

1 A bill to be entitled

2 An act relating to the corporate income tax; amending  
3 s. 220.03, F.S.; adopting the Internal Revenue Code in  
4 effect on January 1, 2019; amending s. 220.1105, F.S.,  
5 revising definitions; extending the period during  
6 which specified automatic refunds and downward  
7 adjustments to tax rates apply; amending s. 220.13,  
8 F.S.; revising the definition of the term "adjusted  
9 federal income" regarding additions and subtractions  
10 from taxable income; revising subtractions to be made  
11 in calculating taxable income; creating s. 220.27,  
12 F.S.; requiring the submission of certain corporate  
13 tax information to the Department of Revenue;  
14 requiring the department to create a secure online  
15 application for taxpayers to use when submitting such  
16 information; providing deadlines; providing audit and  
17 investigation authority; providing for a penalty;  
18 providing for future repeal; authorizing the adoption  
19 of emergency rules; providing an appropriation;  
20 providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24 Section 1. Paragraph (n) of subsection (1) and paragraph  
25 (c) of subsection (2) of section 220.03, Florida Statutes, are

26 amended to read:

27 220.03 Definitions.—

28 (1) SPECIFIC TERMS.—When used in this code, and when not  
 29 otherwise distinctly expressed or manifestly incompatible with  
 30 the intent thereof, the following terms shall have the following  
 31 meanings:

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

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

38 (c) Any term used in this code has the same meaning as  
 39 when used in a comparable context in the Internal Revenue Code  
 40 and other statutes of the United States relating to federal  
 41 income taxes, as such code and statutes are in effect on January  
 42 1, 2019 ~~2018~~. However, if subsection (3) is implemented, the  
 43 meaning of a term shall be taken at the time the term is applied  
 44 under this code.

45 Section 2. Section 220.1105, Florida Statutes, is amended  
 46 to read:

47 220.1105 Tax imposed; automatic refunds and downward  
 48 adjustments to tax rates.—

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

50 (a) "Net collections" for a fiscal year means the total

51 amount of taxes collected under this chapter by the department  
52 in a state ~~the 2018-2019~~ fiscal year, including related interest  
53 and penalties, minus the total amount of refunds of taxes levied  
54 under this chapter and issued by the department in that fiscal  
55 year. No later than September 1 of each year, ~~2019~~, the Office  
56 of Economic and Demographic Research shall determine net  
57 collections for the most recent ~~2018-2019~~ fiscal year.

58 (b) "Forecasted net collections" for a fiscal year means  
59 the amount of net collections forecasted for a ~~the 2018-2019~~  
60 fiscal year by the Revenue Estimating Conference on February 23,  
61 2018.

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

65 (d) "Tax rate imposed" is the tax rate as defined in ss.  
66 220.11(2) and 220.63(2) adjusted as set forth in this section.

67 (2) The tax rate imposed shall be adjusted based on net  
68 collections in each of the ~~2018-2019~~ fiscal years 2018-2019  
69 through 2020-2021 ~~year~~. If the net collections for a fiscal year  
70 exceed the adjusted forecasted collections for the same fiscal  
71 year, the tax rate imposed for taxable years beginning on or  
72 after January 1 of the calendar year in which the fiscal year  
73 ends, ~~2019~~, shall be the tax rate imposed for taxable years  
74 beginning on or after January 1 of the preceding calendar year,  
75 ~~2018~~, multiplied by the quotient of the adjusted forecasted

76 | collections for the fiscal year divided by the net collections  
 77 | for the same fiscal year. The resulting tax rate shall be  
 78 | rounded to the nearest thousandth and rounded down if the fourth  
 79 | digit to the right of the decimal point is the number five. The  
 80 | resulting tax rate shall be the tax rate imposed for subsequent  
 81 | taxable years for purposes of ss. 220.11(2) and 220.63(2) unless  
 82 | adjusted further under this section.

83 | (3) By October 1, 2019, October 1, 2020, and October 1,  
 84 | 2021, the Department of Revenue shall calculate the tax rate  
 85 | imposed, if it is to be adjusted pursuant to subsection (2), and  
 86 | shall on that same date report the results of such calculation  
 87 | to the Governor, the President of the Senate, and the Speaker of  
 88 | the House of Representatives.

89 | (4) For fiscal years 2018-2019 through 2020-2021 any  
 90 | amount by which net collections for a fiscal year exceed  
 91 | adjusted forecasted collections for that ~~the 2018-2019~~ fiscal  
 92 | year shall only be used to provide refunds to corporate income  
 93 | tax payers as follows:

94 | (a) For purposes of this subsection, the term:

95 | 1. "Eligible taxpayer" means:

96 | a. For fiscal year 2018-2019, a taxpayer whose taxable  
 97 | year begins between April 1, 2017, and March 31, 2018, and whose  
 98 | final tax liability for such taxable year is greater than zero;~~;~~

99 | b. For fiscal year 2019-2020, a taxpayer whose taxable  
 100 | year begins between April 1, 2018, and March 31, 2019, and whose

101 final tax liability for such taxable year is greater than zero;  
102 or

103 c. For fiscal year 2020-2021 a taxpayer whose taxable year  
104 begins between April 1, 2019, and March 31, 2020, and whose  
105 final tax liability for such taxable year is greater than zero;

106 2. "Excess collections" for a fiscal year means the amount  
107 by which net collections for a fiscal year ~~the 2018-2019 year~~  
108 exceeds ~~exceed~~ adjusted forecasted collections for that fiscal  
109 year.

110 3. "Final tax liability" means the taxpayer's amount of  
111 tax due under this chapter for a taxable year, reported on a  
112 return filed with the department ~~pursuant to s. 220.222,~~  
113 ~~including a return filed timely pursuant to a valid extension.~~

114 4. "Total eligible tax liability" for a fiscal year means  
115 the sum of final tax liabilities of all eligible taxpayers for a  
116 fiscal year as such liabilities are shown on the latest return  
117 filed with the department as of February 1 immediately following  
118 that fiscal year.

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

122 6. "Taxpayer refund" for a fiscal year means the taxpayer  
123 refund share for a fiscal year multiplied by the excess  
124 collections for a fiscal year.

125 (b) No later than April 15 following a fiscal year

126 ~~February 15, 2020,~~ the department shall determine total eligible  
127 tax liability for that fiscal year, the taxpayer refund share  
128 for that fiscal year for each eligible taxpayer, and the  
129 taxpayer refund for that fiscal year for each eligible taxpayer.

130 (c) No later than May 1 following a fiscal year ~~March 1,~~  
131 ~~2020,~~ the department shall refund a taxpayer refund for that  
132 fiscal year to each eligible taxpayer.

133 (5) For taxable years beginning on or after January 1,  
134 2022, the tax rate adjustments pursuant to this section are  
135 repealed and the tax rate imposed for purposes of s. 220.11(2)  
136 and 220.63(2) is 5.5 percent. ~~Tax rate adjustments pursuant to~~  
137 ~~this section are repealed for taxable years beginning on or~~  
138 ~~after January 1, 2020.~~

139 Section 3. Paragraph (b) of subsection (1) of section  
140 220.13, Florida Statutes, is amended to read:

141 220.13 "Adjusted federal income" defined.—

142 (1) The term "adjusted federal income" means an amount  
143 equal to the taxpayer's taxable income as defined in subsection  
144 (2), or such taxable income of more than one taxpayer as  
145 provided in s. 220.131, for the taxable year, adjusted as  
146 follows:

147 (b) Subtractions.—

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

149 a. The net operating loss deduction allowable for federal  
150 income tax purposes under s. 172 of the Internal Revenue Code

151 for the taxable year, except that any net operating loss that is  
 152 transferred pursuant to s. 220.194(6) may not be deducted by the  
 153 seller,

154       b. The net capital loss allowable for federal income tax  
 155 purposes under s. 1212 of the Internal Revenue Code for the  
 156 taxable year,

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

160       d. The excess contributions deductions allowable for  
 161 federal income tax purposes under s. 404 of the Internal Revenue  
 162 Code for the taxable year.

163  
 164 However, a net operating loss and a capital loss shall never be  
 165 carried back as a deduction to a prior taxable year, but all  
 166 deductions attributable to such losses shall be deemed net  
 167 operating loss carryovers and capital loss carryovers,  
 168 respectively, and treated in the same manner, to the same  
 169 extent, and for the same time periods as are prescribed for such  
 170 carryovers in ss. 172 and 1212, respectively, of the Internal  
 171 Revenue Code.

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

174       a. Dividends treated as received from sources without the  
 175 United States, as determined under s. 862 of the Internal

176 Revenue Code.

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

179  
 180 However, any amount subtracted under this subparagraph is  
 181 allowed only to the extent such amount is not deductible in  
 182 determining federal taxable income. As to any amount subtracted  
 183 under this subparagraph, there shall be added to such taxable  
 184 income all expenses deducted on the taxpayer's return for the  
 185 taxable year which are attributable, directly or indirectly, to  
 186 such subtracted amount. Further, no amount shall be subtracted  
 187 with respect to dividends paid or deemed paid by a Domestic  
 188 International Sales Corporation.

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

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

197       5. There shall be subtracted any amount of taxes of  
 198 foreign countries allowable as credits for taxable years  
 199 beginning on or after September 1, 1985, under s. 901 of the  
 200 Internal Revenue Code to any corporation which derived less than



201 20 percent of its gross income or loss for its taxable year  
202 ended in 1984 from sources within the United States, as  
203 described in s. 861(a)(2)(A) of the Internal Revenue Code, not  
204 including credits allowed under ss. 902 and 960 of the Internal  
205 Revenue Code, withholding taxes on dividends within the meaning  
206 of sub-subparagraph 2.a., and withholding taxes on royalties,  
207 interest, technical service fees, and capital gains.

208 6. Notwithstanding any other provision of this code,  
209 except with respect to amounts subtracted pursuant to  
210 subparagraphs 1. and 3., any increment of any apportionment  
211 factor which is directly related to an increment of gross  
212 receipts or income which is deducted, subtracted, or otherwise  
213 excluded in determining adjusted federal income shall be  
214 excluded from both the numerator and denominator of such  
215 apportionment factor. Further, all valuations made for  
216 apportionment factor purposes shall be made on a basis  
217 consistent with the taxpayer's method of accounting for federal  
218 income tax purposes.

219 Section 4. Section 220.27, Florida Statutes, is created to  
220 read:

221 220.27 Additional required information.—

222 (1)(a) Every taxpayer that is required to file a return  
223 under s. 220.22(1) for a taxable year beginning during the 2018  
224 or 2019 calendar years, must submit to the department the  
225 following information for those taxable years using the

226 application form on the department's website:

227 1. The taxpayer's name, federal taxpayer identification  
228 number, taxable year beginning date, taxable year ending date,  
229 and whether a consolidated return for the taxpayer is required  
230 or elected under s. 220.131.

231 2. The taxpayer's NAICS code for business activity that  
232 generates the greatest proportion of gross receipts of the  
233 taxpayer. As used in this paragraph, the term "NAICS" means  
234 those classifications contained in the North American Industry  
235 Classification System, as published in 2007 by the Office of  
236 Management and Budget, Executive Office of the President.

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

240 4. The amount of global intangible low-taxed income  
241 included in federal taxable income under s. 951A of the Internal  
242 Revenue Code, and the amount of the related deduction under s.  
243 250 of the Internal Revenue Code, as it pertains to s. 951A of  
244 the Internal Revenue Code.

245 5. The amount of foreign-derived intangible income  
246 computed for the federal return for the taxable year and the  
247 amount of the related deduction under s. 250 of the Internal  
248 Revenue Code, as it pertains to foreign-derived intangible  
249 income.

250 6. The amount of business interest expense deducted on the

251 federal return under s. 163 of the Internal Revenue Code,  
252 including any carryover; the amount of current year business  
253 interest expense, including any carryover, that was not deducted  
254 due to the limitation in s. 163(j) of the Internal Revenue Code;  
255 and the amount of business interest expense carried over from  
256 previous taxable years.

257 7. The amount of federal net operating loss deduction  
258 under s. 172 of the Internal Revenue Code, applied in  
259 determining federal taxable income and the amount of federal net  
260 operating loss carryover that was not applied due to the  
261 limitation in s. 172(a)(2) of the Internal Revenue Code.

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

264 9. The total amount of the state alternative minimum tax  
265 credit carryover available after the filing of the return for  
266 the taxable year.

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

271 (c) An officer of the taxpayer or a person duly authorized  
272 to act on the taxpayer's behalf must certify that the  
273 information submitted pursuant to this subsection is true and  
274 correct. The required information must be submitted the earlier  
275 of 10 days after the extended due date of the state corporate

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276 income/franchise tax return or 10 days after the date the state  
277 corporate income/franchise tax return is filed. However, any  
278 information required to be submitted before September 3, 2019,  
279 is timely if submitted by September 3, 2019.

280 (d) In addition to its existing audit and investigation  
281 authority, the department may perform any additional financial  
282 and technical audits and investigations, including examining the  
283 accounts, books, and financial records of the taxpayer, which  
284 are necessary to verify the accuracy of the information  
285 submitted pursuant to this subsection.

286 (e) A taxpayer who fails to provide the required  
287 information by the required submission date is subject to a  
288 penalty of \$1,000 or 1 percent of the tax determined to be due  
289 under this chapter for the most recent taxable year reported on  
290 a return filed with the department, whichever is greater. Any  
291 such penalty collected shall be deposited into the General  
292 Revenue Fund. The department may settle or compromise such  
293 penalty if the department determines that the noncompliance is  
294 due to reasonable cause and not to willful negligence, willful  
295 neglect, or fraud.

296 (2) This section is repealed January 1, 2023.

297 Section 5. (1) The Department of Revenue is authorized,  
298 and all conditions are deemed to be met, to adopt emergency  
299 rules pursuant to s. 120.54(4), Florida Statutes, for the  
300 purpose of implementing this act.

301        (2) Notwithstanding any other provision of law, emergency  
302 rules adopted pursuant to subsection (1) are effective for 6  
303 months after adoption and may be renewed during the pendency of  
304 procedures to adopt permanent rules addressing the subject of  
305 the emergency rules.

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

307        Section 6. For the 2019-2020 fiscal year, the sum of  
308 \$120,000 in nonrecurring funds is appropriated from the General  
309 Revenue Fund to the Department of Revenue to implement this act.

310        Section 7. This act shall take effect upon becoming a law  
311 and operate retroactively to January 1, 2019, except that  
312 section 3 shall operate retroactively to January 1, 2018.