

By Senator Rich

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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,
4 F.S.; revising a definition; defining the terms "tax
5 haven" and "water's edge group"; amending s. 220.13,
6 F.S.; conforming cross-references; redefining the term
7 "adjusted federal income" to limit the subtraction of
8 certain deductions and certain carryovers; requiring
9 the subtraction of certain dividends from taxable
10 income; creating s. 220.136, F.S.; providing rules and
11 criteria to determine if a corporation is a member of
12 a water's edge group; creating s. 220.1363, F.S.;
13 providing a reporting method for a water's edge group;
14 providing for the apportionment of income to the
15 state; requiring a member of a water's edge group
16 having nexus with this state to file a single return
17 for the water's edge group; providing for the
18 determination of income for a member of a water's edge
19 group having a different tax year than the water's
20 edge group; requiring a water's edge group return to
21 include a computational schedule; requiring a water's
22 edge group to file a domestic disclosure spreadsheet
23 along with its return; authorizing the Department of
24 Revenue to adopt rules; amending s. 220.14, F.S.;
25 providing for the proration of an exemption during a
26 leap year; limiting a water's edge group to a single
27 claim of a specified exemption; amending s. 220.15,
28 F.S.; revising criteria applicable to determining
29 whether a sale of tangible personal property occurs in

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30 this state; deleting provisions relating to affiliated
31 groups with respect to certain sales of a financial
32 institution; amending s. 220.183, F.S.; deleting
33 provisions relating to affiliated groups with respect
34 to community contribution tax credits; amending s.
35 220.1845, F.S.; deleting provisions relating to
36 affiliated groups with respect to the contaminated
37 site rehabilitation tax credit; amending s. 220.1875,
38 F.S.; deleting provisions relating to affiliated
39 groups with respect to tax credits for contributions
40 to eligible nonprofit scholarship-funding
41 organizations; amending s. 220.191, F.S.; deleting
42 provisions relating to affiliated groups with respect
43 to the capital investment tax credit; amending s.
44 220.192, F.S.; deleting provisions relating to
45 affiliated groups with respect to the renewable energy
46 technologies investment tax credit; amending s.
47 220.193, F.S.; deleting provisions relating to
48 affiliated groups with respect to the Florida
49 renewable energy production tax credit; amending s.
50 220.51, F.S.; deleting provisions relating to the
51 rulemaking authority of the Department of Revenue with
52 respect to consolidated reporting for affiliated
53 groups; amending s. 220.64, F.S.; conforming cross-
54 references; deleting provisions relating to the filing
55 of consolidated returns by affiliated groups of
56 corporations composed of banks or savings
57 associations, their parent corporations, and certain
58 subsidiaries of the parent corporation; amending s.

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59 288.1254, F.S.; deleting provisions relating to
60 affiliated groups with respect to tax credits awarded
61 under the entertainment industry financial incentive
62 program; amending s. 376.30781, F.S.; conforming
63 cross-references; amending s. 627.6699, F.S.;
64 conforming a provision to changes made by the act;
65 providing transitional rules for corporate income tax
66 returns filed by water's edge groups and affiliated
67 groups of corporations; specifying the allocation of
68 funds that are recaptured under the act; repealing s.
69 220.131, F.S., relating to adjusted federal income for
70 affiliated groups; providing an effective date.

71
72 Be It Enacted by the Legislature of the State of Florida:

73
74 Section 1. Legislative findings and intent.—The Legislature
75 finds that the separate accounting system used to measure the
76 income of multistate and multinational corporations for tax
77 purposes often places Florida corporations at a competitive
78 disadvantage. Moreover, corporate business is increasingly
79 conducted through groups of commonly owned corporations.
80 Therefore, the Legislature intends to more accurately measure
81 the business activities of corporations by adopting a combined
82 system of income tax reporting.

83 Section 2. Paragraph (z) of subsection (1) of section
84 220.03, Florida Statutes, is amended, and paragraphs (gg) and
85 (hh) are added to that subsection, to read:

86 220.03 Definitions.—

87 (1) SPECIFIC TERMS.—When used in this code, and when not

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88 otherwise distinctly expressed or manifestly incompatible with
89 the intent thereof, the following terms shall have the following
90 meanings:

91 (z) "Taxpayer" means any corporation subject to the tax
92 imposed by this code, and includes all corporations that are
93 members of a water's edge group for which a consolidated return
94 is filed under s. 220.131. However, "taxpayer" does not include
95 a corporation having no individuals (including individuals
96 employed by an affiliate) receiving compensation in this state
97 as defined in s. 220.15 when the only property owned or leased
98 by said corporation (including an affiliate) in this state is
99 located at the premises of a printer with which it has
100 contracted for printing, if such property consists of the final
101 printed product, property which becomes a part of the final
102 printed product, or property from which the printed product is
103 produced.

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

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

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

111 b. Has laws or practices that prevent the effective
112 exchange of information for tax purposes with other governments
113 regarding taxpayers who are subject to, or benefiting from, the
114 tax regime;

115 c. Lacks transparency;

116 d. Facilitates the establishment of foreign-owned entities

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117 without the need for a local substantive presence or prohibits
118 these entities from having any commercial impact on the local
119 economy;

120 e. Explicitly or implicitly excludes the jurisdiction's
121 resident taxpayers from taking advantage of the tax regime's
122 benefits or prohibits enterprises that benefit from the regime
123 from operating in the jurisdiction's domestic market; or

124 f. Has created a tax regime that is favorable for tax
125 avoidance, based upon an overall assessment of relevant factors,
126 including whether the jurisdiction has a significant untaxed
127 offshore financial or other services sector relative to its
128 overall economy.

129
130 For purposes of this paragraph, a tax regime lacks transparency
131 if the details of legislative, legal, or administrative
132 requirements are not open to public scrutiny and apparent, or
133 are not consistently applied among similarly situated taxpayers.
134 As used in this paragraph, the term "tax regime" means a set or
135 system of rules, laws, regulations, or practices by which taxes
136 are imposed on any person, corporation, or entity, or on any
137 income, property, incident, indicia, or activity pursuant to
138 government authority.

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

143 Section 3. Subsection (1) and paragraph (f) of subsection
144 (2) of section 220.13, Florida Statutes, are amended to read:

145 220.13 "Adjusted federal income" defined.-

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

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

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

157 2. The amount of interest which is excluded from taxable
158 income under s. 103(a) of the Internal Revenue Code or any other
159 federal law, less the associated expenses disallowed in the
160 computation of taxable income under s. 265 of the Internal
161 Revenue Code or any other law, excluding 60 percent of any
162 amounts included in alternative minimum taxable income, as
163 defined in s. 55(b)(2) of the Internal Revenue Code, if the
164 taxpayer pays tax under s. 220.11(3).

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

169 4. That portion of the wages or salaries paid or incurred
170 for the taxable year which is equal to the amount of the credit
171 allowable for the taxable year under s. 220.181. This
172 subparagraph shall expire on the date specified in s. 290.016
173 for the expiration of the Florida Enterprise Zone Act.

174 5. That portion of the ad valorem school taxes paid or

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175 incurred for the taxable year which is equal to the amount of
176 the credit allowable for the taxable year under s. 220.182. This
177 subparagraph shall expire on the date specified in s. 290.016
178 for the expiration of the Florida Enterprise Zone Act.

179 6. The amount taken as a credit under s. 220.195 which is
180 deductible from gross income in the computation of taxable
181 income for the taxable year.

182 7. That portion of assessments to fund a guaranty
183 association incurred for the taxable year which is equal to the
184 amount of the credit allowable for the taxable year.

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

190 9. The amount taken as a credit for the taxable year under
191 s. 220.1895.

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

195 11. The amount taken as a credit for the taxable year under
196 s. 220.1875. The addition in this subparagraph is intended to
197 ensure that the same amount is not allowed for the tax purposes
198 of this state as both a deduction from income and a credit
199 against the tax. This addition is not intended to result in
200 adding the same expense back to income more than once.

201 12. The amount taken as a credit for the taxable year under
202 s. 220.192.

203 13. The amount taken as a credit for the taxable year under

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204 s. 220.193.

205 14. Any portion of a qualified investment, as defined in s.
206 288.9913, which is claimed as a deduction by the taxpayer and
207 taken as a credit against income tax pursuant to s. 288.9916.

208 15. The costs to acquire a tax credit pursuant to s.
209 288.1254(5) that are deducted from or otherwise reduce federal
210 taxable income for the taxable year.

211 16. The amount taken as a credit for the taxable year
212 pursuant to s. 220.194.

213 17. The amount taken as a credit for the taxable year under
214 s. 220.196. The addition in this subparagraph is intended to
215 ensure that the same amount is not allowed for the tax purposes
216 of this state as both a deduction from income and a credit
217 against the tax. The addition is not intended to result in
218 adding the same expense back to income more than once.

219 (b) *Subtractions.*—

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

221 a. The net operating loss deduction allowable for federal
222 income tax purposes under s. 172 of the Internal Revenue Code
223 for the taxable year, except that any net operating loss that is
224 transferred pursuant to s. 220.194(6) may not be deducted by the
225 seller,

226 b. The net capital loss allowable for federal income tax
227 purposes under s. 1212 of the Internal Revenue Code for the
228 taxable year,

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

232 d. The excess contributions deductions allowable for

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233 federal income tax purposes under s. 404 of the Internal Revenue
234 Code for the taxable year.

235

236 However, a net operating loss and a capital loss shall never be
237 carried back as a deduction to a prior taxable year, but all
238 deductions attributable to such losses shall be deemed net
239 operating loss carryovers and capital loss carryovers,
240 respectively, and treated in the same manner, to the same
241 extent, and for the same time periods as are prescribed for such
242 carryovers in ss. 172 and 1212, respectively, of the Internal
243 Revenue Code. A deduction is not allowed for net operating
244 losses, net capital losses, or excess contribution deductions
245 under 26 U.S.C. ss. 170(d)(2), 172, 1212, and 404 for a member
246 of a water's edge group that is not a United States member.
247 Carryovers of net operating losses, net capital losses, or
248 excess contribution deductions under 26 U.S.C. ss. 170(d)(2),
249 172, 1212, and 404 may be subtracted only by the member of the
250 water's edge group that generates a carryover.

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

253 a. Dividends treated as received from sources without the
254 United States, as determined under s. 862 of the Internal
255 Revenue Code.

256 b. All amounts included in taxable income under s. 78 or s.
257 951 of the Internal Revenue Code.

258

259 However, as to any amount subtracted under this subparagraph,
260 there shall be added to such taxable income all expenses
261 deducted on the taxpayer's return for the taxable year which are

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262 attributable, directly or indirectly, to such subtracted amount.
263 Further, no amount shall be subtracted with respect to dividends
264 paid or deemed paid by a Domestic International Sales
265 Corporation.

266 3. Amounts received by a member of a water's edge group as
267 dividends paid by another member of the water's edge group shall
268 be subtracted from the taxable income to the extent that the
269 dividends are included in the taxable income.

270 ~~4.3.~~ In computing "adjusted federal income" for taxable
271 years beginning after December 31, 1976, there shall be allowed
272 as a deduction the amount of wages and salaries paid or incurred
273 within this state for the taxable year for which no deduction is
274 allowed pursuant to s. 280C(a) of the Internal Revenue Code
275 (relating to credit for employment of certain new employees).

276 ~~5.4.~~ There shall be subtracted from such taxable income any
277 amount of nonbusiness income included therein.

278 ~~6.5.~~ There shall be subtracted any amount of taxes of
279 foreign countries allowable as credits for taxable years
280 beginning on or after September 1, 1985, under s. 901 of the
281 Internal Revenue Code to any corporation which derived less than
282 20 percent of its gross income or loss for its taxable year
283 ended in 1984 from sources within the United States, as
284 described in s. 861(a)(2)(A) of the Internal Revenue Code, not
285 including credits allowed under ss. 902 and 960 of the Internal
286 Revenue Code, withholding taxes on dividends within the meaning
287 of sub-subparagraph 2.a., and withholding taxes on royalties,
288 interest, technical service fees, and capital gains.

289 ~~7.6.~~ Notwithstanding any other provision of this code,
290 except with respect to amounts subtracted pursuant to

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291 subparagraphs 1. and 4. 3., any increment of any apportionment
292 factor which is directly related to an increment of gross
293 receipts or income which is deducted, subtracted, or otherwise
294 excluded in determining adjusted federal income shall be
295 excluded from both the numerator and denominator of such
296 apportionment factor. Further, all valuations made for
297 apportionment factor purposes shall be made on a basis
298 consistent with the taxpayer's method of accounting for federal
299 income tax purposes.

300 (c) *Installment sales occurring after October 19, 1980.*—

301 1. In the case of any disposition made after October 19,
302 1980, the income from an installment sale shall be taken into
303 account for the purposes of this code in the same manner that
304 such income is taken into account for federal income tax
305 purposes.

306 2. Any taxpayer who regularly sells or otherwise disposes
307 of personal property on the installment plan and reports the
308 income therefrom on the installment method for federal income
309 tax purposes under s. 453(a) of the Internal Revenue Code shall
310 report such income in the same manner under this code.

311 (d) *Nonallowable deductions.*—A deduction for net operating
312 losses, net capital losses, or excess contributions deductions
313 under ss. 170(d)(2), 172, 1212, and 404 of the Internal Revenue
314 Code which has been allowed in a prior taxable year for Florida
315 tax purposes shall not be allowed for Florida tax purposes,
316 notwithstanding the fact that such deduction has not been fully
317 utilized for federal tax purposes.

318 (e) *Adjustments related to the Federal Economic Stimulus*
319 *Act of 2008, the American Recovery and Reinvestment Act of 2009,*

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320 *the Small Business Jobs Act of 2010, and the Tax Relief,*
321 *Unemployment Insurance Reauthorization, and Job Creation Act of*
322 *2010.*—Taxpayers shall be required to make the adjustments
323 prescribed in this paragraph for Florida tax purposes in
324 relation to certain tax benefits received pursuant to the
325 Economic Stimulus Act of 2008, the American Recovery and
326 Reinvestment Act of 2009, the Small Business Jobs Act of 2010,
327 and the Tax Relief, Unemployment Insurance Reauthorization, and
328 Job Creation Act of 2010.

329 1. There shall be added to such taxable income an amount
330 equal to 100 percent of any amount deducted for federal income
331 tax purposes as bonus depreciation for the taxable year pursuant
332 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as
333 amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.
334 111-5, s. 2022 of Pub. L. No. 111-240, and s. 401 of Pub. L. No.
335 111-312, for property placed in service after December 31, 2007,
336 and before January 1, 2013. For the taxable year and for each of
337 the 6 subsequent taxable years, there shall be subtracted from
338 such taxable income an amount equal to one-seventh of the amount
339 by which taxable income was increased pursuant to this
340 subparagraph, notwithstanding any sale or other disposition of
341 the property that is the subject of the adjustments and
342 regardless of whether such property remains in service in the
343 hands of the taxpayer.

344 2. There shall be added to such taxable income an amount
345 equal to 100 percent of any amount in excess of \$128,000
346 deducted for federal income tax purposes for the taxable year
347 pursuant to s. 179 of the Internal Revenue Code of 1986, as
348 amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.

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349 111-5, s. 2021 of Pub. L. No. 111-240, and s. 402 of Pub. L. No.
350 111-312, for taxable years beginning after December 31, 2007,
351 and before January 1, 2013. For the taxable year and for each of
352 the 6 subsequent taxable years, there shall be subtracted from
353 such taxable income one-seventh of the amount by which taxable
354 income was increased pursuant to this subparagraph,
355 notwithstanding any sale or other disposition of the property
356 that is the subject of the adjustments and regardless of whether
357 such property remains in service in the hands of the taxpayer.

358 3. There shall be added to such taxable income an amount
359 equal to the amount of deferred income not included in such
360 taxable income pursuant to s. 108(i)(1) of the Internal Revenue
361 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There
362 shall be subtracted from such taxable income an amount equal to
363 the amount of deferred income included in such taxable income
364 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,
365 as amended by s. 1231 of Pub. L. No. 111-5.

366 4. Subtractions available under this paragraph may be
367 transferred to the surviving or acquiring entity following a
368 merger or acquisition and used in the same manner and with the
369 same limitations as specified by this paragraph.

370 5. The additions and subtractions specified in this
371 paragraph are intended to adjust taxable income for Florida tax
372 purposes, and, notwithstanding any other provision of this code,
373 such additions and subtractions shall be permitted to change a
374 taxpayer's net operating loss for Florida tax purposes.

375 (2) For purposes of this section, a taxpayer's taxable
376 income for the taxable year means taxable income as defined in
377 s. 63 of the Internal Revenue Code and properly reportable for

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378 federal income tax purposes for the taxable year, but subject to
379 the limitations set forth in paragraph (1)(b) with respect to
380 the deductions provided by ss. 172 (relating to net operating
381 losses), 170(d)(2) (relating to excess charitable
382 contributions), 404(a)(1)(D) (relating to excess pension trust
383 contributions), 404(a)(3)(A) and (B) (to the extent relating to
384 excess stock bonus and profit-sharing trust contributions), and
385 1212 (relating to capital losses) of the Internal Revenue Code,
386 except that, subject to the same limitations, the term:

387 (f) "Taxable income," in the case of a corporation which is
388 a member of an affiliated group of corporations filing a
389 consolidated income tax return for the taxable year for federal
390 income tax purposes, means taxable income of such corporation
391 for federal income tax purposes as if such corporation had filed
392 a separate federal income tax return for the taxable year and
393 each preceding taxable year for which it was a member of an
394 affiliated group, ~~unless a consolidated return for the taxpayer
395 and others is required or elected under s. 220.131;~~

396 Section 4. Section 220.136, Florida Statutes, is created to
397 read:

398 220.136 Determination of the members of a water's edge
399 group.-

400 (1) MEMBERSHIP RULES.-

401 (a) A corporation having 50 percent or more of its
402 outstanding voting stock directly or indirectly owned or
403 controlled by a water's edge group is presumed to be a member of
404 the group. A corporation having less than 50 percent of its
405 outstanding voting stock directly or indirectly controlled by a
406 water's edge group is a member of the group if the business

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407 activities of the corporation show that the corporation is a
408 member of the group. All of the income of a corporation that is
409 a member of a water's edge group is presumed to be unitary.

410 (b) A corporation that conducts business outside the United
411 States is not a member of a water's edge group if 80 percent or
412 more of the corporation's property and payroll, as determined by
413 the apportionment factors described in ss. 220.1363 and 220.15,
414 may be assigned to locations outside the United States. However,
415 such corporations that are incorporated in a tax haven may be a
416 member of a water's edge group pursuant to paragraph (a). This
417 paragraph does not exempt a corporation that is not a member of
418 a water's edge group from the provisions of this chapter.

419 (2) MEMBERSHIP EVALUATION CRITERIA.—

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

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

424 (c) The apportionment factors described in ss. 220.1363 and
425 220.15 shall be used to determine whether a special industry
426 corporation has engaged in a sufficient amount of activities
427 outside the United States to exclude it from treatment as a
428 member of a water's edge group.

429 Section 5. Section 220.1363, Florida Statutes, is created
430 to read:

431 220.1363 Water's edge groups; special requirements.—

432 (1) All members of a water's edge group must use the
433 water's edge reporting method. Under the water's edge reporting
434 method:

435 (a) Adjusted federal income for purposes of s. 220.12 means

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436 the sum of adjusted federal income for all members of the group
437 as determined for a concurrent tax year.

438 (b) The numerators and denominators of the apportionment
439 factors shall be calculated for all members of the group
440 combined.

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

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

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

454 (f) The income attributable to the Florida activities of a
455 corporation that is exempt from taxation under Pub. L. No. 86-
456 272 is excluded from the apportionment factor numerators in the
457 calculation of corporate income tax even if another member of
458 the water's edge group has nexus with Florida and is subject to
459 tax.

460 (g) For purposes of this section, the term "water's edge
461 reporting method" is a method to determine the taxable business
462 profits of a group of entities conducting a unitary business.
463 Under this method, the net income of the entities must be added
464 together along with the additions and subtractions under s.

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465 220.13 and apportioned to this state as a single taxpayer under
466 ss. 220.15 and 220.151. However, each special industry member
467 included in a water's edge group return, which would otherwise
468 be permitted to use a special method of apportionment under s.
469 220.151, shall convert its single-factor apportionment to a
470 three-factor apportionment of property, payroll, and sales. The
471 special industry member shall calculate the denominator of its
472 property, payroll, and sales factors in the same manner as those
473 denominators are calculated by members that are not a special
474 industry member. The numerator of its sales, property, and
475 payroll factors is the product of the denominator of each factor
476 multiplied by the premiums or revenue-miles-factor ratio
477 otherwise applicable under s. 220.151.

478 (2) (a) A single water's edge group return must be filed in
479 the name and federal employer identification number of the
480 parent corporation if the parent is a member of the group and
481 has nexus with Florida. If the group does not have a parent
482 corporation, if the parent corporation is not a member of the
483 group, or if the parent corporation does not have nexus with
484 Florida, the members of the group must choose a member subject
485 to the Florida corporate income tax to file the return. The
486 members of the group may not choose another member to file a
487 corporate income tax return in subsequent years unless the
488 filing member does not maintain nexus with Florida or remain a
489 member of that group. The return must be signed by an authorized
490 officer of the filing member as the agent for the group.

491 (b) If members of a water's edge group have different tax
492 years, the tax year of a majority of the members of the group is
493 the tax year of the group. If the tax years of a majority of the

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494 members of a group do not correspond, the tax year of the member
495 that must file the return for the group is the tax year of the
496 group.

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

501 a. The precise amount of taxable income received during the
502 months corresponding to the tax year of the group, if the
503 precise amount can be readily determined from the member's books
504 and records.

505 b. The taxable income of the member converted to conform to
506 the tax year of the group on the basis of the number of months
507 falling within the tax year of the group. For example, if the
508 tax year of the water's edge group is a calendar year and a
509 member operates on a fiscal year ending on April 30, the income
510 of the member shall include 8/12 of the income from the current
511 tax year and 4/12 of the income from the preceding tax year.
512 This method to determine the income of a member may be used only
513 if the return can be timely filed after the end of the tax year
514 of the group.

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

517 2. The method of determining the income of a member of a
518 group whose tax year does not correspond to the tax year of the
519 group may not change as long as the member remains a member of
520 the group. The apportionment factors for the member must be
521 applied to the income of the member for the tax year of the
522 group.

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- 523 (3) (a) A water's edge group return shall include a
524 computational schedule that:
- 525 1. Combines the federal income of all members of the
526 water's edge group;
 - 527 2. Shows all intercompany eliminations;
 - 528 3. Shows Florida additions and subtractions under s.
529 220.13; and
 - 530 4. Shows the calculation of the combined apportionment
531 factors.
- 532 (b) A water's edge group shall also file a domestic
533 disclosure spreadsheet in addition to its return. The
534 spreadsheet shall fully disclose:
- 535 1. The income reported to each state;
 - 536 2. The state tax liability;
 - 537 3. The method used for apportioning or allocating income to
538 the various states; and
 - 539 4. Other information required by the department by rule in
540 order to determine the proper amount of tax due to each state
541 and to identify the water's edge group.
- 542 (4) The department shall adopt rules and forms to
543 administer this section. The Legislature intends to grant the
544 department extensive authority to adopt rules and forms
545 describing and defining principles for determining the existence
546 of a water's edge business, definitions of common control,
547 methods of reporting, and related forms, principles, and other
548 definitions.
- 549 Section 6. Section 220.14, Florida Statutes, is amended to
550 read:
551 220.14 Exemption.—

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552 (1) In computing a taxpayer's liability for tax under this
553 code, there shall be exempt from the tax \$25,000 of net income
554 as defined in s. 220.12 or such lesser amount as will, without
555 increasing the taxpayer's federal income tax liability, provide
556 the state with an amount under this code which is equal to the
557 maximum federal income tax credit which may be available from
558 time to time under federal law.

559 (2) In the case of a taxable year for a period of less than
560 12 months, the exemption allowed by this section shall be
561 prorated on the basis of the number of days in such year to 365,
562 or in the case of a leap year, to 366.

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

565 (4) Notwithstanding any other provision of this code, not
566 more than one exemption under this section may be allowed to the
567 Florida members of a controlled group of corporations, as
568 defined in s. 1563 of the Internal Revenue Code with respect to
569 taxable years ending on or after December 31, 1970, filing
570 separate returns under this code. The exemption described in
571 this section shall be divided equally among such Florida members
572 of the group, unless all of such members consent, at such time
573 and in such manner as the department shall by regulation
574 prescribe, to an apportionment plan providing for an unequal
575 allocation of such exemption.

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

578 220.15 Apportionment of adjusted federal income.—

579 (5) The sales factor is a fraction the numerator of which
580 is the total sales of the taxpayer in this state during the

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581 taxable year or period and the denominator of which is the total
582 sales of the taxpayer everywhere during the taxable year or
583 period.

584 (a) As used in this subsection, the term "sales" means all
585 gross receipts of the taxpayer except interest, dividends,
586 rents, royalties, and gross receipts from the sale, exchange,
587 maturity, redemption, or other disposition of securities.
588 However:

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

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

595 (b)1. Sales of tangible personal property occur in this
596 state if:

597 a. The property is delivered or shipped to a purchaser
598 other than the United States Government within this state,
599 regardless of the f.o.b. point, other conditions of the sale, or
600 ultimate destination of the property, unless shipment is made
601 via a common or contract carrier; or

602 b. The property is shipped from an office, store,
603 warehouse, factory, or other place of storage in this state and
604 the purchaser is the United States Government or the taxpayer is
605 not taxable in the state of the purchaser.

606
607 However, for industries in NAICS National Number 311411, if the
608 ultimate destination of the product is to a location outside
609 this state, regardless of the method of shipment or f.o.b.

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610 point, or the taxability of the taxpayer in the state of the
611 purchaser, the sale shall not be deemed to occur in this state.
612 As used in this paragraph, "NAICS" means those classifications
613 contained in the North American Industry Classification System,
614 as published in 2007 by the Office of Management and Budget,
615 Executive Office of the President.

616 2. When citrus fruit is delivered by a cooperative for a
617 grower-member, by a grower-member to a cooperative, or by a
618 grower-participant to a Florida processor, the sales factor for
619 the growers for such citrus fruit delivered to such processor
620 shall be the same as the sales factor for the most recent
621 taxable year of that processor. That sales factor, expressed
622 only as a percentage and not in terms of the dollar volume of
623 sales, so as to protect the confidentiality of the sales of the
624 processor, shall be furnished on the request of such a grower
625 promptly after it has been determined for that taxable year.

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

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

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

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

637 3. Interest received within this state, other than interest
638 from loans secured by mortgages, deeds of trust, or other liens

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639 upon real or tangible personal property located without this
640 state, and dividends received within this state;

641 4. Interest charged to customers at places of business
642 maintained within this state for carrying debit balances of
643 margin accounts, without deduction of any costs incurred in
644 carrying such accounts;

645 5. Interest, fees, commissions, or other charges or gains
646 from loans secured by mortgages, deeds of trust, or other liens
647 upon real or tangible personal property located in this state or
648 from installment sale agreements originally executed by a
649 taxpayer or the taxpayer's agent to sell real or tangible
650 personal property located in this state;

651 6. Rents from real or tangible personal property located in
652 this state; or

653 7. Any other gross income, including other interest,
654 resulting from the operation as a financial organization within
655 this state.

656

657 ~~In computing the amounts under this paragraph, any amount~~
658 ~~received by a member of an affiliated group (determined under s.~~
659 ~~1504(a) of the Internal Revenue Code, but without reference to~~
660 ~~whether any such corporation is an "includable corporation"~~
661 ~~under s. 1504(b) of the Internal Revenue Code) from another~~
662 ~~member of such group shall be included only to the extent such~~
663 ~~amount exceeds expenses of the recipient directly related~~
664 ~~thereto.~~

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

667 220.183 Community contribution tax credit.-

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668 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
669 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
670 SPENDING.—

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

674 (b) No business firm shall receive more than \$200,000 in
675 annual tax credits for all approved community contributions made
676 in any one year.

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

683 (d) All proposals for the granting of the tax credit shall
684 require the prior approval of the Department of Economic
685 Opportunity.

686 (e) If the credit granted pursuant to this section is not
687 fully used in any one year because of insufficient tax liability
688 on the part of the business firm, the unused amount may be
689 carried forward for a period not to exceed 5 years. The
690 carryover credit may be used in a subsequent year when the tax
691 imposed by this chapter for such year exceeds the credit for
692 such year under this section after applying the other credits
693 and unused credit carryovers in the order provided in s.
694 220.02(8).

695 ~~(f) A taxpayer who files a Florida consolidated return as a~~
696 ~~member of an affiliated group pursuant to s. 220.131(1) may be~~

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697 ~~allowed the credit on a consolidated return basis.~~

698 (f)~~(g)~~ A taxpayer who is eligible to receive the credit
699 provided for in s. 624.5105 is not eligible to receive the
700 credit provided by this section.

701 Section 9. Subsection (2) of section 220.1845, Florida
702 Statutes, is amended to read:

703 220.1845 Contaminated site rehabilitation tax credit.—

704 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

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

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

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

716 3. A brownfield site in a designated brownfield area under
717 s. 376.80.

718 (b) A tax credit applicant, or multiple tax credit
719 applicants working jointly to clean up a single site, may not be
720 granted more than \$500,000 per year in tax credits for each site
721 voluntarily rehabilitated. Multiple tax credit applicants shall
722 be granted tax credits in the same proportion as their
723 contribution to payment of cleanup costs. Subject to the same
724 conditions and limitations as provided in this section, a
725 municipality, county, or other tax credit applicant which

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726 voluntarily rehabilitates a site may receive not more than
727 \$500,000 per year in tax credits which it can subsequently
728 transfer subject to the provisions in paragraph (f) ~~(g)~~.

729 (c) If the credit granted under this section is not fully
730 used in any one year because of insufficient tax liability on
731 the part of the corporation, the unused amount may be carried
732 forward for up to 5 years. The carryover credit may be used in a
733 subsequent year if the tax imposed by this chapter for that year
734 exceeds the credit for which the corporation is eligible in that
735 year after applying the other credits and unused carryovers in
736 the order provided by s. 220.02(8). If during the 5-year period
737 the credit is transferred, in whole or in part, pursuant to
738 paragraph (f) ~~(g)~~, each transferee has 5 years after the date of
739 transfer to use its credit.

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

744 (d) ~~(e)~~ A tax credit applicant that receives state-funded
745 site rehabilitation under s. 376.3078(3) for rehabilitation of a
746 drycleaning-solvent-contaminated site is ineligible to receive
747 credit under this section for costs incurred by the tax credit
748 applicant in conjunction with the rehabilitation of that site
749 during the same time period that state-administered site
750 rehabilitation was underway.

751 (e) ~~(f)~~ The total amount of the tax credits which may be
752 granted under this section is \$5 million annually.

753 (f) ~~(g)~~ 1. Tax credits that may be available under this
754 section to an entity eligible under s. 376.30781 may be

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755 transferred after a merger or acquisition to the surviving or
756 acquiring entity and used in the same manner and with the same
757 limitations.

758 2. The entity or its surviving or acquiring entity as
759 described in subparagraph 1., may transfer any unused credit in
760 whole or in units of at least 25 percent of the remaining
761 credit. The entity acquiring such credit may use it in the same
762 manner and with the same limitation as described in this
763 section. Such transferred credits may not be transferred again
764 although they may succeed to a surviving or acquiring entity
765 subject to the same conditions and limitations as described in
766 this section.

767 3. If the credit is reduced due to a determination by the
768 Department of Environmental Protection or an examination or
769 audit by the Department of Revenue, the tax deficiency shall be
770 recovered from the first entity, or the surviving or acquiring
771 entity that claimed the credit up to the amount of credit taken.
772 Any subsequent deficiencies shall be assessed against the entity
773 acquiring and claiming the credit, or in the case of multiple
774 succeeding entities in the order of credit succession.

775 (g) ~~(h)~~ In order to encourage completion of site
776 rehabilitation at contaminated sites being voluntarily cleaned
777 up and eligible for a tax credit under this section, the tax
778 credit applicant may claim an additional 25 percent of the total
779 cleanup costs, not to exceed \$500,000, in the final year of
780 cleanup as evidenced by the Department of Environmental
781 Protection issuing a "No Further Action" order for that site.

782 (h) ~~(i)~~ In order to encourage the construction of housing
783 that meets the definition of affordable provided in s. 420.0004,

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784 an applicant for the tax credit may claim an additional 25
785 percent of the total site rehabilitation costs that are eligible
786 for tax credits under this section, not to exceed \$500,000. In
787 order to receive this additional tax credit, the applicant must
788 provide a certification letter from the Florida Housing Finance
789 Corporation, the local housing authority, or other governmental
790 agency that is a party to the use agreement indicating that the
791 construction on the brownfield site has received a certificate
792 of occupancy and the brownfield site has a properly recorded
793 instrument that limits the use of the property to housing that
794 meets the definition of affordable provided in s. 420.0004.

795 (i)~~(j)~~ In order to encourage the redevelopment of a
796 brownfield site, as defined in the brownfield site
797 rehabilitation agreement, that is hindered by the presence of
798 solid waste, as defined in s. 403.703, a tax credit applicant,
799 or multiple tax credit applicants working jointly to clean up a
800 single brownfield site, may also claim costs required to address
801 solid waste removal as defined in this paragraph in accordance
802 with rules of the Department of Environmental Protection.
803 Multiple tax credit applicants shall be granted tax credits in
804 the same proportion as each applicant's contribution to payment
805 of solid waste removal costs. These costs are eligible for a tax
806 credit provided the applicant submits an affidavit stating that,
807 after consultation with appropriate local government officials
808 and the Department of Environmental Protection, to the best of
809 the applicant's knowledge according to such consultation and
810 available historical records, the brownfield site was never
811 operated as a permitted solid waste disposal area or was never
812 operated for monetary compensation and the applicant submits all

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813 other documentation and certifications required by this section.
814 Under this section, wherever reference is made to "site
815 rehabilitation," the Department of Environmental Protection
816 shall instead consider whether or not the costs claimed are for
817 solid waste removal. Tax credit applications claiming costs
818 pursuant to this paragraph shall not be subject to the calendar-
819 year limitation and January 31 annual application deadline, and
820 the Department of Environmental Protection shall accept a one-
821 time application filed subsequent to the completion by the tax
822 credit applicant of the applicable requirements listed in this
823 section. A tax credit applicant may claim 50 percent of the cost
824 for solid waste removal, not to exceed \$500,000, after the
825 applicant has determined solid waste removal is completed for
826 the brownfield site. A solid waste removal tax credit
827 application may be filed only once per brownfield site. For the
828 purposes of this section, the term:

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

831 2. "Monetary compensation" means the fees that were charged
832 or the assessments that were levied for the disposal of solid
833 waste at a solid waste disposal area.

834 3. "Solid waste removal" means removal of solid waste from
835 the land surface or excavation of solid waste from below the
836 land surface and removal of the solid waste from the brownfield
837 site. The term also includes:

838 a. Transportation of solid waste to a licensed or exempt
839 solid waste management facility or to a temporary storage area.

840 b. Sorting or screening of solid waste prior to removal
841 from the site.

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842 c. Deposition of solid waste at a permitted or exempt solid
843 waste management facility, whether the solid waste is disposed
844 of or recycled.

845 (j)~~(k)~~ In order to encourage the construction and operation
846 of a new health care facility as defined in s. 408.032 or s.
847 408.07, or a health care provider as defined in s. 408.07 or s.
848 408.7056, on a brownfield site, an applicant for a tax credit
849 may claim an additional 25 percent of the total site
850 rehabilitation costs, not to exceed \$500,000, if the applicant
851 meets the requirements of this paragraph. In order to receive
852 this additional tax credit, the applicant must provide
853 documentation indicating that the construction of the health
854 care facility or health care provider by the applicant on the
855 brownfield site has received a certificate of occupancy or a
856 license or certificate has been issued for the operation of the
857 health care facility or health care provider.

858 Section 10. Section 220.1875, Florida Statutes, is amended
859 to read:

860 220.1875 Credit for contributions to eligible nonprofit
861 scholarship-funding organizations.—

862 (1) There is allowed a credit of 100 percent of an eligible
863 contribution made to an eligible nonprofit scholarship-funding
864 organization under s. 1002.395 against any tax due for a taxable
865 year under this chapter after the application of any other
866 allowable credits by the taxpayer. The credit granted by this
867 section shall be reduced by the difference between the amount of
868 federal corporate income tax taking into account the credit
869 granted by this section and the amount of federal corporate
870 income tax without application of the credit granted by this

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871 section.

872 ~~(2) A taxpayer who files a Florida consolidated return as a~~
873 ~~member of an affiliated group pursuant to s. 220.131(1) may be~~
874 ~~allowed the credit on a consolidated return basis; however, the~~
875 ~~total credit taken by the affiliated group is subject to the~~
876 ~~limitation established under subsection (1).~~

877 (2)~~(3)~~ The provisions of s. 1002.395 apply to the credit
878 authorized by this section.

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

881 220.191 Capital investment tax credit.—

882 (3) (a) Notwithstanding subsection (2), an annual credit
883 against the tax imposed by this chapter shall be granted to a
884 qualifying business which establishes a qualifying project
885 pursuant to subparagraph (1)(g)3., in an amount equal to the
886 lesser of \$15 million or 5 percent of the eligible capital costs
887 made in connection with a qualifying project, for a period not
888 to exceed 20 years beginning with the commencement of operations
889 of the project. The tax credit shall be granted against the
890 corporate income tax liability of the qualifying business and as
891 further provided in paragraph (c). The total tax credit provided
892 pursuant to this subsection shall be equal to no more than 100
893 percent of the eligible capital costs of the qualifying project.

894 (b) If the credit granted under this subsection is not
895 fully used in any one year because of insufficient tax liability
896 on the part of the qualifying business, the unused amount may be
897 carried forward for a period not to exceed 20 years after the
898 commencement of operations of the project. The carryover credit
899 may be used in a subsequent year when the tax imposed by this

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900 chapter for that year exceeds the credit for which the
901 qualifying business is eligible in that year under this
902 subsection after applying the other credits and unused
903 carryovers in the order provided by s. 220.02(8).

904 (c) The credit granted under this subsection may be used in
905 whole or in part by the qualifying business ~~or any corporation~~
906 ~~that is either a member of that qualifying business's affiliated~~
907 ~~group of corporations, is a related entity taxable as a~~
908 ~~cooperative under subchapter T of the Internal Revenue Code, or,~~
909 ~~if the qualifying business is an entity taxable as a cooperative~~
910 ~~under subchapter T of the Internal Revenue Code, is related to~~
911 ~~the qualifying business. Any entity related to the qualifying~~
912 ~~business may continue to file as a member of a Florida-nexus~~
913 ~~consolidated group pursuant to a prior election made under s.~~
914 ~~220.131(1), Florida Statutes (1985), even if the parent of the~~
915 ~~group changes due to a direct or indirect acquisition of the~~
916 ~~former common parent of the group. Any credit can be used by any~~
917 ~~of the affiliated companies or related entities referenced in~~
918 ~~this paragraph to the same extent as it could have been used by~~
919 ~~the qualifying business. However, any such use shall not operate~~
920 ~~to increase the amount of the credit or extend the period within~~
921 ~~which the credit must be used.~~

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

924 220.192 Renewable energy technologies investment tax
925 credit.—

926 (2) TAX CREDIT.—For tax years beginning on or after January
927 1, 2007, a credit against the tax imposed by this chapter shall
928 be granted in an amount equal to the eligible costs. Credits may

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929 be used in tax years beginning January 1, 2007, and ending
930 December 31, 2010, after which the credit shall expire. If the
931 credit is not fully used in any one tax year because of
932 insufficient tax liability on the part of the corporation, the
933 unused amount may be carried forward and used in tax years
934 beginning January 1, 2007, and ending December 31, 2012, after
935 which the credit carryover expires and may not be used. ~~A~~
936 ~~taxpayer that files a consolidated return in this state as a~~
937 ~~member of an affiliated group under s. 220.131(1) may be allowed~~
938 ~~the credit on a consolidated return basis up to the amount of~~
939 ~~tax imposed upon the consolidated group.~~ Any eligible cost for
940 which a credit is claimed and which is deducted or otherwise
941 reduces federal taxable income shall be added back in computing
942 adjusted federal income under s. 220.13.

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

945 220.193 Florida renewable energy production credit.—

946 (3) An annual credit against the tax imposed by this
947 section shall be allowed to a taxpayer, based on the taxpayer's
948 production and sale of electricity from a new or expanded
949 Florida renewable energy facility. For a new facility, the
950 credit shall be based on the taxpayer's sale of the facility's
951 entire electrical production. For an expanded facility, the
952 credit shall be based on the increases in the facility's
953 electrical production that are achieved after May 1, 2006.

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

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

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958 sold on or after January 1, 2007. Beginning in 2008 and
959 continuing until 2011, each taxpayer claiming a credit under
960 this section must first apply to the department by February 1 of
961 each year for an allocation of available credit. The department,
962 in consultation with the commission, shall develop an
963 application form. The application form shall, at a minimum,
964 require a sworn affidavit from each taxpayer certifying the
965 increase in production and sales that form the basis of the
966 application and certifying that all information contained in the
967 application is true and correct.

968 (c) If the amount of credits applied for each year exceeds
969 \$5 million, the department shall award to each applicant a
970 prorated amount based on each applicant's increased production
971 and sales and the increased production and sales of all
972 applicants.

973 (d) If the credit granted pursuant to this section is not
974 fully used in one year because of insufficient tax liability on
975 the part of the taxpayer, the unused amount may be carried
976 forward for a period not to exceed 5 years. The carryover credit
977 may be used in a subsequent year when the tax imposed by this
978 chapter for such year exceeds the credit for such year, after
979 applying the other credits and unused credit carryovers in the
980 order provided in s. 220.02(8).

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

985 (e)~~(f)~~1. Tax credits that may be available under this
986 section to an entity eligible under this section may be

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987 transferred after a merger or acquisition to the surviving or
988 acquiring entity and used in the same manner with the same
989 limitations.

990 2. The entity or its surviving or acquiring entity as
991 described in subparagraph 1. may transfer any unused credit in
992 whole or in units of no less than 25 percent of the remaining
993 credit. The entity acquiring such credit may use it in the same
994 manner and with the same limitations under this section. Such
995 transferred credits may not be transferred again although they
996 may succeed to a surviving or acquiring entity subject to the
997 same conditions and limitations as described in this section.

998 3. In the event the credit provided for under this section
999 is reduced as a result of an examination or audit by the
1000 department, such tax deficiency shall be recovered from the
1001 first entity or the surviving or acquiring entity to have
1002 claimed such credit up to the amount of credit taken. Any
1003 subsequent deficiencies shall be assessed against any entity
1004 acquiring and claiming such credit, or in the case of multiple
1005 succeeding entities in the order of credit succession.

1006 (f)~~(g)~~ Notwithstanding any other provision of this section,
1007 credits for the production and sale of electricity from a new or
1008 expanded Florida renewable energy facility may be earned between
1009 January 1, 2007, and June 30, 2010. The combined total amount of
1010 tax credits which may be granted for all taxpayers under this
1011 section is limited to \$5 million per state fiscal year.

1012 (g)~~(h)~~ A taxpayer claiming a credit under this section
1013 shall be required to add back to net income that portion of its
1014 business deductions claimed on its federal return paid or
1015 incurred for the taxable year which is equal to the amount of

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1016 the credit allowable for the taxable year under this section.

1017 (h)~~(i)~~ A taxpayer claiming credit under this section may
1018 not claim a credit under s. 220.192. A taxpayer claiming credit
1019 under s. 220.192 may not claim a credit under this section.

1020 (i)~~(j)~~ When an entity treated as a partnership or a
1021 disregarded entity under this chapter produces and sells
1022 electricity from a new or expanded renewable energy facility,
1023 the credit earned by such entity shall pass through in the same
1024 manner as items of income and expense pass through for federal
1025 income tax purposes. When an entity applies for the credit and
1026 the entity has received the credit by a pass-through, the
1027 application must identify the taxpayer that passed the credit
1028 through, all taxpayers that received the credit, and the
1029 percentage of the credit that passes through to each recipient
1030 and must provide other information that the department requires.

1031 (j)~~(k)~~ A taxpayer's use of the credit granted pursuant to
1032 this section does not reduce the amount of any credit available
1033 to such taxpayer under s. 220.186.

1034 Section 14. Section 220.51, Florida Statutes, is amended to
1035 read:

1036 220.51 Promulgation of rules and regulations.—In accordance
1037 with the Administrative Procedure Act, chapter 120, the
1038 department is authorized to make, promulgate, and enforce such
1039 reasonable rules and regulations, and to prescribe such forms
1040 relating to the administration and enforcement of the provisions
1041 of this code, as it may deem appropriate, including:

1042 (1) Rules for initial implementation of this code and for
1043 taxpayers' transitional taxable years commencing before and
1044 ending after January 1, 1972.~~†~~

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1045 (2) Rules or regulations to clarify whether certain groups,
1046 organizations, or associations formed under the laws of this
1047 state or any other state, country, or jurisdiction shall be
1048 deemed "taxpayers" for the purposes of this code, in accordance
1049 with the legislative declarations of intent in s. 220.02., ~~and~~

1050 ~~(3) Regulations relating to consolidated reporting for~~
1051 ~~affiliated groups of corporations, in order to provide for an~~
1052 ~~equitable and just administration of this code with respect to~~
1053 ~~multicorporate taxpayers.~~

1054 Section 15. Section 220.64, Florida Statutes, is amended to
1055 read:

1056 220.64 Other provisions applicable to franchise tax.—To the
1057 extent that they are not manifestly incompatible with the
1058 provisions of this part, parts I, III, IV, V, VI, VIII, IX, and
1059 X of this code and ss. 220.12, 220.13, 220.136, 220.1363,
1060 220.15, and 220.16 apply to the franchise tax imposed by this
1061 part. ~~Under rules prescribed in s. 220.131, a consolidated~~
1062 ~~return may be filed by any affiliated group of corporations~~
1063 ~~composed of one or more banks or savings associations, its or~~
1064 ~~their Florida parent corporation, and any nonbank or nonsavings~~
1065 ~~subsidiaries of such parent corporation.~~

1066 Section 16. Present paragraphs (g) and (h) of subsection
1067 (4) of section 288.1254, Florida Statutes, are redesignated as
1068 paragraphs (f) and (g), respectively, and present paragraph (f)
1069 of subsection (4) and paragraph (a) of subsection (5) of that
1070 section are amended to read:

1071 288.1254 Entertainment industry financial incentive
1072 program.—

1073 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;

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1074 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
1075 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
1076 ACQUISITIONS.—

1077 ~~(f) Consolidated returns. A certified production company~~
1078 ~~that files a Florida consolidated return as a member of an~~
1079 ~~affiliated group under s. 220.131(1) may be allowed the credit~~
1080 ~~on a consolidated return basis up to the amount of the tax~~
1081 ~~imposed upon the consolidated group under chapter 220.~~

1082 (5) TRANSFER OF TAX CREDITS.—

1083 (a) *Authorization.*—Upon application to the Office of Film
1084 and Entertainment and approval by the department, a certified
1085 production company, or a partner or member that has received a
1086 distribution under paragraph (4) (f) ~~(4) (g)~~, may elect to
1087 transfer, in whole or in part, any unused credit amount granted
1088 under this section. An election to transfer any unused tax
1089 credit amount under chapter 212 or chapter 220 must be made no
1090 later than 5 years after the date the credit is awarded, after
1091 which period the credit expires and may not be used. The
1092 department shall notify the Department of Revenue of the
1093 election and transfer.

1094 Section 17. Subsections (9) and (10) of section 376.30781,
1095 Florida Statutes, are amended to read:

1096 376.30781 Tax credits for rehabilitation of drycleaning-
1097 solvent-contaminated sites and brownfield sites in designated
1098 brownfield areas; application process; rulemaking authority;
1099 revocation authority.—

1100 (9) On or before May 1, the Department of Environmental
1101 Protection shall inform each tax credit applicant that is
1102 subject to the January 31 annual application deadline of the

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1103 applicant's eligibility status and the amount of any tax credit
1104 due. The department shall provide each eligible tax credit
1105 applicant with a tax credit certificate that must be submitted
1106 with its tax return to the Department of Revenue to claim the
1107 tax credit or be transferred pursuant to s. 220.1845(2)(f) ~~s.~~
1108 ~~220.1845(2)(g)~~. The May 1 deadline for annual site
1109 rehabilitation tax credit certificate awards shall not apply to
1110 any tax credit application for which the department has issued a
1111 notice of deficiency pursuant to subsection (8). The department
1112 shall respond within 90 days after receiving a response from the
1113 tax credit applicant to such a notice of deficiency. Credits may
1114 not result in the payment of refunds if total credits exceed the
1115 amount of tax owed.

1116 (10) For solid waste removal, new health care facility or
1117 health care provider, and affordable housing tax credit
1118 applications, the Department of Environmental Protection shall
1119 inform the applicant of the department's determination within 90
1120 days after the application is deemed complete. Each eligible tax
1121 credit applicant shall be informed of the amount of its tax
1122 credit and provided with a tax credit certificate that must be
1123 submitted with its tax return to the Department of Revenue to
1124 claim the tax credit or be transferred pursuant to s.
1125 220.1845(2)(f) ~~s. 220.1845(2)(g)~~. Credits may not result in the
1126 payment of refunds if total credits exceed the amount of tax
1127 owed.

1128 Section 18. Paragraph (b) of subsection (4) of section
1129 627.6699, Florida Statutes, is amended to read:

1130 627.6699 Employee Health Care Access Act.—

1131 (4) APPLICABILITY AND SCOPE.—

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1132 (b) With respect to a group of affiliated carriers or a
1133 group of carriers that is eligible to file a consolidated
1134 federal tax return, any restrictions, limitations, or
1135 requirements of this section that apply to one of the carriers
1136 applies to all of the carriers as if they were one carrier.
1137 However, with respect to affiliated companies, all of which are
1138 in existence and affiliated on January 1, 1992, the group of
1139 affiliated companies is considered one carrier only after one
1140 member of the group transfers any small employer business to
1141 another member of the group.

1142 Section 19. Transitional rules.—

1143 (1) For the first tax year beginning on or after January 1,
1144 2013, a taxpayer that filed a Florida corporate income tax
1145 return in the preceding tax year that is a member of a water's
1146 edge group shall compute its income together with all members of
1147 its water's edge group and file a combined Florida corporate
1148 income tax return with all members of its water's edge group.

1149 (2) An affiliated group of corporations that filed a
1150 Florida consolidated corporate income tax return pursuant to an
1151 election provided in s. 220.131, Florida Statutes, shall cease
1152 filing a Florida consolidated corporate income tax return for
1153 tax years beginning on or after January 1, 2013, and shall file
1154 a combined Florida corporate income tax return with all members
1155 of its water's edge group.

1156 (3) An affiliated group of corporations that filed a
1157 Florida consolidated corporate income tax return pursuant to the
1158 election in s. 220.131(1), Florida Statutes (1985), which
1159 allowed the affiliated group to make an election within 90 days
1160 after December 20, 1984, or upon filing the taxpayer's first

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1161 return after December 20, 1984, whichever is later, shall cease
1162 filing a Florida consolidated corporate income tax return using
1163 that method for tax years beginning on or after January 1, 2013,
1164 and shall file a combined Florida corporate income tax return
1165 with all members of its water's edge group.

1166 (4) Taxpayers that are not members of a water's edge group
1167 remain subject to chapter 220, Florida Statutes, and shall file
1168 a separate Florida corporate income tax return as previously
1169 required.

1170 (5) For the tax years beginning on or after January 1,
1171 2013, a tax return for a member of a water's edge group must be
1172 a combined Florida corporate income tax return that includes tax
1173 information for all members of the water's edge group. The tax
1174 return must be filed by a member that has a nexus with Florida.

1175 Section 20. The funds recaptured pursuant to this act shall
1176 be deposited into the General Revenue Fund.

1177 Section 21. Section 220.131, Florida Statutes, is repealed.

1178 Section 22. This act shall take effect July 1, 2012.