  
352 corporation that is exempt from taxation under Pub. L. No. 86-  
353 272 is excluded from the apportionment factor numerators in the  
354 calculation of corporate income tax even if another member of  
355 the water's edge group has nexus with Florida and is subject to  
356 tax.

357 (g) For purposes of this section, the term "water's edge  
358 reporting method" is a method to determine the taxable business  
359 profits of a group of entities conducting a unitary business.  
360 Under this method, the net income of the entities must be added  
361 together along with the additions and subtractions under s.  
362 220.13 and apportioned to this state as a single taxpayer under  
363 s. 220.15 and 220.151. However, each special industry member  
364 included in a water's edge group return, which would otherwise

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365 be permitted to use a special method of apportionment under s.  
366 220.151, shall convert its single-factor apportionment to a  
367 three-factor apportionment of property, payroll, and sales. The  
368 special industry member shall calculate the denominator of its  
369 property, payroll, and sales factors in the same manner as those  
370 denominators are calculated by members that are not a special  
371 industry member. The numerator of its sales, property, and  
372 payroll factors is the product of the denominator of each factor  
373 multiplied by the premiums or revenue-miles-factor ratio  
374 otherwise applicable under s. 220.151.

375 (2) (a) A single water's edge group return must be filed in  
376 the name and federal employer identification number of the  
377 parent corporation if the parent is a member of the group and  
378 has nexus with Florida. If the group does not have a parent  
379 corporation, if the parent corporation is not a member of the  
380 group, or if the parent corporation does not have nexus with  
381 Florida, the members of the group must choose a member subject  
382 to the Florida corporate income tax to file the return. The  
383 members of the group may not choose another member to file a  
384 corporate income tax return in subsequent years unless the  
385 filing member does not maintain nexus with Florida or remain a  
386 member of that group. The return must be signed by an authorized  
387 officer of the filing member as the agent for the group.

388 (b) If members of a water's edge group have different tax  
389 years, the tax year of a majority of the members of the group is  
390 the tax year of the group. If the tax years of a majority of the  
391 members of a group do not correspond, the tax year of the member  
392 that must file the return for the group is the tax year of the

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393 group.

394 (c)1. A member of a water's edge group having a tax year  
395 that does not correspond to the tax year of the group shall  
396 determine its income for inclusion on the tax return for the  
397 group. The member shall use:

398 a. The precise amount of taxable income received during  
399 the months corresponding to the tax year of the group, if the  
400 precise amount can be readily determined from the member's books  
401 and records.

402 b. The taxable income of the member converted to conform  
403 to the tax year of the group on the basis of the number of  
404 months falling within the tax year of the group. For example, if  
405 the tax year of the water's edge group is a calendar year and a  
406 member operates on a fiscal year ending on April 30, the income  
407 of the member shall include 2/3 of the income from the current  
408 tax year and 1/3 of the income from the preceding tax year. This  
409 method to determine the income of a member may be used only if  
410 the return can be timely filed after the end of the tax year of  
411 the group.

412 c. The taxable income of the member during its tax year  
413 that ends within the tax year of the group.

414 2. The method of determining the income of a member of a  
415 group whose tax year does not correspond to the tax year of the  
416 group may not change as long as the member remains a member of  
417 the group. The apportionment factors for the member must be  
418 applied to the income of the member for the tax year of the  
419 group.

420 (3) (a) A water's edge group return shall include a

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421 computational schedule that:

422 1. Combines the federal income of all members of the  
423 water's edge group;

424 2. Shows all intercompany eliminations;

425 3. Shows Florida additions and subtractions under s.  
426 220.13; and

427 4. Shows the calculation of the combined apportionment  
428 factors.

429 (b) A water's edge group shall also file a domestic  
430 disclosure spreadsheet in addition to its return. The  
431 spreadsheet shall fully disclose:

432 1. The income reported to each state;

433 2. The state tax liability;

434 3. The method used for apportioning or allocating income  
435 to the various states; and

436 4. Other information required by the department by rule in  
437 order to determine the proper amount of tax due to each state  
438 and to identify the water's edge group.

439 (4) The department may adopt rules and forms to administer  
440 this section. The Legislature intends to grant the department  
441 extensive authority to adopt rules and forms describing and  
442 defining principles for determining the existence of a water's  
443 edge business, definitions of common control, methods of  
444 reporting, and related forms, principles, and other definitions.

445 Section 6. Section 220.14, Florida Statutes, is amended to  
446 read:

447 220.14 Exemption.--

448 (1) In computing a taxpayer's liability for tax under this



449 code, there shall be exempt from the tax \$5,000 of net income as  
 450 defined in s. 220.12 or such lesser amount as will, without  
 451 increasing the taxpayer's federal income tax liability, provide  
 452 the state with an amount under this code which is equal to the  
 453 maximum federal income tax credit which may be available from  
 454 time to time under federal law.

455 (2) In the case of a taxable year for a period of less  
 456 than 12 months, the exemption allowed by this section shall be  
 457 prorated on the basis of the number of days in such year to 365,  
 458 or in the case of a leap year, to 366.

459 (3) Only one exemption shall be allowed to taxpayers  
 460 filing a water's edge group ~~a consolidated~~ return under this  
 461 code.

462 (4) Notwithstanding any other provision of this code, not  
 463 more than one exemption under this section may be allowed to the  
 464 Florida members of a controlled group of corporations, as  
 465 defined in s. 1563 of the Internal Revenue Code with respect to  
 466 taxable years ending on or after December 31, 1970, filing  
 467 separate returns under this code. The exemption described in  
 468 this section shall be divided equally among such Florida members  
 469 of the group, unless all of such members consent, at such time  
 470 and in such manner as the department shall by regulation  
 471 prescribe, to an apportionment plan providing for an unequal  
 472 allocation of such exemption.

473 Section 7. Subsection (5) of section 220.15, Florida  
 474 Statutes, is amended to read:

475 220.15 Apportionment of adjusted federal income.--

476 (5) The sales factor is a fraction the numerator of which

477 is the total sales of the taxpayer in this state during the  
478 taxable year or period and the denominator of which is the total  
479 sales of the taxpayer everywhere during the taxable year or  
480 period.

481 (a) As used in this subsection, the term "sales" means all  
482 gross receipts of the taxpayer except interest, dividends,  
483 rents, royalties, and gross receipts from the sale, exchange,  
484 maturity, redemption, or other disposition of securities.

485 However:

486 1. Rental income is included in the term if a significant  
487 portion of the taxpayer's business consists of leasing or  
488 renting real or tangible personal property; and

489 2. Royalty income is included in the term if a significant  
490 portion of the taxpayer's business consists of dealing in or  
491 with the production, exploration, or development of minerals.

492 (b)1. Sales of tangible personal property occur in this  
493 state if the property is delivered or shipped to a purchaser  
494 within this state, regardless of the f.o.b. point, other  
495 conditions of the sale, or ultimate destination of the property,  
496 unless shipment is made via a common or contract carrier.

497 However, for industries in SIC Industry Number 2037, if the  
498 ultimate destination of the product is to a location outside  
499 this state, regardless of the method of shipment or f.o.b.  
500 point, the sale shall not be deemed to occur in this state.

501 2. When citrus fruit is delivered by a cooperative for a  
502 grower-member, by a grower-member to a cooperative, or by a  
503 grower-participant to a Florida processor, the sales factor for  
504 the growers for such citrus fruit delivered to such processor

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505 shall be the same as the sales factor for the most recent  
506 taxable year of that processor. That sales factor, expressed  
507 only as a percentage and not in terms of the dollar volume of  
508 sales, so as to protect the confidentiality of the sales of the  
509 processor, shall be furnished on the request of such a grower  
510 promptly after it has been determined for that taxable year.

511 3. Reimbursement of expenses under an agency contract  
512 between a cooperative, a grower-member of a cooperative, or a  
513 grower and a processor is not a sale within this state.

514 (c) Sales of a financial organization, including, but not  
515 limited to, banking and savings institutions, investment  
516 companies, real estate investment trusts, and brokerage  
517 companies, occur in this state if derived from:

518 1. Fees, commissions, or other compensation for financial  
519 services rendered within this state;

520 2. Gross profits from trading in stocks, bonds, or other  
521 securities managed within this state;

522 3. Interest received within this state, other than  
523 interest from loans secured by mortgages, deeds of trust, or  
524 other liens upon real or tangible personal property located  
525 without this state, and dividends received within this state;

526 4. Interest charged to customers at places of business  
527 maintained within this state for carrying debit balances of  
528 margin accounts, without deduction of any costs incurred in  
529 carrying such accounts;

530 5. Interest, fees, commissions, or other charges or gains  
531 from loans secured by mortgages, deeds of trust, or other liens  
532 upon real or tangible personal property located in this state or

533 from installment sale agreements originally executed by a  
 534 taxpayer or the taxpayer's agent to sell real or tangible  
 535 personal property located in this state;

536 6. Rents from real or tangible personal property located  
 537 in this state; or

538 7. Any other gross income, including other interest,  
 539 resulting from the operation as a financial organization within  
 540 this state.

541  
 542 ~~In computing the amounts under this paragraph, any amount~~  
 543 ~~received by a member of an affiliated group (determined under s.~~  
 544 ~~1504(a) of the Internal Revenue Code, but without reference to~~  
 545 ~~whether any such corporation is an "includable corporation"~~  
 546 ~~under s. 1504(b) of the Internal Revenue Code) from another~~  
 547 ~~member of such group shall be included only to the extent such~~  
 548 ~~amount exceeds expenses of the recipient directly related~~  
 549 ~~thereto.~~

550 Section 8. Subsection (1) of section 220.183, Florida  
 551 Statutes, is amended to read:

552 220.183 Community contribution tax credit.--

553 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX  
 554 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM  
 555 SPENDING.--

556 (a) There shall be allowed a credit of 50 percent of a  
 557 community contribution against any tax due for a taxable year  
 558 under this chapter.

559 (b) No business firm shall receive more than \$200,000 in  
 560 annual tax credits for all approved community contributions made

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561 in any one year.

562 (c) The total amount of tax credit which may be granted  
563 for all programs approved under this section, s. 212.08(5)(p),  
564 and s. 624.5105 is \$10.5 million annually for projects that  
565 provide homeownership opportunities for low-income or very-low-  
566 income households as defined in s. 420.9071(19) and (28) and  
567 \$3.5 million annually for all other projects.

568 (d) All proposals for the granting of the tax credit shall  
569 require the prior approval of the Office of Tourism, Trade, and  
570 Economic Development.

571 (e) If the credit granted pursuant to this section is not  
572 fully used in any one year because of insufficient tax liability  
573 on the part of the business firm, the unused amount may be  
574 carried forward for a period not to exceed 5 years. The  
575 carryover credit may be used in a subsequent year when the tax  
576 imposed by this chapter for such year exceeds the credit for  
577 such year under this section after applying the other credits  
578 and unused credit carryovers in the order provided in s.  
579 220.02(8).

580 ~~(f) A taxpayer who files a Florida consolidated return as~~  
581 ~~a member of an affiliated group pursuant to s. 220.131(1) may be~~  
582 ~~allowed the credit on a consolidated return basis.~~

583 (f)-(g) A taxpayer who is eligible to receive the credit  
584 provided for in s. 624.5105 is not eligible to receive the  
585 credit provided by this section.

586 (g)-(h) Notwithstanding paragraph (c), and for the 2008-  
587 2009 fiscal year only, the total amount of tax credit which may  
588 be granted for all programs approved under this section, s.

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589 212.08(5)(p), and s. 624.5105 is \$13 million annually for  
590 projects that provide homeownership opportunities for low-income  
591 or very-low-income households as defined in s. 420.9071(19) and  
592 (28) and \$3.5 million annually for all other projects. This  
593 paragraph expires June 30, 2009.

594 Section 9. Subsection (1) of section 220.1845, Florida  
595 Statutes, is amended to read:

596 220.1845 Contaminated site rehabilitation tax credit.--

597 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

598 (a) A credit in the amount of 50 percent of the costs of  
599 voluntary cleanup activity that is integral to site  
600 rehabilitation at the following sites is available against any  
601 tax due for a taxable year under this chapter:

602 1. A drycleaning-solvent-contaminated site eligible for  
603 state-funded site rehabilitation under s. 376.3078(3);

604 2. A drycleaning-solvent-contaminated site at which site  
605 rehabilitation is undertaken by the real property owner pursuant  
606 to s. 376.3078(11), if the real property owner is not also, and  
607 has never been, the owner or operator of the drycleaning  
608 facility where the contamination exists; or

609 3. A brownfield site in a designated brownfield area under  
610 s. 376.80.

611 (b) A tax credit applicant, or multiple tax credit  
612 applicants working jointly to clean up a single site, may not be  
613 granted more than \$500,000 per year in tax credits for each site  
614 voluntarily rehabilitated. Multiple tax credit applicants shall  
615 be granted tax credits in the same proportion as their  
616 contribution to payment of cleanup costs. Subject to the same

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617 conditions and limitations as provided in this section, a  
618 municipality, county, or other tax credit applicant which  
619 voluntarily rehabilitates a site may receive not more than  
620 \$500,000 per year in tax credits which it can subsequently  
621 transfer subject to the provisions in paragraph (f) ~~(g)~~.

622 (c) If the credit granted under this section is not fully  
623 used in any one year because of insufficient tax liability on  
624 the part of the corporation, the unused amount may be carried  
625 forward for up to 5 years. The carryover credit may be used in a  
626 subsequent year if the tax imposed by this chapter for that year  
627 exceeds the credit for which the corporation is eligible in that  
628 year after applying the other credits and unused carryovers in  
629 the order provided by s. 220.02(8). If during the 5-year period  
630 the credit is transferred, in whole or in part, pursuant to  
631 paragraph (g), each transferee has 5 years after the date of  
632 transfer to use its credit.

633 ~~(d) A taxpayer that files a consolidated return in this~~  
634 ~~state as a member of an affiliated group under s. 220.131(1) may~~  
635 ~~be allowed the credit on a consolidated return basis up to the~~  
636 ~~amount of tax imposed upon the consolidated group.~~

637 (d) ~~(e)~~ A tax credit applicant that receives state-funded  
638 site rehabilitation under s. 376.3078(3) for rehabilitation of a  
639 drycleaning-solvent-contaminated site is ineligible to receive  
640 credit under this section for costs incurred by the tax credit  
641 applicant in conjunction with the rehabilitation of that site  
642 during the same time period that state-administered site  
643 rehabilitation was underway.

644 (e) ~~(f)~~ The total amount of the tax credits which may be

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645 granted under this section is \$2 million annually.

646 (f)~~(g)~~1. Tax credits that may be available under this  
647 section to an entity eligible under s. 376.30781 may be  
648 transferred after a merger or acquisition to the surviving or  
649 acquiring entity and used in the same manner and with the same  
650 limitations.

651 2. The entity or its surviving or acquiring entity as  
652 described in subparagraph 1., may transfer any unused credit in  
653 whole or in units of at least 25 percent of the remaining  
654 credit. The entity acquiring such credit may use it in the same  
655 manner and with the same limitation as described in this  
656 section. Such transferred credits may not be transferred again  
657 although they may succeed to a surviving or acquiring entity  
658 subject to the same conditions and limitations as described in  
659 this section.

660 3. If the credit is reduced due to a determination by the  
661 Department of Environmental Protection or an examination or  
662 audit by the Department of Revenue, the tax deficiency shall be  
663 recovered from the first entity, or the surviving or acquiring  
664 entity that claimed the credit up to the amount of credit taken.  
665 Any subsequent deficiencies shall be assessed against the entity  
666 acquiring and claiming the credit, or in the case of multiple  
667 succeeding entities in the order of credit succession.

668 (g)~~(h)~~ In order to encourage completion of site  
669 rehabilitation at contaminated sites being voluntarily cleaned  
670 up and eligible for a tax credit under this section, the tax  
671 credit applicant may claim an additional 25 percent of the total  
672 cleanup costs, not to exceed \$500,000, in the final year of



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673 cleanup as evidenced by the Department of Environmental  
674 Protection issuing a "No Further Action" order for that site.

675 (h)~~(i)~~ In order to encourage the construction of housing  
676 that meets the definition of affordable provided in s. 420.0004,  
677 an applicant for the tax credit may claim an additional 25  
678 percent of the total site rehabilitation costs that are eligible  
679 for tax credits under this section, not to exceed \$500,000. In  
680 order to receive this additional tax credit, the applicant must  
681 provide a certification letter from the Florida Housing Finance  
682 Corporation, the local housing authority, or other governmental  
683 agency that is a party to the use agreement indicating that the  
684 construction on the brownfield site has received a certificate  
685 of occupancy and the brownfield site has a properly recorded  
686 instrument that limits the use of the property to housing that  
687 meets the definition of affordable provided in s. 420.0004.

688 (i)~~(j)~~ In order to encourage the redevelopment of a  
689 brownfield site, as defined in the brownfield site  
690 rehabilitation agreement, that is hindered by the presence of  
691 solid waste, as defined in s. 403.703, a tax credit applicant,  
692 or multiple tax credit applicants working jointly to clean up a  
693 single brownfield site, may also claim costs required to address  
694 solid waste removal as defined in this paragraph in accordance  
695 with rules of the Department of Environmental Protection.  
696 Multiple tax credit applicants shall be granted tax credits in  
697 the same proportion as each applicant's contribution to payment  
698 of solid waste removal costs. These costs are eligible for a tax  
699 credit provided the applicant submits an affidavit stating that,  
700 after consultation with appropriate local government officials

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701 and the Department of Environmental Protection, to the best of  
702 the applicant's knowledge according to such consultation and  
703 available historical records, the brownfield site was never  
704 operated as a permitted solid waste disposal area or was never  
705 operated for monetary compensation and the applicant submits all  
706 other documentation and certifications required by this section.  
707 Under this section, wherever reference is made to "site  
708 rehabilitation," the Department of Environmental Protection  
709 shall instead consider whether or not the costs claimed are for  
710 solid waste removal. Tax credit applications claiming costs  
711 pursuant to this paragraph shall not be subject to the calendar-  
712 year limitation and January 31 annual application deadline, and  
713 the Department of Environmental Protection shall accept a one-  
714 time application filed subsequent to the completion by the tax  
715 credit applicant of the applicable requirements listed in this  
716 section. A tax credit applicant may claim 50 percent of the cost  
717 for solid waste removal, not to exceed \$500,000, after the  
718 applicant has determined solid waste removal is completed for  
719 the brownfield site. A solid waste removal tax credit  
720 application may be filed only once per brownfield site. For the  
721 purposes of this section, the term:

722 1. "Solid waste disposal area" means a landfill, dump, or  
723 other area where solid waste has been disposed of.

724 2. "Monetary compensation" means the fees that were  
725 charged or the assessments that were levied for the disposal of  
726 solid waste at a solid waste disposal area.

727 3. "Solid waste removal" means removal of solid waste from  
728 the land surface or excavation of solid waste from below the

729 land surface and removal of the solid waste from the brownfield  
 730 site. The term also includes:

731 a. Transportation of solid waste to a licensed or exempt  
 732 solid waste management facility or to a temporary storage area.

733 b. Sorting or screening of solid waste prior to removal  
 734 from the site.

735 c. Deposition of solid waste at a permitted or exempt  
 736 solid waste management facility, whether the solid waste is  
 737 disposed of or recycled.

738 (j)~~(k)~~ In order to encourage the construction and  
 739 operation of a new health care facility as defined in s. 408.032  
 740 or s. 408.07, or a health care provider as defined in s. 408.07  
 741 or s. 408.7056, on a brownfield site, an applicant for a tax  
 742 credit may claim an additional 25 percent of the total site  
 743 rehabilitation costs, not to exceed \$500,000, if the applicant  
 744 meets the requirements of this paragraph. In order to receive  
 745 this additional tax credit, the applicant must provide  
 746 documentation indicating that the construction of the health  
 747 care facility or health care provider by the applicant on the  
 748 brownfield site has received a certificate of occupancy or a  
 749 license or certificate has been issued for the operation of the  
 750 health care facility or health care provider.

751 Section 10. Subsection (5) of section 220.187, Florida  
 752 Statutes, is amended to read:

753 220.187 Credits for contributions to nonprofit  
 754 scholarship-funding organizations.--

755 (5) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX  
 756 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

757 (a) There is allowed a credit of 100 percent of an  
 758 eligible contribution against any tax due for a taxable year  
 759 under this chapter. However, such a credit may not exceed 75  
 760 percent of the tax due under this chapter for the taxable year,  
 761 after the application of any other allowable credits by the  
 762 taxpayer. The credit granted by this section shall be reduced by  
 763 the difference between the amount of federal corporate income  
 764 tax taking into account the credit granted by this section and  
 765 the amount of federal corporate income tax without application  
 766 of the credit granted by this section.

767 (b) The total amount of tax credits and carryforward of  
 768 tax credits which may be granted each state fiscal year under  
 769 this section is:

- 770 1. Through June 30, 2008, \$88 million.
- 771 2. Beginning July 1, 2008, and thereafter, \$118 million.

772 ~~(c) A taxpayer who files a Florida consolidated return as~~  
 773 ~~a member of an affiliated group pursuant to s. 220.131(1) may be~~  
 774 ~~allowed the credit on a consolidated return basis; however, the~~  
 775 ~~total credit taken by the affiliated group is subject to the~~  
 776 ~~limitation established under paragraph (a).~~

777 (c) ~~(d)~~ Effective for tax years beginning January 1, 2006,  
 778 a taxpayer may rescind all or part of its allocated tax credit  
 779 under this section. The amount rescinded shall become available  
 780 for purposes of the cap for that state fiscal year under this  
 781 section to an eligible taxpayer as approved by the department if  
 782 the taxpayer receives notice from the department that the  
 783 rescindment has been accepted by the department and the taxpayer  
 784 has not previously rescinded any or all of its tax credit

785 allocation under this section more than once in the previous 3  
 786 tax years. Any amount rescinded under this paragraph shall  
 787 become available to an eligible taxpayer on a first-come, first-  
 788 served basis based on tax credit applications received after the  
 789 date the rescindment is accepted by the department.

790 Section 11. Subsection (3) of section 220.191, Florida  
 791 Statutes, is amended to read:

792 220.191 Capital investment tax credit.--

793 (3) (a) Notwithstanding subsection (2), an annual credit  
 794 against the tax imposed by this chapter shall be granted to a  
 795 qualifying business which establishes a qualifying project  
 796 pursuant to subparagraph (1)(h)3., in an amount equal to the  
 797 lesser of \$15 million or 5 percent of the eligible capital costs  
 798 made in connection with a qualifying project, for a period not  
 799 to exceed 20 years beginning with the commencement of operations  
 800 of the project. The tax credit shall be granted against the  
 801 corporate income tax liability of the qualifying business and as  
 802 further provided in paragraph (c). The total tax credit provided  
 803 pursuant to this subsection shall be equal to no more than 100  
 804 percent of the eligible capital costs of the qualifying project.

805 (b) If the credit granted under this subsection is not  
 806 fully used in any one year because of insufficient tax liability  
 807 on the part of the qualifying business, the unused amount may be  
 808 carried forward for a period not to exceed 20 years after the  
 809 commencement of operations of the project. The carryover credit  
 810 may be used in a subsequent year when the tax imposed by this  
 811 chapter for that year exceeds the credit for which the  
 812 qualifying business is eligible in that year under this

813 subsection after applying the other credits and unused  
 814 carryovers in the order provided by s. 220.02(8).

815 (c) The credit granted under this subsection may be used  
 816 in whole or in part by the qualifying business ~~or any~~  
 817 ~~corporation that is either a member of that qualifying~~  
 818 ~~business's affiliated group of corporations, is a related entity~~  
 819 ~~taxable as a cooperative under subchapter T of the Internal~~  
 820 ~~Revenue Code, or, if the qualifying business is an entity~~  
 821 ~~taxable as a cooperative under subchapter T of the Internal~~  
 822 ~~Revenue Code, is related to the qualifying business. Any entity~~  
 823 ~~related to the qualifying business may continue to file as a~~  
 824 ~~member of a Florida nexus consolidated group pursuant to a prior~~  
 825 ~~election made under s. 220.131(1), Florida Statutes (1985), even~~  
 826 ~~if the parent of the group changes due to a direct or indirect~~  
 827 ~~acquisition of the former common parent of the group. Any credit~~  
 828 ~~can be used by any of the affiliated companies or related~~  
 829 ~~entities referenced in this paragraph to the same extent as it~~  
 830 ~~could have been used by the qualifying business. However, any~~  
 831 ~~such use shall not operate to increase the amount of the credit~~  
 832 ~~or extend the period within which the credit must be used.~~

833 Section 12. Subsection (2) of section 220.192, Florida  
 834 Statutes, is amended to read:

835 220.192 Renewable energy technologies investment tax  
 836 credit.--

837 (2) TAX CREDIT.--For tax years beginning on or after  
 838 January 1, 2007, a credit against the tax imposed by this  
 839 chapter shall be granted in an amount equal to the eligible  
 840 costs. Credits may be used in tax years beginning January 1,

841 2007, and ending December 31, 2010, after which the credit shall  
 842 expire. If the credit is not fully used in any one tax year  
 843 because of insufficient tax liability on the part of the  
 844 corporation, the unused amount may be carried forward and used  
 845 in tax years beginning January 1, 2007, and ending December 31,  
 846 2012, after which the credit carryover expires and may not be  
 847 used. ~~A taxpayer that files a consolidated return in this state~~  
 848 ~~as a member of an affiliated group under s. 220.131(1) may be~~  
 849 ~~allowed the credit on a consolidated return basis up to the~~  
 850 ~~amount of tax imposed upon the consolidated group.~~ Any eligible  
 851 cost for which a credit is claimed and which is deducted or  
 852 otherwise reduces federal taxable income shall be added back in  
 853 computing adjusted federal income under s. 220.13.

854 Section 13. Subsection (3) of section 220.193, Florida  
 855 Statutes, is amended to read:

856 220.193 Florida renewable energy production credit.--

857 (3) An annual credit against the tax imposed by this  
 858 section shall be allowed to a taxpayer, based on the taxpayer's  
 859 production and sale of electricity from a new or expanded  
 860 Florida renewable energy facility. For a new facility, the  
 861 credit shall be based on the taxpayer's sale of the facility's  
 862 entire electrical production. For an expanded facility, the  
 863 credit shall be based on the increases in the facility's  
 864 electrical production that are achieved after May 1, 2006.

865 (a) The credit shall be \$0.01 for each kilowatt-hour of  
 866 electricity produced and sold by the taxpayer to an unrelated  
 867 party during a given tax year.

868 (b) The credit may be claimed for electricity produced and

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869 sold on or after January 1, 2007. Beginning in 2008 and  
870 continuing until 2011, each taxpayer claiming a credit under  
871 this section must first apply to the department by February 1 of  
872 each year for an allocation of available credit. The department,  
873 in consultation with the commission, shall develop an  
874 application form. The application form shall, at a minimum,  
875 require a sworn affidavit from each taxpayer certifying the  
876 increase in production and sales that form the basis of the  
877 application and certifying that all information contained in the  
878 application is true and correct.

879 (c) If the amount of credits applied for each year exceeds  
880 \$5 million, the department shall award to each applicant a  
881 prorated amount based on each applicant's increased production  
882 and sales and the increased production and sales of all  
883 applicants.

884 (d) If the credit granted pursuant to this section is not  
885 fully used in one year because of insufficient tax liability on  
886 the part of the taxpayer, the unused amount may be carried  
887 forward for a period not to exceed 5 years. The carryover credit  
888 may be used in a subsequent year when the tax imposed by this  
889 chapter for such year exceeds the credit for such year, after  
890 applying the other credits and unused credit carryovers in the  
891 order provided in s. 220.02(8).

892 ~~(e) A taxpayer that files a consolidated return in this~~  
893 ~~state as a member of an affiliated group under s. 220.131(1) may~~  
894 ~~be allowed the credit on a consolidated return basis up to the~~  
895 ~~amount of tax imposed upon the consolidated group.~~

896 (e)~~(f)~~1. Tax credits that may be available under this



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897 section to an entity eligible under this section may be  
898 transferred after a merger or acquisition to the surviving or  
899 acquiring entity and used in the same manner with the same  
900 limitations.

901 2. The entity or its surviving or acquiring entity as  
902 described in subparagraph 1. may transfer any unused credit in  
903 whole or in units of no less than 25 percent of the remaining  
904 credit. The entity acquiring such credit may use it in the same  
905 manner and with the same limitations under this section. Such  
906 transferred credits may not be transferred again although they  
907 may succeed to a surviving or acquiring entity subject to the  
908 same conditions and limitations as described in this section.

909 3. In the event the credit provided for under this section  
910 is reduced as a result of an examination or audit by the  
911 department, such tax deficiency shall be recovered from the  
912 first entity or the surviving or acquiring entity to have  
913 claimed such credit up to the amount of credit taken. Any  
914 subsequent deficiencies shall be assessed against any entity  
915 acquiring and claiming such credit, or in the case of multiple  
916 succeeding entities in the order of credit succession.

917 (f) ~~(g)~~ Notwithstanding any other provision of this  
918 section, credits for the production and sale of electricity from  
919 a new or expanded Florida renewable energy facility may be  
920 earned between January 1, 2007, and June 30, 2010. The combined  
921 total amount of tax credits which may be granted for all  
922 taxpayers under this section is limited to \$5 million per state  
923 fiscal year.

924 (g) ~~(h)~~ A taxpayer claiming a credit under this section

925 shall be required to add back to net income that portion of its  
 926 business deductions claimed on its federal return paid or  
 927 incurred for the taxable year which is equal to the amount of  
 928 the credit allowable for the taxable year under this section.

929 (h)~~(i)~~ A taxpayer claiming credit under this section may  
 930 not claim a credit under s. 220.192. A taxpayer claiming credit  
 931 under s. 220.192 may not claim a credit under this section.

932 (i)~~(j)~~ When an entity treated as a partnership or a  
 933 disregarded entity under this chapter produces and sells  
 934 electricity from a new or expanded renewable energy facility,  
 935 the credit earned by such entity shall pass through in the same  
 936 manner as items of income and expense pass through for federal  
 937 income tax purposes. When an entity applies for the credit and  
 938 the entity has received the credit by a pass-through, the  
 939 application must identify the taxpayer that passed the credit  
 940 through, all taxpayers that received the credit, and the  
 941 percentage of the credit that passes through to each recipient  
 942 and must provide other information that the department requires.

943 (j)~~(k)~~ A taxpayer's use of the credit granted pursuant to  
 944 this section does not reduce the amount of any credit available  
 945 to such taxpayer under s. 220.186.

946 Section 14. Section 220.51, Florida Statutes, is amended  
 947 to read:

948 220.51 Promulgation of rules and regulations.--In  
 949 accordance with the Administrative Procedure Act, chapter 120,  
 950 the department is authorized to make, promulgate, and enforce  
 951 such reasonable rules and regulations, and to prescribe such  
 952 forms relating to the administration and enforcement of the

953 provisions of this code, as it may deem appropriate, including:

954 (1) Rules for initial implementation of this code and for  
 955 taxpayers' transitional taxable years commencing before and  
 956 ending after January 1, 1972.~~†~~

957 (2) Rules or regulations to clarify whether certain  
 958 groups, organizations, or associations formed under the laws of  
 959 this state or any other state, country, or jurisdiction shall be  
 960 deemed "taxpayers" for the purposes of this code, in accordance  
 961 with the legislative declarations of intent in s. 220.02, and

962 ~~(3) Regulations relating to consolidated reporting for  
 963 affiliated groups of corporations, in order to provide for an  
 964 equitable and just administration of this code with respect to  
 965 multicorporate taxpayers.~~

966 Section 15. Section 220.64, Florida Statutes, is amended  
 967 to read:

968 220.64 Other provisions applicable to franchise tax.--To  
 969 the extent that they are not manifestly incompatible with the  
 970 provisions of this part, parts I, III, IV, V, VI, VIII, IX, and  
 971 X of this code and ss. 220.12, 220.13, 220.136, 220.1363,  
 972 220.15, and 220.16 ~~ss. 220.12, 220.13, 220.15, and 220.16~~ apply  
 973 to the franchise tax imposed by this part. Under rules  
 974 prescribed by the department ~~in s. 220.131~~, a consolidated  
 975 return may be filed by any affiliated group of corporations  
 976 composed of one or more banks or savings associations, its or  
 977 their Florida parent corporation, and any nonbank or nonsavings  
 978 subsidiaries of such parent corporation.

979 Section 16. Transitional rules.--

980 (1) For the first tax year beginning on or after January

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981 1, 2010, a taxpayer that filed a Florida corporate income tax  
982 return in the preceding tax year and is a member of a water's  
983 edge group shall compute its income together with all members of  
984 its water's edge group and file a combined Florida corporate  
985 income tax return with all members of its water's edge group.

986 (2) An affiliated group of corporations that filed a  
987 Florida consolidated corporate income tax return pursuant to an  
988 election provided in s. 220.131, Florida Statutes, as it existed  
989 prior to the effective date of this act, shall cease filing a  
990 Florida consolidated return for tax years beginning on or after  
991 January 1, 2010, and shall file a combined Florida corporate  
992 income tax return with all members of its water's edge group.

993 (3) An affiliated group of corporations that filed a  
994 Florida consolidated corporate income tax return pursuant to the  
995 election in s. 220.131(1), Florida Statutes (1985), which  
996 allowed the affiliated group to make an election within 90 days  
997 after December 20, 1984, or upon filing the taxpayer's first  
998 return after December 20, 1984, whichever is later, shall cease  
999 filing a Florida consolidated corporate income tax return using  
1000 that method for tax years beginning on or after January 1, 2010,  
1001 and shall file a combined Florida corporate income tax return  
1002 with all members of its water's edge group.

1003 (4) Taxpayers that are not members of a water's edge group  
1004 remain subject to chapter 220, Florida Statutes, and shall file  
1005 a separate Florida corporate income tax return as previously  
1006 required.

1007 (5) For the tax years beginning on or after January 1,  
1008 2010, a tax return for a member of a water's edge group must be

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1009 a combined Florida corporate income tax return that includes tax  
 1010 information for all members of the water's edge group. The tax  
 1011 return must be filed by a member that has a nexus with Florida.

1012 Section 17. Of the funds recaptured pursuant to this act,  
 1013 the sum of \$50 million is appropriated from the General Revenue  
 1014 Fund to the State University System for workforce education, to  
 1015 be allocated by the Board of Governors; the sum of \$50 million  
 1016 is appropriated from the General Revenue Fund to community  
 1017 colleges for workforce education, to be allocated by the State  
 1018 Board of Education; and the remainder of such funds, as  
 1019 determined by the Revenue Estimating Conference, shall be  
 1020 appropriated from the General Revenue Fund and allocated as  
 1021 provided in the General Appropriations Act to the various school  
 1022 districts to reduce the required local effort millage.

1023 Section 18. Subsections (9) and (10) of section 376.30781,  
 1024 Florida Statutes, are amended to read:

1025 376.30781 Tax credits for rehabilitation of drycleaning-  
 1026 solvent-contaminated sites and brownfield sites in designated  
 1027 brownfield areas; application process; rulemaking authority;  
 1028 revocation authority.--

1029 (9) On or before May 1, the Department of Environmental  
 1030 Protection shall inform each tax credit applicant that is  
 1031 subject to the January 31 annual application deadline of the  
 1032 applicant's eligibility status and the amount of any tax credit  
 1033 due. The department shall provide each eligible tax credit  
 1034 applicant with a tax credit certificate that must be submitted  
 1035 with its tax return to the Department of Revenue to claim the  
 1036 tax credit or be transferred pursuant to s. 220.1845(1) (f) ~~(g)~~.

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1037 The May 1 deadline for annual site rehabilitation tax credit  
 1038 certificate awards shall not apply to any tax credit application  
 1039 for which the department has issued a notice of deficiency  
 1040 pursuant to subsection (8). The department shall respond within  
 1041 90 days after receiving a response from the tax credit applicant  
 1042 to such a notice of deficiency. Credits may not result in the  
 1043 payment of refunds if total credits exceed the amount of tax  
 1044 owed.

1045 (10) For solid waste removal, new health care facility or  
 1046 health care provider, and affordable housing tax credit  
 1047 applications, the Department of Environmental Protection shall  
 1048 inform the applicant of the department's determination within 90  
 1049 days after the application is deemed complete. Each eligible tax  
 1050 credit applicant shall be informed of the amount of its tax  
 1051 credit and provided with a tax credit certificate that must be  
 1052 submitted with its tax return to the Department of Revenue to  
 1053 claim the tax credit or be transferred pursuant to s.  
 1054 220.1845(1) (f) ~~(g)~~. Credits may not result in the payment of  
 1055 refunds if total credits exceed the amount of tax owed.

1056 Section 19. Section 220.131, Florida Statutes, is  
 1057 repealed.

1058 Section 20. This act shall take effect July 1, 2009.