

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Finance and Tax

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BILL: SPB 7058

INTRODUCER: Finance and Tax Committee

SUBJECT: Internal Revenue Code

DATE: February 17, 2020

REVISED: \_\_\_\_\_

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Babin</u>	<u>Diez-Arguelles</u>	_____	<b>FT Submitted as Comm. Bill/Fav</b>

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**I. Summary:**

SPB 7058 updates Florida's corporate Income Tax Code by adopting the federal Internal Revenue Code in effect on January 1, 2020.

The Revenue Estimating Conference estimates that the bill will have an indeterminate, positive or negative, impact on General Revenue Fund receipts beginning in Fiscal Year 2020-2021.

The bill is effective upon becoming law and operates retroactively to January 1, 2020.

**II. Present Situation:**

**Annual Adoption of the Internal Revenue Code**

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.<sup>1</sup> The determination of taxable income for Florida tax purposes begins with the taxable income used for federal income tax purposes.<sup>2</sup> Additional adjustments are then made to determine Florida's taxable income. By starting with federal taxable income, Florida eases the administrative burden on Florida taxpayers because they receive the same treatment in Florida as is allowed in determining their federal taxable income.

Florida maintains this relationship with the federal Internal Revenue Code (IRC) each year by adopting the IRC as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income.

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<sup>1</sup> Sections 220.11(2) and 220.63(2), F.S.

<sup>2</sup> See generally s. 220.13(2), F.S.

## **The Tax Cuts and Jobs Act of 2017**

On December 22, 2017, President Trump signed into law the Tax Cuts and Jobs Act of 2017 (TCJA).<sup>3</sup> The TCJA made significant changes to federal income tax provisions that affect Florida corporations. The unique structure of the TCJA resulted in corporate taxpayers generally having more income subjected to tax (higher taxable income), but ultimately paying less federal tax. This situation occurred because although the TCJA increased federal taxable income by limiting deductions and creating new items of income, the TCJA also lowered the federal corporate tax rate from 35 percent to 21 percent.

Since Florida begins its corporate income tax calculation with federal taxable income, the TCJA has resulted in an increase of Florida taxable income. However, unlike the federal tax rate reduction, Florida's tax rate has remained the same, and thus, the TCJA has resulted in an increase in Florida's corporate income tax collections.

## **Florida's Response to the TCJA**

Recognizing the potential for increased corporate income tax collections, Florida adopted a procedure for refunding corporate income tax collections that exceed a certain threshold<sup>4</sup> and temporarily reducing the corporate income tax rate by a proportional amount.<sup>5</sup> The procedure provides refunds to qualifying corporate taxpayers and tax rate reductions based on corporate income tax collections in Fiscal Years 2018-2019, 2019-2020, and 2020-2021.<sup>6</sup> Tax rate reductions are repealed for taxable years beginning on or after January 1, 2022, after which the corporate income tax rate returns to 5.5 percent;<sup>7</sup> and the final refund payments, if any, will be paid to qualifying corporate taxpayers by May 1, 2022.<sup>8</sup>

Currently, the refund and tax rate reduction procedure will result in taxpayer refunds for excess collections received in Fiscal Year 2018-2019, and the corporate income tax rate is temporarily decreased from 5.5 percent to 4.458 percent for taxable years beginning in calendar years 2019, 2020, and 2021. No additional refunds or rate reductions are estimated to occur under the current forecast for corporate income tax collections.<sup>9</sup>

## **The Further Consolidated Appropriations Act, 2020**

The Further Consolidated Appropriations Act, 2020,<sup>10</sup> extended for a limited time certain expiring tax provisions in the IRC. These changes have the effect of limiting certain deductions

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<sup>3</sup> Pub. Law No. 115-97 (Dec. 22, 2017).

<sup>4</sup> The threshold is 107 percent of the Revenue Estimating Conference's February 23, 2018, estimate for the relevant fiscal year. Section 220.1105(1)(b), F.S.

<sup>5</sup> See s. 220.1105(2), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> Section 220.1105(5), F.S.

<sup>8</sup> See s. 220.1105(4) and (4)(c), F.S.

<sup>9</sup> Revenue Estimating Conference, *Corporate Income Tax – Supporting Material for Statutory Adjustment*, available at [http://www.edr.state.fl.us/Content/conferences/generalrevenue/CIT\\_AdjustmentSupportingMaterial.pdf](http://www.edr.state.fl.us/Content/conferences/generalrevenue/CIT_AdjustmentSupportingMaterial.pdf) (last visited Feb. 18, 2020).

<sup>10</sup> Pub. Law No. 116-94 (Dec. 20, 2019).

and granting certain credits to Florida taxpayers, but the effects will vary depending on the tax position of the taxpayer involved, which is unknown.

### III. Effect of Proposed Changes:

**Section 1** amends s. 220.03, F.S., to adopt the Internal Revenue Code in effect on January 1, 2020, for use by corporations subject to Florida's Corporate Income Tax.

**Section 2** applies the bill retroactively to January 1, 2020.

**Section 3** provides an effective date of upon becoming a law.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of state tax shared with them. Therefore, the mandates provisions of Article VII, section 18 of the Florida Constitution do not apply.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

#### E. Other Constitutional Issues:

None identified.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that due to certain provisions within the Further Consolidated Appropriations Act, 2020, the bill will have an indeterminate, positive or negative, fiscal impact on General Revenue Fund receipts beginning in Fiscal Year 2020-2021.

#### B. Private Sector Impact:

By adopting recent changes to the Internal Revenue Code, Florida provides ease of administration for Florida corporate taxpayers.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill substantially amends section 220.03 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.