

HB 143

2011

1 A bill to be entitled
2 An act relating to tax credits; amending s. 220.02, F.S.;
3 revising the priority of tax credits that may be taken
4 against the corporate income tax or the franchise tax;
5 amending s. 220.13, F.S.; redefining the term "adjusted
6 federal income" to include the amount of certain tax
7 credits; creating s. 220.1811, F.S.; authorizing
8 aerospace-sector jobs tax credits and tuition
9 reimbursement tax credits; defining terms; authorizing a
10 tax credit to aerospace businesses based on the salary or
11 tuition reimbursed to certain employees; specifying the
12 maximum annual amount of tax credits for an aerospace
13 business; limiting the annual amount of tax credits
14 available; prohibiting a business from claiming an
15 aerospace-sector jobs tax credit and a tuition
16 reimbursement tax credit for the same employee; providing
17 for the Department of Revenue to approve applications for
18 tax credits; prohibiting increases in the amount of unused
19 tax credits carried over in amended tax returns; providing
20 fines and criminal penalties for certain unlawful claims
21 of tax credits; authorizing the Department of Revenue to
22 adopt rules; providing for the expiration of the tax
23 credit program; providing for applicability; providing an
24 effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Subsection (8) of section 220.02, Florida

HB 143

2011

29 Statutes, is amended to read:

30 220.02 Legislative intent.—

31 (8) ~~It is the intent of the Legislature that~~ Credits
 32 against ~~either~~ the corporate income tax or the franchise tax
 33 shall be applied in the following order: those enumerated in s.
 34 631.828, those enumerated in s. 220.191, those enumerated in s.
 35 220.181, those enumerated in s. 220.183, those enumerated in s.
 36 220.182, those enumerated in s. 220.1895, those enumerated in s.
 37 221.02, those enumerated in s. 220.184, those enumerated in s.
 38 220.186, those enumerated in s. 220.1845, those enumerated in s.
 39 220.19, those enumerated in s. 220.185, those enumerated in s.
 40 220.1875, those enumerated in s. 220.192, those enumerated in s.
 41 220.193, those enumerated in s. 288.9916, those enumerated in s.
 42 220.1899, ~~and~~ those enumerated in s. 220.1896, and those
 43 enumerated in s. 220.1811.

44 Section 2. Paragraph (a) of subsection (1) of section
 45 220.13, Florida Statutes, is amended to read:

46 220.13 "Adjusted federal income" defined.—

47 (1) The term "adjusted federal income" means an amount
 48 equal to the taxpayer's taxable income as defined in subsection
 49 (2), or such taxable income of more than one taxpayer as
 50 provided in s. 220.131, for the taxable year, adjusted as
 51 follows:

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

54 1. The amount of any tax upon or measured by income,
 55 excluding taxes based on gross receipts or revenues, paid or
 56 accrued as a liability to the District of Columbia or any state

57 of the United States which is deductible from gross income in
58 the computation of taxable income for the taxable year.

59 2. The amount of interest which is excluded from taxable
60 income under s. 103(a) of the Internal Revenue Code or any other
61 federal law, less the associated expenses disallowed in the
62 computation of taxable income under s. 265 of the Internal
63 Revenue Code or any other law, excluding 60 percent of any
64 amounts included in alternative minimum taxable income, as
65 defined in s. 55(b)(2) of the Internal Revenue Code, if the
66 taxpayer pays tax under s. 220.11(3).

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

71 4. That portion of the wages or salaries paid or incurred
72 for the taxable year which is equal to the amount of the credit
73 allowable for the taxable year under s. 220.181. This
74 subparagraph shall expire on the date specified in s. 290.016
75 for the expiration of the Florida Enterprise Zone Act.

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

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

85 7. That portion of assessments to fund a guaranty
 86 association incurred for the taxable year which is equal to the
 87 amount of the credit allowable for the taxable year.

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

93 9. The amount taken as a credit for the taxable year under
 94 s. 220.1895.

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

98 11. The amount taken as a credit for the taxable year
 99 under s. 220.1875. The addition in this subparagraph is intended
 100 to ensure that the same amount is not allowed for the tax
 101 purposes of this state as both a deduction from income and a
 102 credit against the tax. This addition is not intended to result
 103 in adding the same expense back to income more than once.

104 12. The amount taken as a credit for the taxable year
 105 under s. 220.192.

106 13. The amount taken as a credit for the taxable year
 107 under s. 220.193.

108 14. Any portion of a qualified investment, as defined in
 109 s. 288.9913, which is claimed as a deduction by the taxpayer and
 110 taken as a credit against income tax pursuant to s. 288.9916.

111 15. The costs to acquire a tax credit pursuant to s.
 112 288.1254(5) that are deducted from or otherwise reduce federal

113 taxable income for the taxable year.

114 16. The amount taken as a credit for the taxable year
 115 under s. 220.1811.

116 Section 3. Section 220.1811, Florida Statutes, is created
 117 to read:

118 220.1811 Aerospace-sector jobs tax credit and tuition
 119 reimbursement tax credit.—

120 (1) DEFINITIONS.—As used in this section, the term:

121 (a) "Aerospace business" means a business located in this
 122 state which is engaged in aerospace, as defined in s. 331.303.

123 (b) "Qualified employee" means a resident of this state
 124 who:

125 1. Is first employed or reemployed by an aerospace
 126 business on or after January 1, 2012;

127 2. Received an undergraduate or graduate degree from a
 128 college or university that is accredited by a national
 129 accrediting body; received a technical degree or certification
 130 related to aerospace from a technical training institution; or
 131 completed an aerospace development workforce training program
 132 coordinated by Workforce Florida, Inc.;

133 3. Is not an owner, partner, or majority stockholder of an
 134 aerospace business; and

135 4. Is employed for at least 6 months.

136 (c) "Tuition reimbursed to a qualified employee" means a
 137 lump-sum payment by an aerospace business to a qualified
 138 employee, which may not exceed the average annual tuition, as
 139 reported by the Board of Governors of the State University
 140 System, for a Florida resident who is a full-time undergraduate

141 student enrolled in a public college or university. The term
142 does not include the cost of books, fees, or room and board.

143 (2) AEROSPACE-SECTOR JOBS TAX CREDIT.—

144 (a) A credit against the tax imposed under this chapter
145 may be claimed by an aerospace business for compensation paid to
146 a qualified employee.

147 (b) The credit authorized by this subsection shall equal
148 10 percent of the compensation paid for the first through fifth
149 years of employment in this state by an aerospace business.

150 (c) The credit authorized by this subsection may not
151 exceed \$12,500 annually for each qualified employee.

152 (d) This credit applies only with respect to wages subject
153 to unemployment tax.

154 (e) If the credit is not fully used in any one year, the
155 unused amount may be carried forward for a period not to exceed
156 5 years. The carryover credit may be used in a subsequent year
157 if the tax imposed by this chapter for such year exceeds the
158 credit for such year after applying the other credits and unused
159 credit carryovers in the order provided in s. 220.02(8).

160 (3) TUITION REIMBURSEMENT TAX CREDIT.—

161 (a) A credit against the tax imposed under this chapter
162 may be claimed by an aerospace business for 50 percent of
163 tuition reimbursed to a qualified employee in a tax year.

164 (b) The credit may be claimed only if the qualified
165 employee was awarded an undergraduate or graduate degree, a
166 technical certification, or a certification from a training
167 program coordinated by Workforce Florida, Inc., within 1 year
168 after commencing employment with the business requesting the

HB 143

2011

169 credit, and may be claimed within 4 years after employment of
170 the qualified employee.

171 (c) If this credit is not fully used in any one year, the
172 unused amount may be carried forward for a period not to exceed
173 5 years. The carryover credit may be used in a subsequent year
174 if the tax imposed under this chapter for such year exceeds the
175 credit for such year after applying the other credits and unused
176 credit carryovers in the order provided in s. 220.02(8).

177 (4) MAXIMUM CREDITS FOR AN AEROSPACE BUSINESS.—The maximum
178 amount of credits under this section which may be claimed by any
179 single aerospace business in a calendar year is \$200,000.

180 (5) ANNUAL LIMIT ON TAX CREDITS.—The total amount of
181 credits that may be granted under this section is \$2 million in
182 any calendar year. A credit that is claimed after the \$2 million
183 limit is reached shall be disallowed.

184 (6) DUPLICATION OF TAX CREDITS.—A business may not claim
185 an aerospace-sector jobs tax credit and a tuition reimbursement
186 tax credit for the same qualified employee.

187 (7) APPLICATION FOR TAX CREDITS.—

188 (a) An aerospace business must apply to the department for
189 authorization to claim an aerospace-sector jobs tax credit or a
190 tuition reimbursement tax credit. The application must be filed
191 under oath and include:

192 1. The name and address of the business and documentation
193 that the business is an aerospace business.

194 2. For each employee for which a tax credit is sought:

195 a. The employee's name and documentation that the employee
196 is a qualified employee.

197 b. The salary or hourly wages, including the hourly wages
198 subject to unemployment tax paid to the qualified employee.

199 c. The location of the community college, college,
200 university, technical institution, or training program
201 coordinated by Workforce Florida, Inc., from which the qualified
202 employee received his or her degree or certification.

203 d. A statement as to whether the applicant is seeking an
204 aerospace-sector jobs tax credit or a tuition reimbursement tax
205 credit.

206 (b) The applicant for a tax credit has the burden of
207 demonstrating to the satisfaction of the department that it
208 meets the requirements of this section.

209 (8) LIMITS ON THE CARRY OVER OF TAX CREDITS.—An aerospace
210 business may not carry over more tax credits in an amended
211 return than were claimed on the original return for the taxable
212 year. This subsection does not limit increases in the amount of
213 credit claimed on an amended return due to the use of any credit
214 amount previously carried over pursuant to paragraph (2)(e) or
215 paragraph (3)(c).

216 (9) PENALTIES.—

217 (a) Any person who fraudulently claims a credit under this
218 section is liable for repayment of the credit, plus a mandatory
219 penalty in the amount of 200 percent of the credit, plus
220 interest at the rate provided in s. 220.807, and commits a
221 felony of the third degree, punishable as provided in s.
222 775.082, s. 775.083, or s. 775.084.

223 (b) Any person who makes an underpayment of tax as a
224 result of a grossly overstated claim for this credit commits a

HB 143

2011

225 felony of the third degree, punishable as provided in s.
226 775.082, s. 775.083, or s. 775.084. As used in this paragraph,
227 the term "grossly overstated claim" means a claim in an amount
228 in excess of 100 percent of the amount of credit allowable under
229 this section.

230 (10) RULEMAKING.—The department may adopt rules to
231 prescribe any necessary forms required to claim a tax credit
232 under this section and to provide guidelines and procedures
233 required to administer this section.

234 (11) EXPIRATION.—This section, except paragraphs (2) (e)
235 and (3) (c) and subsection (8), expires December 31, 2021. An
236 aerospace business may not claim a new tax credit under this
237 section after that date. However, an aerospace business may
238 claim tax credits carried over pursuant to paragraph (2) (e) or
239 paragraph (3) (c).

240 Section 4. This act shall take effect January 1, 2012, and
241 applies to tax years beginning on or after that date.