

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Eskamani offered the following:

Amendment (with title amendment)

Between lines 2607 and 2608, insert:

Section 48. Paragraph (z) of subsection (1) of section 220.03, Florida Statutes, is amended, and paragraphs (gg) and (hh) are added to that subsection, to read:

220.03 Definitions.—

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

(z) "Taxpayer" means any corporation subject to the tax

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14 imposed by this code, and includes all corporations that are
15 members of a water's edge group for which a consolidated return
16 is filed under s. 220.131. However, "taxpayer" does not include
17 a corporation having no individuals, ~~(including individuals~~
18 ~~employed by an affiliate,~~) receiving compensation in this state
19 as defined in s. 220.15 when the only property owned or leased
20 by said corporation, ~~(including an affiliate,~~) in this state is
21 located at the premises of a printer with which it has
22 contracted for printing, if such property consists of the final
23 printed product, property which becomes a part of the final
24 printed product, or property from which the printed product is
25 produced.

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

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

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

33 b. Has laws or practices that prevent the effective
34 exchange of information for tax purposes with other governments
35 regarding taxpayers who are subject to, or benefiting from, the
36 tax regime;

37 c. Lacks transparency;

38 d. Facilitates the establishment of foreign-owned entities

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39 without the need for a local substantive presence or prohibits
40 these entities from having any commercial impact on the local
41 economy;

42 e. Explicitly or implicitly excludes the jurisdiction's
43 resident taxpayers from taking advantage of the tax regime's
44 benefits or prohibits enterprises that benefit from the regime
45 from operating in the jurisdiction's domestic market; or

46 f. Has created a tax regime that is favorable for tax
47 avoidance, based on an overall assessment of relevant factors,
48 including whether the jurisdiction has a significant untaxed
49 offshore financial or other services sector relative to its
50 overall economy.

51
52 For purposes of this paragraph, a tax regime lacks transparency
53 if the details of legislative, legal, or administrative
54 requirements are not open to public scrutiny and apparent or are
55 not consistently applied among similarly situated taxpayers. As
56 used in this paragraph, the term "tax regime" means a set or
57 system of rules, laws, regulations, or practices by which taxes
58 are imposed on any person, corporation, or entity, or on any
59 income, property, incident, indicia, or activity pursuant to
60 government authority.

61 (hh) "Water's edge group" means a group of corporations
62 related through common ownership whose business activities are
63 integrated with, dependent upon, or contribute to a flow of

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64 value among members of the group.

65 Section 49. Section 220.13, Florida Statutes, is amended
66 to read:

67 220.13 "Adjusted federal income" defined.—

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

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

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

80 b. Notwithstanding sub-subparagraph a., if a credit taken
81 under s. 220.1875 is added to taxable income in a previous
82 taxable year under subparagraph 11. and is taken as a deduction
83 for federal tax purposes in the current taxable year, the amount
84 of the deduction allowed shall not be added to taxable income in
85 the current year. The exception in this sub-subparagraph is
86 intended to ensure that the credit under s. 220.1875 is added in
87 the applicable taxable year and does not result in a duplicate
88 addition in a subsequent year.

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89 2. The amount of interest which is excluded from taxable
90 income under s. 103(a) of the Internal Revenue Code or any other
91 federal law, less the associated expenses disallowed in the
92 computation of taxable income under s. 265 of the Internal
93 Revenue Code or any other law, excluding 60 percent of any
94 amounts included in alternative minimum taxable income, as
95 defined in s. 55(b)(2) of the Internal Revenue Code, if the
96 taxpayer pays tax under s. 220.11(3).

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

101 4. That portion of the wages or salaries paid or incurred
102 for the taxable year which is equal to the amount of the credit
103 allowable for the taxable year under s. 220.181. This
104 subparagraph shall expire on the date specified in s. 290.016
105 for the expiration of the Florida Enterprise Zone Act.

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

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

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114 7. That portion of assessments to fund a guaranty
115 association incurred for the taxable year which is equal to the
116 amount of the credit allowable for the taxable year.

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

122 9. The amount taken as a credit for the taxable year under
123 s. 220.1895.

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

127 11. The amount taken as a credit for the taxable year
128 under s. 220.1875. The addition in this subparagraph is intended
129 to ensure that the same amount is not allowed for the tax
130 purposes of this state as both a deduction from income and a
131 credit against the tax. This addition is not intended to result
132 in adding the same expense back to income more than once.

133 12. The amount taken as a credit for the taxable year
134 under s. 220.192.

135 13. The amount taken as a credit for the taxable year
136 under s. 220.193.

137 14. Any portion of a qualified investment, as defined in
138 s. 288.9913, which is claimed as a deduction by the taxpayer and

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139 taken as a credit against income tax pursuant to s. 288.9916.

140 15. The costs to acquire a tax credit pursuant to s.
141 288.1254(5) that are deducted from or otherwise reduce federal
142 taxable income for the taxable year.

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

145 17. The amount taken as a credit for the taxable year
146 under s. 220.196. The addition in this subparagraph is intended
147 to ensure that the same amount is not allowed for the tax
148 purposes of this state as both a deduction from income and a
149 credit against the tax. The addition is not intended to result
150 in adding the same expense back to income more than once.

151 (b) *Subtractions.*—

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

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

158 b. The net capital loss allowable for federal income tax
159 purposes under s. 1212 of the Internal Revenue Code for the
160 taxable year,

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

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164 d. The excess contributions deductions allowable for
165 federal income tax purposes under s. 404 of the Internal Revenue
166 Code for the taxable year.

167
168 However, a net operating loss and a capital loss shall never be
169 carried back as a deduction to a prior taxable year, but all
170 deductions attributable to such losses shall be deemed net
171 operating loss carryovers and capital loss carryovers,
172 respectively, and treated in the same manner, to the same
173 extent, and for the same time periods as are prescribed for such
174 carryovers in ss. 172 and 1212, respectively, of the Internal
175 Revenue Code. A deduction is not allowed for net operating
176 losses, net capital losses, or excess contribution deductions
177 under 26 U.S.C. ss. 170(d)(2), 172, 1212, and 404 for a member
178 of a water's edge group who is not a United States member.
179 Carryovers of net operating losses, net capital losses, or
180 excess contribution deductions under 26 U.S.C. ss. 170(d)(2),
181 172, 1212, and 404 may be subtracted only by the member of the
182 water's edge group who generates a carryover.

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

185 a. Dividends treated as received from sources without the
186 United States, as determined under s. 862 of the Internal
187 Revenue Code.

188 b. All amounts included in taxable income under s. 78, s.

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189 951, or s. 951A of the Internal Revenue Code.

190

191 However, any amount subtracted under this subparagraph is
192 allowed only to the extent such amount is not deductible in
193 determining federal taxable income. As to any amount subtracted
194 under this subparagraph, there shall be added to such taxable
195 income all expenses deducted on the taxpayer's return for the
196 taxable year which are attributable, directly or indirectly, to
197 such subtracted amount. Further, no amount shall be subtracted
198 with respect to dividends paid or deemed paid by a Domestic
199 International Sales Corporation.

200 3. Amounts received by a member of a water's edge group as
201 dividends paid by another member of the water's edge group must
202 be subtracted from the taxable income if the dividends are
203 included in the taxable income.

204 ~~4.3.~~ In computing "adjusted federal income" for taxable
205 years beginning after December 31, 1976, there shall be allowed
206 as a deduction the amount of wages and salaries paid or incurred
207 within this state for the taxable year for which no deduction is
208 allowed pursuant to s. 280C(a) of the Internal Revenue Code
209 (relating to credit for employment of certain new employees).

210 ~~5.4.~~ There shall be subtracted from such taxable income
211 any amount of nonbusiness income included therein.

212 ~~6.5.~~ There shall be subtracted any amount of taxes of
213 foreign countries allowable as credits for taxable years

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214 beginning on or after September 1, 1985, under s. 901 of the
215 Internal Revenue Code to any corporation which derived less than
216 20 percent of its gross income or loss for its taxable year
217 ended in 1984 from sources within the United States, as
218 described in s. 861(a)(2)(A) of the Internal Revenue Code, not
219 including credits allowed under ss. 902 and 960 of the Internal
220 Revenue Code, withholding taxes on dividends within the meaning
221 of sub-subparagraph 2.a., and withholding taxes on royalties,
222 interest, technical service fees, and capital gains.

223 ~~7.6.~~ Notwithstanding any other provision of this code,
224 except with respect to amounts subtracted pursuant to
225 subparagraphs 1. and ~~4. 3.~~, any increment of any apportionment
226 factor which is directly related to an increment of gross
227 receipts or income which is deducted, subtracted, or otherwise
228 excluded in determining adjusted federal income shall be
229 excluded from both the numerator and denominator of such
230 apportionment factor. Further, all valuations made for
231 apportionment factor purposes shall be made on a basis
232 consistent with the taxpayer's method of accounting for federal
233 income tax purposes.

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

235 1. In the case of any disposition made after October 19,
236 1980, the income from an installment sale shall be taken into
237 account for the purposes of this code in the same manner that
238 such income is taken into account for federal income tax

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239 purposes.

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

245 (d) *Nonallowable deductions.*—A deduction for net operating
246 losses, net capital losses, or excess contributions deductions
247 under ss. 170(d)(2), 172, 1212, and 404 of the Internal Revenue
248 Code which has been allowed in a prior taxable year for Florida
249 tax purposes shall not be allowed for Florida tax purposes,
250 notwithstanding the fact that such deduction has not been fully
251 utilized for federal tax purposes.

252 (e) *Adjustments related to federal acts.*—Taxpayers must
253 ~~shall be required to~~ make the adjustments prescribed in this
254 paragraph for Florida tax purposes with respect to certain tax
255 benefits received pursuant to the Economic Stimulus Act of 2008,
256 the American Recovery and Reinvestment Act of 2009, the Small
257 Business Jobs Act of 2010, the Tax Relief, Unemployment
258 Insurance Reauthorization, and Job Creation Act of 2010, the
259 American Taxpayer Relief Act of 2012, the Tax Increase
260 Prevention Act of 2014, the Consolidated Appropriations Act,
261 2016, and the Tax Cuts and Jobs Act of 2017.

262 1. There shall be added to such taxable income an amount
263 equal to 100 percent of any amount deducted for federal income

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264 tax purposes as bonus depreciation for the taxable year pursuant
265 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as
266 amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.
267 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.
268 111-312, s. 331 of Pub. L. No. 112-240, s. 125 of Pub. L. No.
269 113-295, s. 143 of Division Q of Pub. L. No. 114-113, and s.
270 13201 of Pub. L. No. 115-97, for property placed in service
271 after December 31, 2007, and before January 1, 2027. For the
272 taxable year and for each of the 6 subsequent taxable years,
273 there shall be subtracted from such taxable income an amount
274 equal to one-seventh of the amount by which taxable income was
275 increased pursuant to this subparagraph, notwithstanding any
276 sale or other disposition of the property that is the subject of
277 the adjustments and regardless of whether such property remains
278 in service in the hands of the taxpayer.

279 2. There shall be added to such taxable income an amount
280 equal to 100 percent of any amount in excess of \$128,000
281 deducted for federal income tax purposes for the taxable year
282 pursuant to s. 179 of the Internal Revenue Code of 1986, as
283 amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.
284 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.
285 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L.
286 No. 113-295, for taxable years beginning after December 31,
287 2007, and before January 1, 2015. For the taxable year and for
288 each of the 6 subsequent taxable years, there shall be

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289 subtracted from such taxable income one-seventh of the amount by
290 which taxable income was increased pursuant to this
291 subparagraph, notwithstanding any sale or other disposition of
292 the property that is the subject of the adjustments and
293 regardless of whether such property remains in service in the
294 hands of the taxpayer.

295 3. There shall be added to such taxable income an amount
296 equal to the amount of deferred income not included in such
297 taxable income pursuant to s. 108(i)(1) of the Internal Revenue
298 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There
299 shall be subtracted from such taxable income an amount equal to
300 the amount of deferred income included in such taxable income
301 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,
302 as amended by s. 1231 of Pub. L. No. 111-5.

303 4. Subtractions available under this paragraph may be
304 transferred to the surviving or acquiring entity following a
305 merger or acquisition and used in the same manner and with the
306 same limitations as specified by this paragraph.

307 5. The additions and subtractions specified in this
308 paragraph are intended to adjust taxable income for Florida tax
309 purposes, and, notwithstanding any other provision of this code,
310 such additions and subtractions shall be permitted to change a
311 taxpayer's net operating loss for Florida tax purposes.

312 (2) For purposes of this section, a taxpayer's taxable
313 income for the taxable year means taxable income as defined in

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314 s. 63 of the Internal Revenue Code and properly reportable for
315 federal income tax purposes for the taxable year, but subject to
316 the limitations set forth in paragraph (1)(b) with respect to
317 the deductions provided by ss. 172 (relating to net operating
318 losses), 170(d)(2) (relating to excess charitable
319 contributions), 404(a)(1)(D) (relating to excess pension trust
320 contributions), 404(a)(3)(A) and (B) (to the extent relating to
321 excess stock bonus and profit-sharing trust contributions), and
322 1212 (relating to capital losses) of the Internal Revenue Code,
323 except that, subject to the same limitations, the term:

324 (a) "Taxable income," in the case of a life insurance
325 company subject to the tax imposed by s. 801 of the Internal
326 Revenue Code, means life insurance company taxable income;
327 however, for purposes of this code, the total of any amounts
328 subject to tax under s. 815(a)(2) of the Internal Revenue Code
329 pursuant to s. 801(c) of the Internal Revenue Code shall not
330 exceed, cumulatively, the total of any amounts determined under
331 s. 815(c)(2) of the Internal Revenue Code of 1954, as amended,
332 from January 1, 1972, to December 31, 1983;

333 (b) "Taxable income," in the case of an insurance company
334 subject to the tax imposed by s. 831(b) of the Internal Revenue
335 Code, means taxable investment income;

336 (c) "Taxable income," in the case of an insurance company
337 subject to the tax imposed by s. 831(a) of the Internal Revenue
338 Code, means insurance company taxable income;

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339 (d) "Taxable income," in the case of a regulated
340 investment company subject to the tax imposed by s. 852 of the
341 Internal Revenue Code, means investment company taxable income;

342 (e) "Taxable income," in the case of a real estate
343 investment trust subject to the tax imposed by s. 857 of the
344 Internal Revenue Code, means the income subject to tax, computed
345 as provided in s. 857 of the Internal Revenue Code;

346 (f) "Taxable income," in the case of a corporation which
347 is a member of an affiliated group of corporations filing a
348 consolidated income tax return for the taxable year for federal
349 income tax purposes, means taxable income of such corporation
350 for federal income tax purposes as if such corporation had filed
351 a separate federal income tax return for the taxable year and
352 each preceding taxable year for which it was a member of an
353 affiliated group, ~~unless a consolidated return for the taxpayer~~
354 ~~and others is required or elected under s. 220.131;~~

355 (g) "Taxable income," in the case of a cooperative
356 corporation or association, means the taxable income of such
357 organization determined in accordance with the provisions of ss.
358 1381-1388 of the Internal Revenue Code;

359 (h) "Taxable income," in the case of an organization which
360 is exempt from the federal income tax by reason of s. 501(a) of
361 the Internal Revenue Code, means its unrelated business taxable
362 income as determined under s. 512 of the Internal Revenue Code;

363 (i) "Taxable income," in the case of a corporation for

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364 which there is in effect for the taxable year an election under
365 s. 1362(a) of the Internal Revenue Code, means the amounts
366 subject to tax under s. 1374 or s. 1375 of the Internal Revenue
367 Code for each taxable year;

368 (j) "Taxable income," in the case of a limited liability
369 company, other than a limited liability company classified as a
370 partnership for federal income tax purposes, as defined in and
371 organized pursuant to chapter 605 or qualified to do business in
372 this state as a foreign limited liability company or other than
373 a similar limited liability company classified as a partnership
374 for federal income tax purposes and created as an artificial
375 entity pursuant to the statutes of the United States or any
376 other state, territory, possession, or jurisdiction, if such
377 limited liability company or similar entity is taxable as a
378 corporation for federal income tax purposes, means taxable
379 income determined as if such limited liability company were
380 required to file or had filed a federal corporate income tax
381 return under the Internal Revenue Code;

382 (k) "Taxable income," in the case of a taxpayer liable for
383 the alternative minimum tax as defined in s. 55 of the Internal
384 Revenue Code, means the alternative minimum taxable income as
385 defined in s. 55(b)(2) of the Internal Revenue Code, less the
386 exemption amount computed under s. 55(d) of the Internal Revenue
387 Code. A taxpayer is not liable for the alternative minimum tax
388 unless the taxpayer's federal tax return, or related federal

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389 consolidated tax return, if included in a consolidated return
390 for federal tax purposes, reflect a liability on the return
391 filed for the alternative minimum tax as defined in s. 55(b)(2)
392 of the Internal Revenue Code;

393 (1) "Taxable income," in the case of a taxpayer whose
394 taxable income is not otherwise defined in this subsection,
395 means the sum of amounts to which a tax rate specified in s. 11
396 of the Internal Revenue Code plus the amount to which a tax rate
397 specified in s. 1201(a)(2) of the Internal Revenue Code are
398 applied for federal income tax purposes.

399 Section 50. Section 220.131, Florida Statutes, is
400 repealed.

401 Section 51. Section 220.136, Florida Statutes, is created
402 to read:

403 220.136 Determination of the members of a water's edge
404 group.-

405 (1) A corporation having 50 percent or more of its
406 outstanding voting stock directly or indirectly owned or
407 controlled by a water's edge group is presumed to be a member of
408 the water's edge group. A corporation having less than 50
409 percent of its outstanding voting stock directly or indirectly
410 owned or controlled by a water's edge group is a member of the
411 water's edge group if the businesses activities of the
412 corporation show that the corporation is a member of the water's
413 edge group. All of the income of a corporation that is a member

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414 of a water's edge group is presumed to be unitary. For purposes
415 of this subsection, the attribution rules of 26 U.S.C. s. 318
416 must be used to determine whether voting stock is indirectly
417 owned.

418 (2) (a) A corporation that conducts business outside the
419 United States is not a member of a water's edge group if 80
420 percent or more of the corporation's property and payroll, as
421 determined by the apportionment factors described in ss. 220.15
422 and 220.1363, may be assigned to locations outside of the United
423 States. However, such corporations that are incorporated in a
424 tax haven may be a member of a water's edge group pursuant to
425 subsection (1). This subsection does not exempt a corporation
426 that is not a member of a water's edge group from this chapter.

427 (b) As used in this subsection, the term "United States"
428 means the 50 states, the District of Columbia, and Puerto Rico.

429 (c) The apportionment factors described in ss. 220.1363
430 and 220.15 must be used to determine whether a special industry
431 corporation has engaged in a sufficient amount of activities
432 outside of the United States to exclude it from treatment as a
433 member of a water's edge group.

434 Section 52. Section 220.1363, Florida Statutes, is created
435 to read:

436 220.1363 Water's edge groups; special requirements.-

437 (1) For purposes of this section, the term "water's edge
438 reporting method" is a method to determine the taxable business

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439 profits of a group of entities conducting a unitary business.
440 Under this method, the net income of the entities must be added
441 together, along with the additions and subtractions under s.
442 220.13 and apportioned to this state as a single taxpayer under
443 ss. 220.15 and 220.151. However, each special industry member
444 included in a water's edge group return, which would otherwise
445 be permitted to use a special method of apportionment under s.
446 220.151, shall convert its single-factor apportionment to a
447 three-factor apportionment of property, payroll, and sales. The
448 special industry member shall calculate the denominator of its
449 property, payroll, and sales factors in the same manner as those
450 denominators are calculated by members that are not special
451 industry members. The numerator of its sales, property, and
452 payroll factors is the product of the denominator of each factor
453 multiplied by the premiums or revenue-miles-factor ratio
454 otherwise applicable under s. 220.151.

455 (2) All members of a water's edge group must use the
456 water's edge reporting method, under which:

457 (a) Adjusted federal income, for purposes of s. 220.12,
458 means the sum of adjusted federal income of all members of the
459 water's edge group as determined for a concurrent taxable year.

460 (b) The numerators and denominators of the apportionment
461 factors must be calculated for all members of the water's edge
462 group combined.

463 (c) Intercompany sales transactions between members of the

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464 water's edge group are not included in the numerator or
465 denominator of the sales factor under ss. 220.15 and 220.151,
466 regardless of whether indicia of a sale exist.

467 (d) For sales of intangibles, including accounts
468 receivable, notes, bonds, and stock, which are made to entities
469 outside the group, only the net proceeds are included in the
470 numerator and denominator of the sales factor.

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

474 (f) The income attributable to the Florida activities of a
475 corporation that is exempt from taxation under the Interstate
476 Income Act of 1959, Pub. L. No. 86-272, is excluded from the
477 apportionment factor numerators in the calculation of corporate
478 income tax, even if another member of the water's edge group has
479 nexus with this state and is subject to tax.

480
481 As used in this subsection, the term "sale" includes, but is not
482 limited to, loans, payments for the use of intangibles,
483 dividends, and management fees.

484 (3) (a) If a parent corporation is a member of the water's
485 edge group and has nexus with this state, a single water's edge
486 group return must be filed in the name and under the federal
487 employer identification number of the parent corporation. If the
488 water's edge group does not have a parent corporation, if the

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489 parent corporation is not a member of the water's edge group, or
490 if the parent corporation does not have nexus with this state,
491 then the members of the water's edge group must choose a member
492 subject to the tax imposed by this chapter to file the return.
493 The members of the water's edge group may not choose another
494 member to file a corporate income tax return in subsequent years
495 unless the filing member does not maintain nexus with this state
496 or does not remain a member of the water's edge group. The
497 return must be signed by an authorized officer of the filing
498 member as the agent for the water's edge group.

499 (b) If members of a water's edge group have different
500 taxable years, the taxable year of a majority of the members of
501 the water's edge group is the taxable year of the water's edge
502 group. If the taxable years of a majority of the members do not
503 correspond, the taxable year of the member that files the return
504 for the water's edge group is the taxable year of the water's
505 edge group.

506 (c)1. A member of a water's edge group having a taxable
507 year that does not correspond to the taxable year of the water's
508 edge group shall determine its income for inclusion on the tax
509 return for the water's edge group. The member shall use:

510 a. The precise amount of taxable income received during
511 the months corresponding to the taxable year of the water's edge
512 group, if the precise amount can be readily determined from the
513 member's books and records.

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514 b. The taxable income of the member converted to conform
515 to the taxable year of the water's edge group on the basis of
516 the number of months falling within the taxable year of the
517 water's edge group, such that, if the taxable year of the
518 water's edge group is a calendar year and a member operates on a
519 fiscal year ending on April 30, the income of the member must
520 include 8/12 of the income from the current taxable year and
521 4/12 of the income from the preceding taxable year. This method
522 to determine the income of a member may be used only if the
523 return can be timely filed after the end of the taxable year of
524 the water's edge group.

525 c. The taxable income of the member during its taxable
526 year that ends within the taxable year of the water's edge
527 group.

528 2. The method of determining the income of a member of a
529 water's edge group whose taxable year does not correspond to the
530 taxable year of the water's edge group may not change as long as
531 the member remains a member of the water's edge group. The
532 apportionment factors for the member must be applied to the
533 income of the member for the taxable year of the water's edge
534 group.

535 (4) (a) A water's edge group return must include a
536 computational schedule that:

537 1. Combines the federal income of all members of the
538 water's edge group;

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539 2. Shows all intercompany eliminations;

540 3. Shows Florida additions and subtractions under s.
541 220.13; and

542 4. Shows the calculation of the combined apportionment
543 factors.

544 (b) In addition to its return, a water's edge group shall
545 also file a domestic disclosure spreadsheet. The spreadsheet
546 must fully disclose:

547 1. The income reported to each state;

548 2. The state tax liability;

549 3. The method used for apportioning or allocating income
550 to the various states; and

551 4. Other information required by department rule to
552 determine the proper amount of tax due to each state and to
553 identify the water's edge group.

554 (5) The department may adopt rules and forms to administer
555 this section. The Legislature intends to grant the department
556 extensive authority to adopt rules and forms describing and
557 defining principles for determining the existence of a water's
558 edge business, definitions of common control, methods of
559 reporting, and related forms, principles, and other definitions.

560 Section 53. Section 220.14, Florida Statutes, is amended
561 to read:

562 220.14 Exemption.—

563 (1) In computing a taxpayer's liability for tax under this

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564 code, there shall be exempt from the tax \$50,000 of net income
565 as defined in s. 220.12 or such lesser amount as will, without
566 increasing the taxpayer's federal income tax liability, provide
567 the state with an amount under this code which is equal to the
568 maximum federal income tax credit which may be available from
569 time to time under federal law.

570 (2) In the case of a taxable year for a period of less
571 than 12 months, the exemption allowed by this section must ~~shall~~
572 be prorated on the basis of the number of days in such year to
573 365 days, or, in a leap year, 366 days.

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

576 (4) Notwithstanding any other provision of this code, not
577 more than one exemption under this section may be allowed to the
578 Florida members of a controlled group of corporations, as
579 defined in s. 1563 of the Internal Revenue Code with respect to
580 taxable years ending on or after December 31, 1970, filing
581 separate returns under this code. The exemption described in
582 this section shall be divided equally among such Florida members
583 of the group⁷ unless all of such members consent, at such time
584 and in such manner as the department shall by regulation
585 prescribe, to an apportionment plan providing for an unequal
586 allocation of such exemption.

587 Section 54. Paragraph (c) of subsection (5) of section
588 220.15, Florida Statutes, is amended to read:

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589 220.15 Apportionment of adjusted federal income.—

590 (5) The sales factor is a fraction the numerator of which
591 is the total sales of the taxpayer in this state during the
592 taxable year or period and the denominator of which is the total
593 sales of the taxpayer everywhere during the taxable year or
594 period.

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

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

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

603 3. Interest received within this state, other than
604 interest from loans secured by mortgages, deeds of trust, or
605 other liens upon real or tangible personal property located
606 without this state, and dividends received within this state;

607 4. Interest charged to customers at places of business
608 maintained within this state for carrying debit balances of
609 margin accounts, without deduction of any costs incurred in
610 carrying such accounts;

611 5. Interest, fees, commissions, or other charges or gains
612 from loans secured by mortgages, deeds of trust, or other liens
613 upon real or tangible personal property located in this state or

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614 from installment sale agreements originally executed by a
615 taxpayer or the taxpayer's agent to sell real or tangible
616 personal property located in this state;

617 6. Rents from real or tangible personal property located
618 in this state; or

619 7. Any other gross income, including other interest,
620 resulting from the operation as a financial organization within
621 this state.

622

623 ~~In computing the amounts under this paragraph, any amount~~
624 ~~received by a member of an affiliated group (determined under s.~~
625 ~~1504(a) of the Internal Revenue Code, but without reference to~~
626 ~~whether any such corporation is an "includable corporation"~~
627 ~~under s. 1504(b) of the Internal Revenue Code) from another~~
628 ~~member of such group shall be included only to the extent such~~
629 ~~amount exceeds expenses of the recipient directly related~~
630 ~~thereto.~~

631 Section 55. Paragraph (f) of subsection (1) of section
632 220.183, Florida Statutes, is amended to read:

633 220.183 Community contribution tax credit.—

634 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
635 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
636 SPENDING.—

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

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639 | ~~allowed the credit on a consolidated return basis.~~

640 | Section 56. Paragraphs (b), (c), and (d) of subsection (2)
641 | of section 220.1845, Florida Statutes, are amended to read:

642 | 220.1845 Contaminated site rehabilitation tax credit.—

643 | (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

644 | (b) A tax credit applicant, or multiple tax credit
645 | applicants working jointly to clean up a single site, may not be
646 | granted more than \$500,000 per year in tax credits for each site
647 | voluntarily rehabilitated. Multiple tax credit applicants shall
648 | be granted tax credits in the same proportion as their
649 | contribution to payment of cleanup costs. Subject to the same
650 | conditions and limitations as provided in this section, a
651 | municipality, county, or other tax credit applicant which
652 | voluntarily rehabilitates a site may receive not more than
653 | \$500,000 per year in tax credits which it can subsequently
654 | transfer subject to ~~the provisions in~~ paragraph (f) ~~(g)~~.

655 | (c) If the credit granted under this section is not fully
656 | used in any one year because of insufficient tax liability on
657 | the part of the corporation, the unused amount may be carried
658 | forward for up to 5 years. The carryover credit may be used in a
659 | subsequent year if the tax imposed by this chapter for that year
660 | exceeds the credit for which the corporation is eligible in that
661 | year after applying the other credits and unused carryovers in
662 | the order provided by s. 220.02(8). If during the 5-year period
663 | the credit is transferred, in whole or in part, pursuant to

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664 paragraph (f) ~~(g)~~, each transferee has 5 years after the date of
665 transfer to use its credit.

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

670 Section 57. Subsection (2) of section 220.1875, Florida
671 Statutes, is amended to read:

672 220.1875 Credit for contributions to eligible nonprofit
673 scholarship-funding organizations.—

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

679 Section 58. Paragraphs (a) and (c) of subsection (3) of
680 section 220.191, Florida Statutes, are amended to read:

681 220.191 Capital investment tax credit.—

682 (3) (a) Notwithstanding subsection (2), an annual credit
683 against the tax imposed by this chapter shall be granted to a
684 qualifying business which establishes a qualifying project
685 pursuant to subparagraph (1)(g)3., in an amount equal to the
686 lesser of \$15 million or 5 percent of the eligible capital costs
687 made in connection with a qualifying project, for a period not
688 to exceed 20 years beginning with the commencement of operations

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689 of the project. The tax credit shall be granted against the
690 corporate income tax liability of the qualifying business ~~and as~~
691 ~~further provided in paragraph (c)~~. The total tax credit provided
692 pursuant to this subsection shall be equal to no more than 100
693 percent of the eligible capital costs of the qualifying project.

694 (c) The credit granted under this subsection may be used
695 in whole or in part by the qualifying business ~~or any~~
696 ~~corporation that is either a member of that qualifying~~
697 ~~business's affiliated group of corporations, is a related entity~~
698 ~~taxable as a cooperative under subchapter T of the Internal~~
699 ~~Revenue Code, or, if the qualifying business is an entity~~
700 ~~taxable as a cooperative under subchapter T of the Internal~~
701 ~~Revenue Code, is related to the qualifying business. Any entity~~
702 ~~related to the qualifying business may continue to file as a~~
703 ~~member of a Florida nexus consolidated group pursuant to a prior~~
704 ~~election made under s. 220.131(1), Florida Statutes (1985), even~~
705 ~~if the parent of the group changes due to a direct or indirect~~
706 ~~acquisition of the former common parent of the group. Any credit~~
707 ~~can be used by any of the affiliated companies or related~~
708 ~~entities referenced in this paragraph to the same extent as it~~
709 ~~could have been used by the qualifying business. However, any~~
710 ~~such use shall not operate to increase the amount of the credit~~
711 ~~or extend the period within which the credit must be used.~~

712 Section 59. Subsection (2) of section 220.192, Florida
713 Statutes, is amended to read:

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714 220.192 Renewable energy technologies investment tax
715 credit.—

716 (2) TAX CREDIT.—For tax years beginning on or after
717 January 1, 2013, a credit against the tax imposed by this
718 chapter shall be granted in an amount equal to the eligible
719 costs. Credits may be used in tax years beginning January 1,
720 2013, and ending December 31, 2016, after which the credit shall
721 expire. If the credit is not fully used in any one tax year
722 because of insufficient tax liability on the part of the
723 corporation, the unused amount may be carried forward and used
724 in tax years beginning January 1, 2013, and ending December 31,
725 2018, after which the credit carryover expires and may not be
726 used. ~~A taxpayer that files a consolidated return in this state
727 as a member of an affiliated group under s. 220.131(1) may be
728 allowed the credit on a consolidated return basis up to the
729 amount of tax imposed upon the consolidated group.~~ Any eligible
730 cost for which a credit is claimed and which is deducted or
731 otherwise reduces federal taxable income shall be added back in
732 computing adjusted federal income under s. 220.13.

733 Section 60. Paragraphs (c) and (e) of subsection (3) of
734 section 220.193, Florida Statutes, are amended to read:

735 220.193 Florida renewable energy production credit.—

736 (3) An annual credit against the tax imposed by this
737 section shall be allowed to a taxpayer, based on the taxpayer's
738 production and sale of electricity from a new or expanded

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739 Florida renewable energy facility. For a new facility, the
740 credit shall be based on the taxpayer's sale of the facility's
741 entire electrical production. For an expanded facility, the
742 credit shall be based on the increases in the facility's
743 electrical production that are achieved after May 1, 2012.

744 (c) If the amount of credits applied for each year exceeds
745 the amount authorized in paragraph (f) ~~(g)~~, the Department of
746 Agriculture and Consumer Services shall allocate credits to
747 qualified applicants based on the following priority:

748 1. An applicant who places a new facility in operation
749 after May 1, 2012, shall be allocated credits first, up to a
750 maximum of \$250,000 each, with any remaining credits to be
751 granted pursuant to subparagraph 3., but if the claims for
752 credits under this subparagraph exceed the state fiscal year cap
753 in paragraph (f) ~~(g)~~, credits shall be allocated pursuant to
754 this subparagraph on a prorated basis based upon each
755 applicant's qualified production and sales as a percentage of
756 total production and sales for all applicants in this category
757 for the fiscal year.

758 2. An applicant who does not qualify under subparagraph 1.
759 but who claims a credit of \$50,000 or less shall be allocated
760 credits next, but if the claims for credits under this
761 subparagraph, combined with credits allocated in subparagraph
762 1., exceed the state fiscal year cap in paragraph (f) ~~(g)~~,
763 credits shall be allocated pursuant to this subparagraph on a

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764 prorated basis based upon each applicant's qualified production
765 and sales as a percentage of total qualified production and
766 sales for all applicants in this category for the fiscal year.

767 3. An applicant who does not qualify under subparagraph 1.
768 or subparagraph 2. and an applicant whose credits have not been
769 fully allocated under subparagraph 1. shall be allocated credits
770 next. If there is insufficient capacity within the amount
771 authorized for the state fiscal year in paragraph (f) ~~(g)~~, and
772 after allocations pursuant to subparagraphs 1. and 2., the
773 credits allocated under this subparagraph shall be prorated
774 based upon each applicant's unallocated claims for qualified
775 production and sales as a percentage of total unallocated claims
776 for qualified production and sales of all applicants in this
777 category, up to a maximum of \$1 million per taxpayer per state
778 fiscal year. If, after application of this \$1 million cap, there
779 is excess capacity under the state fiscal year cap in paragraph
780 (f) ~~(g)~~ in any state fiscal year, that remaining capacity shall
781 be used to allocate additional credits with priority given in
782 the order set forth in this subparagraph and without regard to
783 the \$1 million per taxpayer cap.

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

788 Section 61. Section 220.51, Florida Statutes, is amended

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789 to read:

790 220.51 Adoption ~~Promulgation~~ of rules and regulations.—In
791 accordance with the Administrative Procedure Act, chapter 120,
792 the department is authorized to make, adopt ~~promulgate~~, and
793 enforce such reasonable rules and regulations, and to prescribe
794 such forms relating to the administration and enforcement of ~~the~~
795 ~~provisions~~ of this code, as it may deem appropriate, including:

796 (1) Rules for initial implementation of this code and for
797 taxpayers' transitional taxable years commencing before and
798 ending after January 1, 1972; and

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

804 ~~(3) Regulations relating to consolidated reporting for~~
805 ~~affiliated groups of corporations, in order to provide for an~~
806 ~~equitable and just administration of this code with respect to~~
807 ~~multicorporate taxpayers.~~

808 Section 62. Section 220.64, Florida Statutes, is amended
809 to read:

810 220.64 Other provisions applicable to franchise tax.—To
811 the extent that they are not manifestly incompatible with ~~the~~
812 ~~provisions~~ of this part, parts I, III, IV, V, VI, VIII, IX, and
813 X of this code and ss. 220.12, 220.13, 220.136, 220.1363,

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814 220.15, and 220.16 apply to the franchise tax imposed by this
815 part. Under rules prescribed by the department ~~in s. 220.131~~, a
816 consolidated return may be filed by any affiliated group of
817 corporations composed of one or more banks or savings
818 associations, ~~its or~~ their Florida parent corporations
819 ~~corporation~~, and any nonbank or nonsavings subsidiaries of such
820 parent corporations ~~corporation~~.

821 Section 63. Paragraph (f) of subsection (4) and paragraph
822 (a) of subsection (5) of section 288.1254, Florida Statutes, are
823 amended to read:

824 288.1254 Entertainment industry financial incentive
825 program.—

826 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
827 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
828 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
829 ACQUISITIONS.—

830 ~~(f) Consolidated returns.—A certified production company~~
831 ~~that files a Florida consolidated return as a member of an~~
832 ~~affiliated group under s. 220.131(1) may be allowed the credit~~
833 ~~on a consolidated return basis up to the amount of the tax~~
834 ~~imposed upon the consolidated group under chapter 220.~~

835 (5) TRANSFER OF TAX CREDITS.—

836 (a) *Authorization.*—Upon application to the Office of Film
837 and Entertainment and approval by the department, a certified
838 production company, or a partner or member that has received a

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839 distribution under paragraph (4) (f) ~~(4) (g)~~, may elect to
840 transfer, in whole or in part, any unused credit amount granted
841 under this section. An election to transfer any unused tax
842 credit amount under chapter 212 or chapter 220 must be made no
843 later than 5 years after the date the credit is awarded, after
844 which period the credit expires and may not be used. The
845 department shall notify the Department of Revenue of the
846 election and transfer.

847 Section 64. Subsections (9) and (10) of section 376.30781,
848 Florida Statutes, are amended to read:

849 376.30781 Tax credits for rehabilitation of drycleaning-
850 solvent-contaminated sites and brownfield sites in designated
851 brownfield areas; application process; rulemaking authority;
852 revocation authority.-

853 (9) On or before May 1, the Department of Environmental
854 Protection shall inform each tax credit applicant that is
855 subject to the January 31 annual application deadline of the
856 applicant's eligibility status and the amount of any tax credit
857 due. The department shall provide each eligible tax credit
858 applicant with a tax credit certificate that must be submitted
859 with its tax return to the Department of Revenue to claim the
860 tax credit or be transferred pursuant to s. 220.1845(2) (f) ~~s.~~
861 ~~220.1845(2) (g)~~. The May 1 deadline for annual site
862 rehabilitation tax credit certificate awards shall not apply to
863 any tax credit application for which the department has issued a

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864 notice of deficiency pursuant to subsection (8). The department
865 shall respond within 90 days after receiving a response from the
866 tax credit applicant to such a notice of deficiency. Credits may
867 not result in the payment of refunds if total credits exceed the
868 amount of tax owed.

869 (10) For solid waste removal, new health care facility or
870 health care provider, and affordable housing tax credit
871 applications, the Department of Environmental Protection shall
872 inform the applicant of the department's determination within 90
873 days after the application is deemed complete. Each eligible tax
874 credit applicant shall be informed of the amount of its tax
875 credit and provided with a tax credit certificate that must be
876 submitted with its tax return to the Department of Revenue to
877 claim the tax credit or be transferred pursuant to s.
878 220.1845(2)(f) ~~s. 220.1845(2)(g)~~. Credits may not result in the
879 payment of refunds if total credits exceed the amount of tax
880 owed.

881 Section 65. Transitional rules.-

882 (1) For the first taxable year beginning on or after
883 January 1, 2021, a taxpayer that filed a Florida corporate
884 income tax return in the preceding taxable year and that is a
885 member of a water's edge group shall compute its income together
886 with all members of its water's edge group and file a combined
887 Florida corporate income tax return with all members of its
888 water's edge group.

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889 (2) An affiliated group of corporations that filed a
890 Florida consolidated corporate income tax return pursuant to an
891 election provided in s. 220.131, Florida Statutes 2018, shall
892 cease filing a Florida consolidated return for taxable years
893 beginning on or after January 1, 2021, and shall file a combined
894 Florida corporate income tax return with all members of its
895 water's edge group.

896 (3) An affiliated group of corporations that filed a
897 Florida consolidated corporate income tax return pursuant to the
898 election in s. 220.131(1), Florida Statutes (1985), which
899 allowed the affiliated group to make an election within 90 days
900 after December 20, 1984, or upon filing the taxpayer's first
901 return after December 20, 1984, whichever was later, shall cease
902 filing a Florida consolidated corporate income tax return using
903 that method for taxable years beginning on or after January 1,
904 2021, and shall file a combined Florida corporate income tax
905 return with all members of its water's edge group.

906 (4) A taxpayer that is not a member of a water's edge
907 group remains subject to chapter 220, Florida Statutes, and
908 shall file a separate Florida corporate income tax return as
909 previously required.

910 (5) For taxable years beginning on or after January 1,
911 2021, a tax return for a member of a water's edge group must be
912 a combined Florida corporate income tax return that includes tax
913 information for all members of the water's edge group. The tax

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914 return must be filed by a member that has a nexus with this
915 state.

916
917 -----

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

919 Remove line 171 and insert:
920 applicability; amending s. 220.03, F.S.; revising the
921 definition of the term "taxpayer"; providing
922 definitions; amending s. 220.13, F.S.; revising the
923 definition of the term "adjusted federal income" to
924 prohibit specified deductions, to limit certain
925 carryovers, and to require subtractions of certain
926 dividends paid and received within a water's edge
927 group for the purpose of determining subtractions from
928 taxable income; conforming provisions to changes made
929 by the act; repealing s. 220.131, F.S., relating to
930 the adjusted federal income of affiliated groups;
931 creating s. 220.136, F.S.; specifying circumstances
932 under which a corporation is presumed to be, deemed to
933 be, or deemed not to be a member of a water's edge
934 group; providing construction; defining the term
935 "United States"; creating s. 220.1363, F.S.; defining
936 the term "water's edge reporting method"; specifying
937 requirements for, limitations on, and prohibitions in
938 calculating and reporting income in a water's edge

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939 group return; requiring all members of a water's edge
940 group to use the water's edge reporting method;
941 defining the term "sale"; specifying requirements for
942 designating the filing member and the taxable year of
943 the water's edge group; specifying income reporting
944 requirements for certain members of the water's edge
945 group; requiring that a water's edge group return
946 include a specified computational schedule and
947 domestic disclosure spreadsheet; authorizing the
948 department to adopt rules; providing legislative
949 intent regarding the adoption of rules; amending s.
950 220.14, F.S.; revising the calculation for prorating a
951 certain corporate income tax exemption to reflect leap
952 years; conforming a provision to changes made by the
953 act; amending ss. 220.15, 220.183, 220.1845, 220.1875,
954 220.191, 220.192, 220.193, and 220.51, F.S.;

955 conforming provisions to changes made by the act;
956 amending s. 220.64, F.S.; providing applicability of
957 water's edge group provisions to the franchise tax;
958 conforming provisions to changes made by the act;
959 amending ss. 288.1254 and 376.30781, F.S.; conforming
960 provisions to changes made by the act; specifying,
961 beginning on a specified date, requirements for
962 corporate income tax return filings for certain
963 taxpayers; providing sales tax exemptions for

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