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HB 7059

2021 Legislature

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2 An act relating to the corporate income tax; amending
3 s. 220.03, F.S.; adopting the 2021 version of the
4 Internal Revenue Code; providing for retroactive
5 operation; amending s. 220.13, F.S., revising the
6 adjustments taxpayers must make to adjusted federal
7 income with respect to certain tax benefits; providing
8 emergency rulemaking authority; providing an effective
9 date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Paragraph (n) of subsection (1) and paragraph
14 (c) of subsection (2) of section 220.03, Florida Statutes, are
15 amended to read:

16 220.03 Definitions.—

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

21 (n) "Internal Revenue Code" means the United States
22 Internal Revenue Code of 1986, as amended and in effect on
23 January 1, 2021 ~~2020~~, except as provided in subsection (3).

24 (2) DEFINITIONAL RULES.—When used in this code and neither
25 otherwise distinctly expressed nor manifestly incompatible with

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26 | the intent thereof:

27 | (c) Any term used in this code has the same meaning as
28 | when used in a comparable context in the Internal Revenue Code
29 | and other statutes of the United States relating to federal
30 | income taxes, as such code and statutes are in effect on January
31 | 1, 2021 ~~2020~~. However, if subsection (3) is implemented, the
32 | meaning of a term shall be taken at the time the term is applied
33 | under this code.

34 | Section 2. The amendments to s. 220.03, Florida Statutes,
35 | made by this act operate retroactively to January 1, 2021.

36 | Section 3. Paragraph (e) of subsection (1) of section
37 | 220.13, Florida Statutes, is amended to read:

38 | 220.13 "Adjusted federal income" defined.—

39 | (1) The term "adjusted federal income" means an amount
40 | equal to the taxpayer's taxable income as defined in subsection
41 | (2), or such taxable income of more than one taxpayer as
42 | provided in s. 220.131, for the taxable year, adjusted as
43 | follows:

44 | (e) Adjustments related to federal acts.—Taxpayers shall
45 | be required to make the adjustments prescribed in this paragraph
46 | for Florida tax purposes with respect to certain tax benefits
47 | received pursuant to the Economic Stimulus Act of 2008, the
48 | American Recovery and Reinvestment Act of 2009, the Small
49 | Business Jobs Act of 2010, the Tax Relief, Unemployment
50 | Insurance Reauthorization, and Job Creation Act of 2010, the

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51 American Taxpayer Relief Act of 2012, the Tax Increase
52 Prevention Act of 2014, the Consolidated Appropriations Act,
53 2016, ~~and~~ the Tax Cuts and Jobs Act of 2017, and the Coronavirus
54 Aid, Relief, and Economic Security Act of 2020.

55 1.a. There shall be added to such taxable income an amount
56 equal to 100 percent of any amount deducted for federal income
57 tax purposes as bonus depreciation for the taxable year pursuant
58 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as
59 amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.
60 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.
61 111-312, s. 331 of Pub. L. No. 112-240, s. 125 of Pub. L. No.
62 113-295, s. 143 of Division Q of Pub. L. No. 114-113, and s.
63 13201 of Pub. L. No. 115-97, for property placed in service
64 after December 31, 2007, and before January 1, 2027.

65 b. For the taxable year and for each of the 6 subsequent
66 taxable years, there shall be subtracted from such taxable
67 income an amount equal to one-seventh of the amount by which
68 taxable income was increased pursuant to this subparagraph,
69 notwithstanding any sale or other disposition of the property
70 that is the subject of the adjustments and regardless of whether
71 such property remains in service in the hands of the taxpayer.

72 c. The provisions of sub-subparagraph b. do not apply to
73 amounts by which taxable income was increased pursuant to this
74 subparagraph for amounts deducted for federal income tax
75 purposes as bonus depreciation for qualified improvement

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76 | property as defined in s. 168(e)(6) of the Internal Revenue Code
 77 | of 1986, as amended by s. 13204 of Pub. L. No. 115-97.

78 | 2. There shall be added to such taxable income an amount
 79 | equal to 100 percent of any amount in excess of \$128,000
 80 | deducted for federal income tax purposes for the taxable year
 81 | pursuant to s. 179 of the Internal Revenue Code of 1986, as
 82 | amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.
 83 | 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.
 84 | 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L.
 85 | No. 113-295, for taxable years beginning after December 31,
 86 | 2007, and before January 1, 2015. For the taxable year and for
 87 | each of the 6 subsequent taxable years, there shall be
 88 | subtracted from such taxable income one-seventh of the amount by
 89 | which taxable income was increased pursuant to this
 90 | subparagraph, notwithstanding any sale or other disposition of
 91 | the property that is the subject of the adjustments and
 92 | regardless of whether such property remains in service in the
 93 | hands of the taxpayer.

94 | 3. There shall be added to such taxable income an amount
 95 | equal to the amount of deferred income not included in such
 96 | taxable income pursuant to s. 108(i)(1) of the Internal Revenue
 97 | Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There
 98 | shall be subtracted from such taxable income an amount equal to
 99 | the amount of deferred income included in such taxable income
 100 | pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,

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101 as amended by s. 1231 of Pub. L. No. 111-5.

102 4. For taxable years beginning after December 31, 2018,
 103 and before January 1, 2021, there shall be added to such taxable
 104 income an amount equal to the excess, if any, of:

105 a. One hundred percent of any amount deducted for federal
 106 income tax purposes as business interest expense for the taxable
 107 year pursuant to s. 163(j) of the Internal Revenue Code of 1986,
 108 as amended by s. 2306 of Pub. L. No. 116-136; over

109 b. One hundred percent of the amount that would be
 110 deductible for federal income tax purposes as business interest
 111 expense for the taxable year if calculated pursuant to s. 163(j)
 112 of the Internal Revenue Code of 1986, as amended by s. 13301 of
 113 Pub. L. No. 115-97.

114
 115 Any expense added back pursuant to this subparagraph shall be
 116 treated as a disallowed business expense carryforward from prior
 117 years for the year or years following the addition, until such
 118 time as the expense has been used.

119 5. With respect to qualified improvement property as
 120 defined in s. 168(e)(6) of the Internal Revenue Code of 1986, as
 121 amended by s. 13204 of Pub. L. No. 115-97, that was placed in
 122 service on or after January 1, 2018:

123 a. There shall be added to such taxable income an amount
 124 equal to 100 percent of any amount deducted for federal income
 125 tax purposes under s. 167(a) of the Internal Revenue Code of

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126 | 1986. There shall be subtracted an amount equal to the amount of
 127 | depreciation that would have been deductible pursuant to s.
 128 | 167(a) of the Internal Revenue Code of 1986 in effect on January
 129 | 1, 2020 and without regard to s. 2307 of Pub. L. No. 116-136,
 130 | notwithstanding any sale or other disposition of the property
 131 | that is the subject of the adjustments and regardless of whether
 132 | such property remains in service in the hands of the taxpayer.

133 | b. The department may adopt rules necessary to administer
 134 | the provisions of this subparagraph, including rules, forms, and
 135 | guidelines for computing depreciation on qualified improvement
 136 | property, as defined in s. 168(e)(6) of the Internal Revenue
 137 | Code of 1986.

138 | 6 For taxable years beginning after December 31, 2020, and
 139 | before January 1, 2026, the changes made to the Internal Revenue
 140 | Code by Pub. L. No. 116-260, Title I, Division EE, s. 116 and
 141 | Pub. L. No. 116-260, Division EE, Title II, s. 210 shall not
 142 | apply to this chapter. Taxable income under this section shall
 143 | be calculated as though changes made by those sections were not
 144 | made to the Internal Revenue Code. The Department of Revenue may
 145 | adopt rules necessary to administer the provisions of this
 146 | subparagraph, including rules, forms, and guidelines for
 147 | treatment of expenses and depreciation related to these changes.

148 | 7.4. Subtractions available under this paragraph may be
 149 | transferred to the surviving or acquiring entity following a
 150 | merger or acquisition and used in the same manner and with the

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151 same limitations as specified by this paragraph.

152 ~~8.5.~~ The additions and subtractions specified in this
 153 paragraph are intended to adjust taxable income for Florida tax
 154 purposes, and, notwithstanding any other provision of this code,
 155 such additions and subtractions shall be permitted to change a
 156 taxpayer's net operating loss for Florida tax purposes.

157 Section 4. (1) The Department of Revenue is authorized,
 158 and all conditions are deemed met, to adopt emergency rules
 159 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
 160 implementing the amendments made by this act.

161 (2) Notwithstanding any other law, emergency rules adopted
 162 pursuant to subsection (1) are effective for 6 months after
 163 adoption and may be renewed during the pendency of procedures to
 164 adopt permanent rules addressing the subject of the emergency
 165 rules.

166 (3) This section shall take effect upon becoming a law and
 167 shall expire January 1, 2025.

168 Section 5. This act shall take effect upon becoming a law.