

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

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

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

21 220.03 Definitions.--

22 (3) FUTURE FEDERAL AMENDMENTS.--

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

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

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

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

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

57 ~~allowed as a special allowance under s. 168(k) of the Internal~~
 58 ~~Revenue Code of 1986, as amended.~~

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

62 220.13 "Adjusted federal income" defined.--

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

68 (a) Additions.--There shall be added to such taxable
 69 income:

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

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

83 3. In the case of a regulated investment company or real
 84 estate investment trust, an amount equal to the excess of the

85 net long-term capital gain for the taxable year over the amount
86 of the capital gain dividends attributable to the taxable year.

87 4. That portion of the wages or salaries paid or incurred
88 for the taxable year which is equal to the amount of the credit
89 allowable for the taxable year under s. 220.181. This
90 subparagraph shall expire on the date specified in s. 290.016
91 for the expiration of the Florida Enterprise Zone Act.

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

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

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

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

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

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

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

116 12. The amount taken as a credit for the taxable year
 117 under s. 220.192.

118 13. The amount taken as a credit for the taxable year
 119 under s. 220.193.

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

123 ~~15. Any amount allowable as a deduction for federal income~~
 124 ~~tax purposes under s. 167 or s. 168 of the Internal Revenue Code~~
 125 ~~of 1986, as amended, for the taxable year to the extent that~~
 126 ~~such amount includes bonus depreciation allowable as deduction~~
 127 ~~under s. 168(k).~~

128 (e) Adjustments related to the Federal Economic Stimulus
 129 Act of 2008.--Taxpayers shall be required to make the
 130 adjustments prescribed in this paragraph for Florida tax
 131 purposes in relation to certain tax benefits received pursuant
 132 to the Economic Stimulus Act of 2008.

133 1. There shall be added to such taxable income an amount
 134 equal to 80 percent of any amount deducted for federal income
 135 tax purposes as bonus depreciation for the taxable year pursuant
 136 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as
 137 amended by s. 103 of Pub. L. No. 110-185, for property placed in
 138 service after December 31, 2007, and before January 1, 2009. In

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139 each of the 4 subsequent taxable years, there shall be
140 subtracted from such taxable income 25 percent of the amount by
141 which taxable income was increased pursuant to this
142 subparagraph, notwithstanding any sale or other disposition of
143 the property that is the subject of the adjustments and
144 regardless of whether such property remains in service in the
145 hands of the taxpayer.

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

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

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

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

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

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