

By the Committee on Commerce; and Senators Haridopolos and Baker

577-04989-09

20091526c1

1 A bill to be entitled
2 An act relating to commercial launch zone tax
3 incentives; creating s. 220.194, F.S.; establishing
4 credits against the corporate income tax for certain
5 taxpayers that operate or provide investments for a
6 commercial spaceflight project; providing definitions
7 for purposes of the tax credits; establishing
8 eligibility requirements for the tax credits; allowing
9 for the carryforward of tax credits under certain
10 circumstances; providing application and certification
11 requirements; requiring the Office of Tourism, Trade,
12 and Economic Development to determine the eligibility
13 of taxpayers; providing for the expiration and renewal
14 of a taxpayer's eligibility for tax credits; providing
15 for administration and auditing of tax credits by the
16 Department of Revenue; requiring the return and
17 deposit of tax credits under certain circumstances;
18 requiring the office to consult with Space Florida and
19 adopt rules for tax credit applications and
20 certifications; authorizing the department to adopt
21 rules for tax administration, claims and transfers of
22 tax credits, auditing, and reporting; amending s.
23 14.2015, F.S.; revising the duties of the office to
24 include administration of the tax credits created by
25 the act; amending s. 213.053, F.S.; providing for
26 sharing of confidential information; amending s.
27 220.02, F.S.; revising legislative intent relating to
28 the order for applying tax credits; amending s.
29 220.13, F.S.; specifying that net operating losses

577-04989-09

20091526c1

30 taken or transferred as corporate income tax credits
31 may not also be deducted from income; amending s.
32 220.16, F.S.; adding the financial assistance obtained
33 by the sale of tax credits pursuant to s. 220.194,
34 F.S., to the category of nonbusiness income that must
35 be reported; providing an effective date.
36

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

38
39 Section 1. Section 220.194, Florida Statutes, is created to
40 read:

41 220.194 Corporate income tax credits for commercial
42 spaceflight projects in Florida's commercial launch zone.-

43 (1) INTENT.-The intent of this section is to create
44 incentives to attract commercial launch, payload, and other
45 commercial space business to the state of Florida.

46 (2) DEFINITIONS.-As used in this section, the term:

47 (a) "Commercial launch zone" means an area within spaceport
48 territory, as defined in s. 331.303(18).

49 (b) "Certified commercial spaceflight business" means a
50 business that has been certified by the office; is registered
51 with the Secretary of State to do business in Florida; and is
52 currently undertaking in Florida, for nongovernmental purposes
53 only, the following activities that will eventually result in a
54 launch from a commercial launch zone: designing or manufacturing
55 a launch vehicle, reentry vehicle, or components thereof;
56 providing a launch service or reentry service; or providing the
57 payload for a launch vehicle or reentry vehicle. The business
58 may participate in more than one commercial spaceflight project

577-04989-09

20091526c1

59 at a time. For the purposes of applying for the tax incentives
60 created in this act, a certified commercial spaceflight business
61 also must have:

62 1. Created, filled, and retained at least 35 net new jobs
63 associated with an individual spaceflight project within the 3
64 calendar years prior to claiming the credit;

65 2. Invested a total of at least \$15 million in an
66 individual spaceflight project during the 3 calendar years prior
67 to claiming the credit; and

68 3. Participated in a commercial spaceflight project that
69 resulted in a successful launch from a commercial launch zone
70 within the previous 3 years.

71 (c) "Commercial spaceflight project" means an activity
72 performed by a certified commercial spaceflight business related
73 to the launch or reentry of a launch vehicle or reentry vehicle
74 for launches from a commercial launch zone. The term includes a
75 launch service or reentry service, and any process that
76 validates hardware or components to meet design and workmanship
77 criteria for space launch vehicles per U.S. Department of
78 Defense and NASA guidelines.

79 (d) "Launch" means to place or attempt to place a launch
80 vehicle or reentry vehicle and any payload from Earth into a
81 suborbital trajectory, into Earth orbit in outer space, or
82 otherwise into outer space.

83 (e) "Launch service" means an activity related to the
84 preparation of a launch vehicle and any payload for launch and
85 the conduct of a launch.

86 (f) "New job" means a full-time equivalent position created
87 by a certified commercial spaceflight business on or after

577-04989-09

20091526c1

88 January 1, 2010, to work on a commercial spaceflight project; is
89 not held by an owner, partner, or majority stockholder of the
90 business; is not an administrative, clerical, or janitorial
91 position; and is filled by an employee. The same job shall not
92 be counted more than once for the purposes of claiming
93 incentives created by this act.

94 (g) "Office" means the Governor's Office of Tourism, Trade,
95 and Economic Development.

96 (h) "Outer space" means an altitude of at least 50 miles
97 above the Earth's surface.

98 (i) "Payload" means an object that a certified commercial
99 spaceflight business undertakes to place in outer space by means
100 of a launch vehicle or reentry vehicle, including components of
101 the vehicle specifically designed or adapted for the object.

102 (j) "Reentry" means to return or attempt to return a
103 reentry vehicle and any payload from Earth orbit, or from outer
104 space, to Earth.

105 (k) "Reentry service" means an activity related to the
106 preparation of a reentry vehicle and any payload for reentry and
107 conduct of the reentry.

108 (l) "Spaceport territory" has the same meaning as defined
109 in s. 331.303(18).

110 (m) "Space vehicle" means any spacecraft, satellite, upper-
111 stage, or launch vehicle system.

112 (n) "Successful launch" means a launch that successfully
113 places a launch vehicle or reentry vehicle and any payload from
114 Earth into a suborbital trajectory, into Earth orbit in outer
115 space, or otherwise into outer space.

116 (o) "Taxpayer" has the same meaning as defined in s.

577-04989-09

20091526c1

117 220.03.

118 (3) TAX CREDITS.—For any tax year beginning on or after
119 January 1, 2013, a certified commercial spaceflight business
120 providing or conducting commercial spaceflight projects may
121 select one of the following tax credits for which it is
122 certified:

123 (a) Nontransferable corporate income tax credit.—A credit
124 equal to 50 percent of the net tax imposed by this chapter shall
125 be granted to a certified commercial spaceflight business. Under
126 no circumstances shall the business claim this credit in any tax
127 year that exceeds its corporate income tax liability that same
128 tax year.

129 (b) Transferable net operating loss tax credit.—The
130 certified commercial spaceflight business may convert its net
131 operating loss that has not otherwise been deducted from income
132 for Florida tax purposes to a transferable tax credit as
133 provided below.

134 1. In addition to meeting the requirements in paragraph
135 (2) (b), the business also must:

136 a. Have incurred net operating losses in any of the
137 previous 3 calendar years; and

138 b. Not be at least 50 percent owned or controlled, directly
139 or indirectly, by another corporation that has demonstrated
140 positive net income in any of the 3 previous years of ongoing
141 operations, or is not part of a consolidated group of affiliated
142 corporations, as filed for federal income tax purposes, which in
143 the aggregate demonstrated positive net income in any of the 3
144 previous years of ongoing operations.

145 2. The amount of the transferable tax credit is equal to:

577-04989-09

20091526c1

146 a. One hundred percent of the net operating losses incurred
147 by a certified commercial spaceflight business during its first
148 full year of operations.

149 b. One hundred percent of the net operating losses incurred
150 by a certified commercial spaceflight business during its second
151 full year of operations.

152 c. One hundred percent of the net operating losses incurred
153 by a certified commercial spaceflight business during its third
154 full year of operations.

155 3. A certified commercial spaceflight business allowed a
156 tax credit under this paragraph may transfer all or part of a
157 transferable tax credit to any taxpayer that is subject to the
158 tax imposed by this chapter. The transfer must be by written
159 agreement for consideration of no less than 75 percent of the
160 credit's face value. The transferee is entitled to apply the
161 credit to the taxes owed under this chapter, and may carry
162 forward an unused credit up to 5 years. Under no circumstances
163 shall the transferee claim a credit in any tax year that exceeds
164 the corporate income taxes it owes that same tax year.

165 (c) Jobs tax credit.—A credit against the tax imposed by
166 this chapter shall be granted to a certified commercial
167 spaceflight business, in an amount equal to 10 percent of the
168 annual wages subject to unemployment tax paid by the commercial
169 spaceflight business to each employee in a new job, not to
170 exceed \$7,500 per employee. The credits may be applied up to the
171 amount of taxes owed under this chapter for the tax year in
172 which they are claimed. Unused credits may be carried forward
173 for up to 5 years.

174 (d) Machinery and equipment credit.—A credit against the

577-04989-09

20091526c1

175 tax imposed by this chapter shall be granted to a certified
176 commercial spaceflight business that invests a cumulative total
177 of at least \$500,000 in machinery and equipment that is used for
178 a commercial spaceflight project. An investment in machinery and
179 equipment may be claimed once. The amount of the credit is equal
180 to 7.5 percent of the investment of machinery and equipment. The
181 taxpayer may only claim a credit not exceeding 50 percent of the
182 taxpayer's tax liability in the year in which it is claimed. If
183 credit granted under this paragraph is not fully used in any one
184 tax year because of insufficient tax liability, the unused
185 amount may be carried forward for up to 5 years.

186 (4) ADMINISTRATION.—

187 (a) Unless transferred as provided in paragraph (3) (b),
188 credits awarded under this section may be granted only against
189 the corporate income tax liability generated by or arising out
190 of a commercial spaceflight project, as documented in the
191 business's annual audit prepared by a certified public
192 accountant licensed to do business in Florida and verified by
193 the office.

194 (b) Certified spaceflight businesses shall not file
195 consolidated returns for the purposes of claiming the tax
196 incentives described paragraphs (3) (a)-(d).

197 (c) It is the responsibility of the certified commercial
198 spaceflight business or transferee to demonstrate to the
199 office's and the department's satisfaction that it is eligible
200 for credit under this section.

201 (5) APPLICATION AND CERTIFICATION.—To claim tax credits
202 under this section, a commercial spaceflight business must
203 submit a certification application to Space Florida for review.

577-04989-09

20091526c1

204 The application must include the following information, along
205 with a \$250 nonrefundable fee:

206 (a) The name and physical Florida address of the taxpayer;

207 (b) Documentation that the taxpayer is a commercial
208 spaceflight business;

209 (c) Documentation of the business's current commercial
210 spaceflight project and any other information it will need to
211 qualify for the tax credits, where applicable;

212 (d) The total amount and types of credits sought;

213 (e) The amount of transferable tax credits to be
214 transferred, if any; when the business expects to transfer them;
215 and the name and address of the recipient taxpayer or taxpayers;

216 (f) A copy of an audit or audits of the pertinent tax years
217 prepared by a certified public accountant licensed to practice
218 in Florida, that specifies, if applicable, that portion of the
219 business's activities related to commercial spaceflight
220 projects;

221 (g) An acknowledgement that it must file an annual report
222 on the project's progress with Space Florida and the office; and

223 (h) Any other information necessary to demonstrate that the
224 applicant meets the job creation, investment, and other
225 requirements of this section.

226
227 Within 60 days after receipt of the application, the executive
228 staff of Space Florida shall evaluate the application and
229 recommend it for certification or denial by the office. The
230 executive director of the office has 30 days following receipt
231 of Space Florida's recommendation to approve or deny the
232 application. The office shall provide a letter of certification

577-04989-09

20091526c1

233 to the applicant, if approved. If the office denies any part of
234 the application, it shall inform the applicant of the grounds
235 for the denial. A copy of the certification shall be submitted
236 to the department within 10 days after the executive director's
237 decision.

238 (6) COMMERCIAL SPACEFLIGHT BUSINESS; EXPIRATION OF
239 ELIGIBILITY FOR TAX CREDITS; RENEWAL.—Eligibility of a certified
240 commercial spaceflight business for credits under this section
241 shall expire 10 years after the executive director of the office
242 certifies that the commercial spaceflight business is eligible
243 for the credit program, or 10 years after the business' last
244 successful launch of its commercial spaceflight project,
245 whichever occurs later. A certified commercial spaceflight
246 business whose eligibility expires under this subsection may
247 renew its eligibility for another 10 years, upon a successful
248 launch that results from its commercial spaceflight project.

249 (7) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF CREDITS.—

250 (a) In addition to its existing audit and investigative
251 authority, the department may perform any additional financial
252 and technical audits and investigations, including examining the
253 accounts, books, and financial records of the tax credit
254 applicant, which are necessary to verify the eligible costs
255 included in the tax credit return and to ensure compliance with
256 this section. The office shall provide technical assistance when
257 requested by the department on any technical audits or
258 examinations performed under this subsection.

259 (b) It is grounds for forfeiture of previously claimed and
260 received tax credits if the department determines, as a result
261 of an audit or examination, or from information received from

577-04989-09

20091526c1

262 the office, that a certified commercial spaceflight business, or
263 in the case of transferred tax credits a taxpayer, received tax
264 credits under this section to which the certified commercial
265 spaceflight business or taxpayer was not entitled. The certified
266 commercial spaceflight business or taxpayer is responsible for
267 returning forfeited tax credits to the department, and any
268 returned funds shall be deposited in the state's General Revenue
269 Fund.

270 (c) The certified commercial spaceflight business must
271 repay the credit amount claimed or transferred if its net
272 operating loss is adjusted by amendment or as a result of any
273 other recomputation or redetermination of federal or Florida
274 taxable income or loss. The certified commercial spaceflight
275 business also is liable for a penalty equal to the amount of the
276 credit claimed or transferred, reduced in proportion to the
277 amount of the net operating loss certified for transfer over the
278 amount of the certified net operating loss disallowed. The
279 applicant and its successors shall maintain all records
280 necessary to support the reported net operating loss.

281 (d) The office may revoke or modify any written decision
282 granting eligibility for tax credits under this section if it is
283 discovered that the certified commercial spaceflight business
284 submitted any false statement, representation, or certification
285 in any application, record, report, plan, or other document
286 filed in an attempt to receive tax credits under this section.
287 The office shall immediately notify the department of any
288 revoked or modified orders affecting previously granted tax
289 credits. Additionally, the certified commercial spaceflight
290 business must notify the department of any change in its tax

577-04989-09

20091526c1

291 credit claimed.

292 (e) The certified commercial spaceflight business shall
293 file with the department an amended return or other report as
294 the department prescribes by rule and shall pay any required tax
295 and interest within 60 days after the certified commercial
296 spaceflight business receives notification from the office that
297 previously approved tax credits have been revoked or modified.
298 If the revocation or modification order is contested, the
299 certified commercial spaceflight business shall file an amended
300 return or other report as provided in this paragraph within 60
301 days after a final order is issued following proceedings.

302 (f) The department may assess additional tax, penalty, and
303 interest as permitted by s. 95.091.

304 (8) RULES.—

305 (a) The office, in consultation with Space Florida, shall
306 adopt rules under ss. 120.536(1) and 120.54 to administer this
307 section, including rules relating to the certification forms for
308 commercial spaceflight businesses to complete, and the
309 application and certification procedures, guidelines, and
310 requirements necessary to administer this section.

311 (b) The department may adopt rules under ss. 120.536(1) and
312 120.54 to administer this section, including rules relating to:

313 1. The forms required to claim a tax credit under this
314 section, the requirements and basis for establishing an
315 entitlement to a credit, and the examination and audit
316 procedures required to administer this section.

317 2. The implementation and administration of the provisions
318 allowing a transfer of a net operating loss as a tax credit,
319 including rules prescribing forms, reporting requirements, and

577-04989-09

20091526c1

320 specific procedures, guidelines, and requirements necessary to
321 perform the transfer.

322 3. The minimum portion of the credit that is available for
323 transfer.

324 (9) ANNUAL REPORT.—The office, in cooperation with Space
325 Florida and the department, shall submit an annual report of the
326 commercial launch zone incentive program's activities to the
327 Governor, the President of the Senate, and the Speaker of the
328 House of Representatives by November 30 of each year, beginning
329 in 2013.

330 Section 2. Paragraph (f) of subsection (2) of section
331 14.2015, Florida Statutes, is amended to read:

332 14.2015 Office of Tourism, Trade, and Economic Development;
333 creation; powers and duties.—

334 (2) The purpose of the Office of Tourism, Trade, and
335 Economic Development is to assist the Governor in working with
336 the Legislature, state agencies, business leaders, and economic
337 development professionals to formulate and implement coherent
338 and consistent policies and strategies designed to provide
339 economic opportunities for all Floridians. To accomplish such
340 purposes, the Office of Tourism, Trade, and Economic Development
341 shall:

342 (f)1. Administer the Florida Enterprise Zone Act under ss.
343 290.001-290.016, the community contribution tax credit program
344 under ss. 220.183 and 624.5105, the tax refund program for
345 qualified target industry businesses under s. 288.106, the tax-
346 refund program for qualified defense contractors and space
347 flight business contractors under s. 288.1045, contracts for
348 transportation projects under s. 288.063, the sports franchise

577-04989-09

20091526c1

349 facility program under s. 288.1162, the professional golf hall
350 of fame facility program under s. 288.1168, the expedited
351 permitting process under s. 403.973, the Rural Community
352 Development Revolving Loan Fund under s. 288.065, the Regional
353 Rural Development Grants Program under s. 288.018, the Certified
354 Capital Company Act under s. 288.99, the Florida State Rural
355 Development Council, the Rural Economic Development Initiative,
356 the corporate income tax credits for commercial spaceflight
357 projects under s. 220.194, and other programs that are
358 specifically assigned to the office by law, by the
359 appropriations process, or by the Governor. Notwithstanding any
360 other provisions of law, the office may expend interest earned
361 from the investment of program funds deposited in the Grants and
362 Donations Trust Fund to contract for the administration of the
363 programs, or portions of the programs, enumerated in this
364 paragraph or assigned to the office by law, by the
365 appropriations process, or by the Governor. Such expenditures
366 shall be subject to review under chapter 216.

367 2. The office may enter into contracts in connection with
368 the fulfillment of its duties concerning the Florida First
369 Business Bond Pool under chapter 159, tax incentives under
370 chapters 212 and 220, tax incentives under the Certified Capital
371 Company Act in chapter 288, foreign offices under chapter 288,
372 the Enterprise Zone program under chapter 290, the Seaport
373 Employment Training program under chapter 311, the Florida
374 Professional Sports Team License Plates under chapter 320,
375 Spaceport Florida under chapter 331, Expedited Permitting under
376 chapter 403, and in carrying out other functions that are
377 specifically assigned to the office by law, by the

577-04989-09

20091526c1

378 appropriations process, or by the Governor.

379 Section 3. Paragraph (z) is added to subsection (8) of
380 section 213.053, Florida Statutes, to read:

381 213.053 Confidentiality and information sharing.—

382 (8) Notwithstanding any other provision of this section,
383 the department may provide:

384 (z) Information relative to tax credits taken under
385 s.220.194 to the Office of Tourism, Trade, and Economic
386 Development or to Space Florida.

387
388 Disclosure of information under this subsection shall be
389 pursuant to a written agreement between the executive director
390 and the agency. Such agencies, governmental or nongovernmental,
391 shall be bound by the same requirements of confidentiality as
392 the Department of Revenue. Breach of confidentiality is a
393 misdemeanor of the first degree, punishable as provided by s.
394 775.082 or s. 775.083.

395 Section 4. Subsection (8) of section 220.02, Florida
396 Statutes, is amended to read:

397 220.02 Legislative intent.—

398 (8) It is the intent of the Legislature that credits
399 against either the corporate income tax or the franchise tax be
400 applied in the following order: those enumerated in s. 631.828,
401 those enumerated in s. 220.191, those enumerated in s. 220.181,
402 those enumerated in s. 220.183, those enumerated in s. 220.182,
403 those enumerated in s. 220.1895, those enumerated in s. 221.02,
404 those enumerated in s. 220.184, those enumerated in s. 220.186,
405 those enumerated in s. 220.1845, those enumerated in s. 220.19,
406 those enumerated in s. 220.185, those enumerated in s. 220.187,

577-04989-09

20091526c1

407 those enumerated in s. 220.192, ~~and~~ those enumerated in s.
408 220.193, and those enumerated in s. 220.194.

409 Section 5. Paragraphs (a) and (b) of subsection (1) of
410 section 220.13, Florida Statutes, are amended to read:

411 220.13 "Adjusted federal income" defined.—

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

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

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

423 2. The amount of interest which is excluded from taxable
424 income under s. 103(a) of the Internal Revenue Code or any other
425 federal law, less the associated expenses disallowed in the
426 computation of taxable income under s. 265 of the Internal
427 Revenue Code or any other law, excluding 60 percent of any
428 amounts included in alternative minimum taxable income, as
429 defined in s. 55(b)(2) of the Internal Revenue Code, if the
430 taxpayer pays tax under s. 220.11(3).

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

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

577-04989-09

20091526c1

436 for the taxable year which is equal to the amount of the credit
437 allowable for the taxable year under s. 220.181. This
438 subparagraph shall expire on the date specified in s. 290.016
439 for the expiration of the Florida Enterprise Zone Act.

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

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

449 7. That portion of assessments to fund a guaranty
450 association incurred for the taxable year which is equal to the
451 amount of the credit allowable for the taxable year.

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

457 9. The amount taken as a credit for the taxable year under
458 s. 220.1895.

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

462 11. The amount taken as a credit for the taxable year under
463 s. 220.187.

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

577-04989-09

20091526c1

465 s. 220.192.

466 13. The amount taken as a credit for the taxable year under
467 s. 220.193.

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

471 15. Any amount allowable as a deduction for federal income
472 tax purposes under s. 167 or s. 168 of the Internal Revenue Code
473 of 1986, as amended, for the taxable year to the extent that
474 such amount includes bonus depreciation allowable as deduction
475 under s. 168(k).

476 16. The amount taken as a credit for the taxable year under
477 s. 220.194.

478 (b) *Subtractions.*—

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

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

483 b. The net capital loss allowable for federal income tax
484 purposes under s. 1212 of the Internal Revenue Code for the
485 taxable year, except that any net operating loss taken as a
486 credit to corporate income taxes owed or that is transferred,
487 pursuant to s. 220.194(3)(b), may not be deducted by the seller,

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

491 d. The excess contributions deductions allowable for
492 federal income tax purposes under s. 404 of the Internal Revenue
493 Code for the taxable year.

577-04989-09

20091526c1

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495 However, a net operating loss and a capital loss shall never be
496 carried back as a deduction to a prior taxable year, but all
497 deductions attributable to such losses shall be deemed net
498 operating loss carryovers and capital loss carryovers,
499 respectively, and treated in the same manner, to the same
500 extent, and for the same time periods as are prescribed for such
501 carryovers in ss. 172 and 1212, respectively, of the Internal
502 Revenue Code.

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

505 a. Dividends treated as received from sources without the
506 United States, as determined under s. 862 of the Internal
507 Revenue Code.

508 b. All amounts included in taxable income under s. 78 or s.
509 951 of the Internal Revenue Code.

510

511 However, as to any amount subtracted under this subparagraph,
512 there shall be added to such taxable income all expenses
513 deducted on the taxpayer's return for the taxable year which are
514 attributable, directly or indirectly, to such subtracted amount.
515 Further, no amount shall be subtracted with respect to dividends
516 paid or deemed paid by a Domestic International Sales
517 Corporation.

518 3. In computing "adjusted federal income" for taxable years
519 beginning after December 31, 1976, there shall be allowed as a
520 deduction the amount of wages and salaries paid or incurred
521 within this state for the taxable year for which no deduction is
522 allowed pursuant to s. 280C(a) of the Internal Revenue Code

577-04989-09

20091526c1

523 (relating to credit for employment of certain new employees).

524 4. There shall be subtracted from such taxable income any
525 amount of nonbusiness income included therein, including
526 payments received for a tax credit pursuant to s. 220.194(3)(b).

527 5. There shall be subtracted any amount of taxes of foreign
528 countries allowable as credits for taxable years beginning on or
529 after September 1, 1985, under s. 901 of the Internal Revenue
530 Code to any corporation which derived less than 20 percent of
531 its gross income or loss for its taxable year ended in 1984 from
532 sources within the United States, as described in s.

533 861(a)(2)(A) of the Internal Revenue Code, not including credits
534 allowed under ss. 902 and 960 of the Internal Revenue Code,
535 withholding taxes on dividends within the meaning of sub-
536 subparagraph 2.a., and withholding taxes on royalties, interest,
537 technical service fees, and capital gains.

538 6. Notwithstanding any other provision of this code, except
539 with respect to amounts subtracted pursuant to subparagraphs 1.
540 and 3., any increment of any apportionment factor which is
541 directly related to an increment of gross receipts or income
542 which is deducted, subtracted, or otherwise excluded in
543 determining adjusted federal income shall be excluded from both
544 the numerator and denominator of such apportionment factor.
545 Further, all valuations made for apportionment factor purposes
546 shall be made on a basis consistent with the taxpayer's method
547 of accounting for federal income tax purposes.

548 Section 6. Subsection (5) is added to section
549 220.16, Florida Statutes, to read:

550 220.16 Allocation of nonbusiness income.—Nonbusiness income
551 shall be allocated as follows:

577-04989-09

20091526c1

552 (5) The amount of payments received in exchange for
553 transferring a net operating loss as authorized by s. 220.194 is
554 allocable to this state.

555 Section 7. This act shall take effect January 1, 2010, and
556 credits created herein may be claimed in the tax year beginning
557 on or after January 1, 2013.