



608164

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2019	.	
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	.	

The Committee on Appropriations (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (n) of subsection (1) and paragraph
(c) of subsection (2) of section 220.03, Florida Statutes, are
amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not
otherwise distinctly expressed or manifestly incompatible with



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11 the intent thereof, the following terms shall have the following
12 meanings:

13 (n) "Internal Revenue Code" means the United States
14 Internal Revenue Code of 1986, as amended and in effect on
15 January 1, 2019 ~~2018~~, except as provided in subsection (3).

16 (2) DEFINITIONAL RULES.—When used in this code and neither
17 otherwise distinctly expressed nor manifestly incompatible with
18 the intent thereof:

19 (c) Any term used in this code has the same meaning as when
20 used in a comparable context in the Internal Revenue Code and
21 other statutes of the United States relating to federal income
22 taxes, as such code and statutes are in effect on January 1,
23 2019 ~~2018~~. However, if subsection (3) is implemented, the
24 meaning of a term shall be taken at the time the term is applied
25 under this code.

26 Section 2. The amendment made by this act to s. 220.03,
27 Florida Statutes, applies to taxable years beginning on or after
28 January 1, 2019.

29 Section 3. Section 220.1105, Florida Statutes, is amended
30 to read:

31 220.1105 ~~Tax imposed;~~ Automatic refunds and downward
32 ~~adjustments to tax rates.—~~

33 (1) As used in this section, the term:

34 (a) "Net collections" means the total amount of taxes
35 collected under this chapter by the department in a the 2018—
36 2019 fiscal year, including related interest and penalties,
37 minus the total amount of refunds of taxes levied under this
38 chapter and issued by the department in that fiscal year, not
39 including refunds issued pursuant to paragraph (2)(c). No later



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40 than September 1, 2019, and September 1, 2020, the Office of
41 Economic and Demographic Research shall determine net
42 collections for the most recent ~~2018-2019~~ fiscal year.

43 (b) "Forecasted net collections" means the amount of net
44 collections forecasted for a ~~the 2018-2019~~ fiscal year by the
45 Revenue Estimating Conference on February 23, 2018.

46 (c) "Adjusted forecasted collections" means forecasted net
47 collections for a ~~the 2018-2019~~ fiscal year multiplied by 1.07.

48 ~~(d) "Tax rate imposed" is the tax rate as defined in ss.~~
49 ~~220.11(2) and 220.63(2) adjusted as set forth in this section.~~

50 ~~(2) The tax rate imposed shall be adjusted based on net~~
51 ~~collections in the 2018-2019 fiscal year. If the net collections~~
52 ~~exceed the adjusted forecasted collections, the tax rate imposed~~
53 ~~for taxable years beginning on or after January 1, 2019, shall~~
54 ~~be the tax rate imposed for taxable years beginning on or after~~
55 ~~January 1, 2018, multiplied by the quotient of the adjusted~~
56 ~~forecasted collections divided by the net collections. The~~
57 ~~resulting tax rate shall be rounded to the nearest thousandth~~
58 ~~and rounded down if the fourth digit to the right of the decimal~~
59 ~~point is the number five.~~

60 ~~(3) By October 1, 2019, the Department of Revenue shall~~
61 ~~calculate the tax rate imposed, if it is to be adjusted pursuant~~
62 ~~to subsection (2), and shall on that same date report the~~
63 ~~results of such calculation to the Governor, the President of~~
64 ~~the Senate, and the Speaker of the House of Representatives.~~

65 (2)(4) For the 2018-2019 and 2019-2020 fiscal years, any
66 amount by which net collections for the fiscal year exceed
67 adjusted forecasted collections for the same ~~2018-2019~~ fiscal
68 year shall only be used to provide refunds to corporate income



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69 tax payers as follows:

70 (a) For purposes of this subsection:

71 1. "Eligible taxpayer for a fiscal year" means:

72 a. For the 2018-2019 fiscal year, a taxpayer whose taxable
73 year begins between April 1, 2017, and March 31, 2018, and whose
74 final tax liability for such taxable year is greater than zero.

75 b. For the 2019-2020 fiscal year, a taxpayer whose taxable
76 year begins between April 1, 2018, and March 31, 2019, and whose
77 final tax liability for such taxable year is greater than zero.

78 2. "Excess collections for a fiscal year" means the amount
79 by which net collections for a fiscal ~~the 2018-2019~~ year exceed
80 adjusted forecasted collections for that fiscal year.

81 3. "Final tax liability" means the taxpayer's amount of tax
82 due under this chapter for a taxable year, reported on a return
83 filed with the department pursuant to s. 220.222, including a
84 return filed timely pursuant to a valid extension.

85 4. "Total eligible tax liability for a fiscal year" means
86 the sum of final tax liabilities of all eligible taxpayers for a
87 fiscal year, as such liabilities are shown on the latest return
88 filed with the department as of the February 1 immediately
89 following that fiscal year.

90 5. "Taxpayer refund share for a fiscal year" means an
91 eligible taxpayer's final tax liability as a percentage of the
92 total eligible tax liability for that fiscal year.

93 6. "Taxpayer refund for a fiscal year" means the taxpayer
94 refund share for a fiscal year multiplied by the excess
95 collections for that fiscal year.

96 (b) No later than April 15 following a fiscal year ~~February~~
97 ~~15, 2020~~, the department shall determine total eligible tax



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98 liability for that fiscal year, the taxpayer refund share for
99 that fiscal year for each eligible taxpayer, and the taxpayer
100 refund for that fiscal year for each eligible taxpayer.

101 (c) No later than May 1 following a fiscal year ~~March 1,~~
102 ~~2020~~, the department shall refund a taxpayer refund for that
103 fiscal year to each eligible taxpayer.

104 ~~(5) Tax rate adjustments pursuant to this section are~~
105 ~~repealed for taxable years beginning on or after January 1,~~
106 ~~2020.~~

107 Section 4. Paragraph (b) of subsection (1) of section
108 220.13, Florida Statutes, is amended to read:

109 220.13 "Adjusted federal income" defined.—

110 (1) The term "adjusted federal income" means an amount
111 equal to the taxpayer's taxable income as defined in subsection
112 (2), or such taxable income of more than one taxpayer as
113 provided in s. 220.131, for the taxable year, adjusted as
114 follows:

115 (b) *Subtractions.*—

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

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

122 b. The net capital loss allowable for federal income tax
123 purposes under s. 1212 of the Internal Revenue Code for the
124 taxable year,

125 c. The excess charitable contribution deduction allowable
126 for federal income tax purposes under s. 170(d)(2) of the



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127 Internal Revenue Code for the taxable year, and
128 d. The excess contributions deductions allowable for
129 federal income tax purposes under s. 404 of the Internal Revenue
130 Code for the taxable year.

131
132 However, a net operating loss and a capital loss shall never be
133 carried back as a deduction to a prior taxable year, but all
134 deductions attributable to such losses shall be deemed net
135 operating loss carryovers and capital loss carryovers,
136 respectively, and treated in the same manner, to the same
137 extent, and for the same time periods as are prescribed for such
138 carryovers in ss. 172 and 1212, respectively, of the Internal
139 Revenue Code.

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

142 a. Dividends treated as received from sources without the
143 United States, as determined under s. 862 of the Internal
144 Revenue Code.

145 b. All amounts included in taxable income under s. 78, ~~or~~
146 s. 951, or s. 951A of the Internal Revenue Code.

147
148 However, any amount subtracted under this subparagraph shall
149 only be allowed to the extent that such amount is not deductible
150 in determining federal taxable income. As to any amount
151 subtracted under this subparagraph, there shall be added to such
152 taxable income all expenses deducted on the taxpayer's return
153 for the taxable year which are attributable, directly or
154 indirectly, to such subtracted amount. Further, no amount shall
155 be subtracted with respect to dividends paid or deemed paid by a



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156 Domestic International Sales Corporation.

157 3. In computing "adjusted federal income" for taxable years
158 beginning after December 31, 1976, there shall be allowed as a
159 deduction the amount of wages and salaries paid or incurred
160 within this state for the taxable year for which no deduction is
161 allowed pursuant to s. 280C(a) of the Internal Revenue Code
162 (relating to credit for employment of certain new employees).

163 4. There shall be subtracted from such taxable income any
164 amount of nonbusiness income included therein.

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

171 861(a)(2)(A) of the Internal Revenue Code, not including credits
172 allowed under ss. 902 and 960 of the Internal Revenue Code,
173 withholding taxes on dividends within the meaning of sub-
174 subparagraph 2.a., and withholding taxes on royalties, interest,
175 technical service fees, and capital gains.

176 6. Notwithstanding any other provision of this code, except
177 with respect to amounts subtracted pursuant to subparagraphs 1.
178 and 3., any increment of any apportionment factor which is
179 directly related to an increment of gross receipts or income
180 which is deducted, subtracted, or otherwise excluded in
181 determining adjusted federal income shall be excluded from both
182 the numerator and denominator of such apportionment factor.
183 Further, all valuations made for apportionment factor purposes
184 shall be made on a basis consistent with the taxpayer's method



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185 of accounting for federal income tax purposes.

186 Section 5. The amendment made by this act to s. 220.13,
187 Florida Statutes, applies to taxable years beginning on or after
188 January 1, 2018.

189 Section 6. Section 220.27, Florida Statutes, is created to
190 read:

191 220.27 Additional required information.-

192 (1) (a) Every taxpayer that is required to file a return
193 under s. 220.22(1) for a taxable year beginning during the 2018
194 or 2019 calendar years must submit to the department the
195 following information for those taxable years using the online
196 application on the department's website:

197 1. The taxpayer's name, federal taxpayer identification
198 number, taxable year beginning date, taxable year ending date,
199 and whether a consolidated return for the taxpayer is required
200 or elected under s. 220.131.

201 2. The taxpayer's NAICS code for business activity that
202 generates the greatest proportion of gross receipts of the
203 taxpayer. As used in this subparagraph, the term "NAICS" means
204 those classifications contained in the North American Industry
205 Classification System, as published in 2007 by the Office of
206 Management and Budget, Executive Office of the President.

207 3. The taxpayer's taxable income, as that term is defined
208 in s. 220.13(2), and the taxpayer's state apportionment fraction
209 pursuant to s. 220.15 for the taxable year.

210 4. The amount of global intangible low-taxed income
211 included in federal taxable income under s. 951A of the Internal
212 Revenue Code, and the amount of the related deduction under s.
213 250 of the Internal Revenue Code as it pertains to s. 951A of



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214 the Internal Revenue Code.

215 5. The amount of foreign-derived intangible income computed
216 for the federal return for the taxable year and the amount of
217 the related deduction under s. 250 of the Internal Revenue Code,
218 as it pertains to foreign-derived intangible income.

219 6. The amount of business interest expense deducted on the
220 federal return under s. 163 of the Internal Revenue Code,
221 including any carryover; the amount of current year business
222 interest expense, including any carryover, which was not
223 deducted due to the limitation in s. 163(j) of the Internal
224 Revenue Code; and the amount of business interest expense
225 carried over from previous taxable years.

226 7. The amount of federal net operating loss deduction under
227 s. 172 of the Internal Revenue Code applied in determining
228 federal taxable income and the amount of federal net operating
229 loss carryover that was not applied due to the limitation in s.
230 172(a)(2) of the Internal Revenue Code.

231 8. The total amount of state net operating loss carryover
232 available after the filing of the return for the taxable year.

233 9. The total amount of the state alternative minimum tax
234 credit carryover available after the filing of the return for
235 the taxable year.

236 (b) By September 3, 2019, the department shall create a
237 secure online application for use by taxpayers when submitting
238 the information required under this subsection through the
239 department's website.

240 (c) An officer of the taxpayer or a person duly authorized
241 to act on the taxpayer's behalf shall certify that the
242 information submitted pursuant to this subsection is true and



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243 correct. The required information must be submitted the earlier
244 of 10 days after the extended due date of the tax return or 10
245 days after the date such return is filed. For taxpayers that
246 file returns before September 3, 2019, for taxable years
247 beginning in calendar year 2018, the required information is
248 timely if submitted by September 3, 2019.

249 (d) In addition to its existing audit and investigation
250 authority, the department may perform any additional financial
251 and technical audits and investigations, including examining the
252 accounts, books, and financial records of the taxpayer, which
253 are necessary to verify the accuracy of the information
254 submitted pursuant to this subsection.

255 (e) A taxpayer who fails to provide the required
256 information by the required submission date is subject to a
257 penalty of \$1,000 or 1 percent of the tax determined to be due
258 under this chapter for the most recent taxable year reported on
259 a return filed with the department, whichever is greater. Any
260 such penalty collected must be deposited into the General
261 Revenue Fund. The department may settle or compromise such
262 penalty if the department determines that the noncompliance is
263 due to reasonable cause and not to willful negligence, willful
264 neglect, or fraud.

265 (2) This section expires January 1, 2023.

266 Section 7. (1) The Department of Revenue is authorized, and
267 all conditions are deemed to be met, to adopt emergency rules
268 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
269 implementing this act.

270 (2) Notwithstanding any other law, emergency rules adopted
271 pursuant to subsection (1) are effective for 6 months after



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272 adoption and may be renewed during the pendency of procedures to
273 adopt permanent rules addressing the subject of the emergency
274 rules.

275 (3) This section expires January 1, 2022.

276 Section 8. For the 2019-2020 fiscal year, the sum of
277 \$120,000 in nonrecurring funds is appropriated from the General
278 Revenue Fund to the Department of Revenue for the purpose of
279 implementing this act.

280 Section 9. This act shall take effect upon becoming a law.
281

282 ===== T I T L E A M E N D M E N T =====

283 And the title is amended as follows:

284 Delete everything before the enacting clause
285 and insert:

286 A bill to be entitled
287 An act relating to the corporate income tax; amending
288 s. 220.03, F.S.; adopting the Internal Revenue Code in
289 effect on January 1, 2019; providing applicability;
290 amending s. 220.1105, F.S.; revising definitions;
291 deleting provisions providing for a rate adjustment;
292 providing for refunds of certain corporate income tax
293 receipts in a certain fiscal year; revising
294 requirements for the Department of Revenue in making
295 certain determinations and in refunding eligible
296 taxpayers; amending s. 220.13, F.S.; providing for the
297 subtraction of global intangible low-taxed income from
298 taxable income for the purpose of determining adjusted
299 federal income; specifying the extent to which certain
300 amounts may be subtracted; providing applicability;



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301 creating s. 220.27, F.S.; requiring taxpayers filing
302 returns during a certain timeframe to submit specified
303 information to the department by certain means;
304 defining the term "NAICS"; requiring the department,
305 by a certain date, to create a secure online
306 application for submitting such information; requiring
307 certain persons to certify the information is true and
308 correct; specifying deadlines for submitting the
309 information; authorizing the department to perform
310 certain audits and investigations; providing a penalty
311 for failure to provide the information; requiring the
312 penalty to be deposited into the General Revenue Fund;
313 authorizing the department to settle or compromise the
314 penalty under certain circumstances; providing for
315 expiration; authorizing the department to adopt
316 emergency rules; providing for expiration of the
317 authorization; providing an appropriation; providing
318 an effective date.