

By Senator Gruters

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1                   A bill to be entitled  
2       An act relating to the corporate income tax; amending  
3       s. 220.03, F.S.; adopting the 2022 version of the  
4       Internal Revenue Code for purposes of the state  
5       corporate income tax code; providing for retroactive  
6       operation; amending s. 220.1105, F.S.; revising the  
7       timeframe during which the adjustment of the corporate  
8       tax rate based on net collections exceeding adjusted  
9       forecasted collections applies; revising the  
10      definition of the term "eligible taxpayer" for certain  
11      purposes; providing for retroactive operation;  
12      amending s. 220.13, F.S.; providing applicability for  
13      adjustments taxpayers must make to adjusted federal  
14      income with respect to bonus depreciation; providing  
15      for retroactive operation; revising the adjustments  
16      taxpayers must make to adjusted federal income with  
17      respect to business interest; providing effective  
18      dates.

19  
20 Be It Enacted by the Legislature of the State of Florida:

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22       Section 1. Effective upon becoming a law and operating  
23      retroactively to January 1, 2022, paragraph (n) of subsection  
24      (1) and paragraph (c) of subsection (2) of section 220.03,  
25      Florida Statutes, are amended to read:

26       220.03 Definitions.—

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

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30 meanings:

31 (n) "Internal Revenue Code" means the United States  
32 Internal Revenue Code of 1986, as amended and in effect on  
33 January 1, 2022 ~~2021~~, except as provided in subsection (3).

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

37 (c) Any term used in this code has the same meaning as when  
38 used in a comparable context in the Internal Revenue Code and  
39 other statutes of the United States relating to federal income  
40 taxes, as such code and statutes are in effect on January 1,  
41 2022 ~~2021~~. However, if subsection (3) is implemented, the  
42 meaning of a term shall be taken at the time the term is applied  
43 under this code.

44 Section 2. Effective upon becoming a law and operating  
45 retroactively to June 30, 2021, subsection (4) of section  
46 220.1105, Florida Statutes, is amended to read:

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

49 (4) For fiscal years 2018-2019 and 2019-2020 ~~through 2020-~~  
50 ~~2021~~, any amount by which net collections for a fiscal year  
51 exceed adjusted forecasted collections for that fiscal year  
52 shall only be used to provide refunds to corporate income tax  
53 payers as follows:

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

55 1. "Eligible taxpayer" means:

56 a. For fiscal year 2018-2019, a taxpayer whose taxable year  
57 begins between April 1, 2017, and March 31, 2018, and whose  
58 final tax liability for such taxable year is greater than zero;

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59 or

60 b. For fiscal year 2019-2020, a taxpayer whose taxable year  
61 begins between April 1, 2018, and March 31, 2019, and whose  
62 final tax liability for such taxable year is greater than zero~~r~~  
63 ~~or~~

64 ~~e. For fiscal year 2020-2021, a taxpayer whose taxable year~~  
65 ~~begins between April 1, 2019, and March 31, 2020, and whose~~  
66 ~~final tax liability for such taxable year is greater than zero.~~

67 2. "Excess collections" for a fiscal year means the amount  
68 by which net collections for a fiscal year exceeds adjusted  
69 forecasted collections for that fiscal year.

70 3. "Final tax liability" means the taxpayer's amount of tax  
71 due under this chapter for a taxable year, reported on a return  
72 filed with the department, plus the amount of any credit taken  
73 on such return under s. 220.1875.

74 4. "Total eligible tax liability" for a fiscal year means  
75 the sum of final tax liabilities of all eligible taxpayers for a  
76 fiscal year as such liabilities are shown on the latest return  
77 filed with the department as of February 1 immediately following  
78 that fiscal year.

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

82 6. "Taxpayer refund" for a fiscal year means the taxpayer  
83 refund share for a fiscal year multiplied by the excess  
84 collections for a fiscal year.

85 (b) No later than April 15 following a fiscal year, the  
86 department shall determine total eligible tax liability for that  
87 fiscal year, the taxpayer refund share for that fiscal year for

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88 each eligible taxpayer, and the taxpayer refund for that fiscal  
89 year for each eligible taxpayer.

90 (c) No later than May 1 following a fiscal year, the  
91 department shall refund a taxpayer refund for that fiscal year  
92 to each eligible taxpayer.

93 Section 3. Effective upon becoming a law and operating  
94 retroactively to January 1, 2020, paragraph (e) of subsection  
95 (1) of section 220.13, Florida Statutes, is amended to read:

96 220.13 "Adjusted federal income" defined.—

97 (1) The term "adjusted federal income" means an amount  
98 equal to the taxpayer's taxable income as defined in subsection  
99 (2), or such taxable income of more than one taxpayer as  
100 provided in s. 220.131, for the taxable year, adjusted as  
101 follows:

102 (e) *Adjustments related to federal acts.*—Taxpayers shall be  
103 required to make the adjustments prescribed in this paragraph  
104 for Florida tax purposes with respect to certain tax benefits  
105 received pursuant to the Economic Stimulus Act of 2008; the  
106 American Recovery and Reinvestment Act of 2009; the Small  
107 Business Jobs Act of 2010; the Tax Relief, Unemployment  
108 Insurance Reauthorization, and Job Creation Act of 2010; the  
109 American Taxpayer Relief Act of 2012; the Tax Increase  
110 Prevention Act of 2014; the Consolidated Appropriations Act,  
111 2016; the Tax Cuts and Jobs Act of 2017; and the Coronavirus  
112 Aid, Relief, and Economic Security Act of 2020.

113 1.a. There shall be added to such taxable income an amount  
114 equal to 100 percent of any amount deducted for federal income  
115 tax purposes as bonus depreciation for the taxable year pursuant  
116 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as

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117 amended by s. 103 of Pub. L. No. 110-185; s. 1201 of Pub. L. No.  
118 111-5; s. 2022 of Pub. L. No. 111-240; s. 401 of Pub. L. No.  
119 111-312; s. 331 of Pub. L. No. 112-240; s. 125 of Pub. L. No.  
120 113-295; s. 143 of Division Q of Pub. L. No. 114-113; and s.  
121 13201 of Pub. L. No. 115-97, for property placed in service  
122 after December 31, 2007, and before January 1, 2027.

123 b. For the taxable year and for each of the 6 subsequent  
124 taxable years, there shall be subtracted from such taxable  
125 income an amount equal to one-seventh of the amount by which  
126 taxable income was increased pursuant to this subparagraph,  
127 notwithstanding any sale or other disposition of the property  
128 that is the subject of the adjustments and regardless of whether  
129 such property remains in service in the hands of the taxpayer.

130 c. ~~The provisions of~~ Sub-subparagraph b. does ~~de~~ not apply  
131 to amounts by which taxable income was increased pursuant to  
132 this subparagraph for amounts deducted for federal income tax  
133 purposes as bonus depreciation for qualified improvement  
134 property as defined in s. 168(e)(6) of the Internal Revenue Code  
135 of 1986, as amended by s. 13204 of Pub. L. No. 115-97.

136

137 This subparagraph does not apply to property placed in service  
138 in taxable years beginning on or after January 1, 2020.

139 2. There shall be added to such taxable income an amount  
140 equal to 100 percent of any amount in excess of \$128,000  
141 deducted for federal income tax purposes for the taxable year  
142 pursuant to s. 179 of the Internal Revenue Code of 1986, as  
143 amended by s. 102 of Pub. L. No. 110-185; s. 1202 of Pub. L. No.  
144 111-5; s. 2021 of Pub. L. No. 111-240; s. 402 of Pub. L. No.  
145 111-312; s. 315 of Pub. L. No. 112-240; and s. 127 of Pub. L.

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146 No. 113-295, for taxable years beginning after December 31,  
147 2007, and before January 1, 2015. For the taxable year and for  
148 each of the 6 subsequent taxable years, there shall be  
149 subtracted from such taxable income one-seventh of the amount by  
150 which taxable income was increased pursuant to this  
151 subparagraph, notwithstanding any sale or other disposition of  
152 the property that is the subject of the adjustments and  
153 regardless of whether such property remains in service in the  
154 hands of the taxpayer.

155 3. There shall be added to such taxable income an amount  
156 equal to the amount of deferred income not included in such  
157 taxable income pursuant to s. 108(i)(1) of the Internal Revenue  
158 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There  
159 shall be subtracted from such taxable income an amount equal to  
160 the amount of deferred income included in such taxable income  
161 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,  
162 as amended by s. 1231 of Pub. L. No. 111-5.

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

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

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

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

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

a. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes under s. 167(a) of the Internal Revenue Code of 1986. There shall be subtracted an amount equal to the amount of depreciation that would have been deductible pursuant to s. 167(a) of the Internal Revenue Code of 1986 in effect on January 1, 2020 and without regard to s. 2307 of Pub. L. No. 116-136, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

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

6. For taxable years beginning after December 31, 2020, and before January 1, 2026, the changes made to the Internal Revenue Code by Pub. L. No. 116-260, Division EE, Title I, s. 116 and Title II, s. 210 shall not apply to this chapter. Taxable income under this section shall be calculated as though changes made by

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204 those sections were not made to the Internal Revenue Code. The  
205 Department of Revenue may adopt rules necessary to administer  
206 the provisions of this subparagraph, including rules, forms, and  
207 guidelines for treatment of expenses and depreciation related to  
208 these changes.

209 7. Subtractions available under this paragraph may be  
210 transferred to the surviving or acquiring entity following a  
211 merger or acquisition and used in the same manner and with the  
212 same limitations as specified by this paragraph.

213 8. The additions and subtractions specified in this  
214 paragraph are intended to adjust taxable income for Florida tax  
215 purposes, and, notwithstanding any other provision of this code,  
216 such additions and subtractions shall be permitted to change a  
217 taxpayer's net operating loss for Florida tax purposes.

218 Section 4. The amendment made to s. 220.13(1)(e), Florida  
219 Statutes, in section 3 of this act applies to taxable years  
220 beginning on or after January 1, 2020.

221 Section 5. Effective January 1, 2023, paragraph (e) of  
222 subsection (1) of section 220.13, Florida Statutes, as amended  
223 by this act, is amended to read:

224 220.13 "Adjusted federal income" defined.—

225 (1) The term "adjusted federal income" means an amount  
226 equal to the taxpayer's taxable income as defined in subsection  
227 (2), or such taxable income of more than one taxpayer as  
228 provided in s. 220.131, for the taxable year, adjusted as  
229 follows:

230 (e) *Adjustments related to federal acts.*—Taxpayers shall be  
231 required to make the adjustments prescribed in this paragraph  
232 for Florida tax purposes with respect to certain tax benefits



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233 received pursuant to the Economic Stimulus Act of 2008; the  
234 American Recovery and Reinvestment Act of 2009; the Small  
235 Business Jobs Act of 2010; the Tax Relief, Unemployment  
236 Insurance Reauthorization, and Job Creation Act of 2010; the  
237 American Taxpayer Relief Act of 2012; the Tax Increase  
238 Prevention Act of 2014; the Consolidated Appropriations Act,  
239 2016; the Tax Cuts and Jobs Act of 2017; and the Coronavirus  
240 Aid, Relief, and Economic Security Act of 2020.

241 1.a. There shall be added to such taxable income an amount  
242 equal to 100 percent of any amount deducted for federal income  
243 tax purposes as bonus depreciation for the taxable year pursuant  
244 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as  
245 amended by s. 103 of Pub. L. No. 110-185; s. 1201 of Pub. L. No.  
246 111-5; s. 2022 of Pub. L. No. 111-240; s. 401 of Pub. L. No.  
247 111-312; s. 331 of Pub. L. No. 112-240; s. 125 of Pub. L. No.  
248 113-295; s. 143 of Division Q of Pub. L. No. 114-113; and s.  
249 13201 of Pub. L. No. 115-97, for property placed in service  
250 after December 31, 2007, and before January 1, 2027.

251 b. For the taxable year and for each of the 6 subsequent  
252 taxable years, there shall be subtracted from such taxable  
253 income an amount equal to one-seventh of the amount by which  
254 taxable income was increased pursuant to this subparagraph,  
255 notwithstanding any sale or other disposition of the property  
256 that is the subject of the adjustments and regardless of whether  
257 such property remains in service in the hands of the taxpayer.

258 c. Sub-subparagraph b. does not apply to amounts by which  
259 taxable income was increased pursuant to this subparagraph for  
260 amounts deducted for federal income tax purposes as bonus  
261 depreciation for qualified improvement property as defined in s.

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262 168(e)(6) of the Internal Revenue Code of 1986, as amended by s.  
263 13204 of Pub. L. No. 115-97.

264  
265 This subparagraph does not apply to property placed in service  
266 in taxable years beginning on or after January 1, 2020.

267 2. There shall be added to such taxable income an amount  
268 equal to 100 percent of any amount in excess of \$128,000  
269 deducted for federal income tax purposes for the taxable year  
270 pursuant to s. 179 of the Internal Revenue Code of 1986, as  
271 amended by s. 102 of Pub. L. No. 110-185; s. 1202 of Pub. L. No.  
272 111-5; s. 2021 of Pub. L. No. 111-240; s. 402 of Pub. L. No.  
273 111-312; s. 315 of Pub. L. No. 112-240; and s. 127 of Pub. L.  
274 No. 113-295, for taxable years beginning after December 31,  
275 2007, and before January 1, 2015. For the taxable year and for  
276 each of the 6 subsequent taxable years, there shall be  
277 subtracted from such taxable income one-seventh of the amount by  
278 which taxable income was increased pursuant to this  
279 subparagraph, notwithstanding any sale or other disposition of  
280 the property that is the subject of the adjustments and  
281 regardless of whether such property remains in service in the  
282 hands of the taxpayer.

283 3. There shall be added to such taxable income an amount  
284 equal to the amount of deferred income not included in such  
285 taxable income pursuant to s. 108(i)(1) of the Internal Revenue  
286 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There  
287 shall be subtracted from such taxable income an amount equal to  
288 the amount of deferred income included in such taxable income  
289 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,  
290 as amended by s. 1231 of Pub. L. No. 111-5.

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291           4. For taxable years beginning on or after January 1, 2023,  
292 there shall be added to such taxable income an amount equal to  
293 the amount of business interest taken as a deduction for federal  
294 tax purposes subject to the limitation provided in s. 163(j) of  
295 the Internal Revenue Code. There shall be subtracted from such  
296 taxable income the amount of business interest paid or accrued  
297 within the taxable year which would have been deductible at the  
298 federal level consistent with s. 163 of the Internal Revenue  
299 Code as it existed and applied immediately before the enactment  
300 of the Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97 ~~For~~  
301 ~~taxable years beginning after December 31, 2018, and before~~  
302 ~~January 1, 2021, there shall be added to such taxable income an~~  
303 ~~amount equal to the excess, if any, of:~~

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

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

313  
314 ~~Any expense added back pursuant to this subparagraph shall be~~  
315 ~~treated as a disallowed business expense carryforward from prior~~  
316 ~~years for the year or years following the addition, until such~~  
317 ~~time as the expense has been used.~~

318           5. With respect to qualified improvement property as  
319 defined in s. 168(e)(6) of the Internal Revenue Code of 1986, as

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320 amended by s. 13204 of Pub. L. No. 115-97, that was placed in  
321 service on or after January 1, 2018:

322 a. There shall be added to such taxable income an amount  
323 equal to 100 percent of any amount deducted for federal income  
324 tax purposes under s. 167(a) of the Internal Revenue Code of  
325 1986. There shall be subtracted an amount equal to the amount of  
326 depreciation that would have been deductible pursuant to s.  
327 167(a) of the Internal Revenue Code of 1986 in effect on January  
328 1, 2020 and without regard to s. 2307 of Pub. L. No. 116-136,  
329 notwithstanding any sale or other disposition of the property  
330 that is the subject of the adjustments and regardless of whether  
331 such property remains in service in the hands of the taxpayer.

332 b. The department may adopt rules necessary to administer  
333 the provisions of this subparagraph, including rules, forms, and  
334 guidelines for computing depreciation on qualified improvement  
335 property, as defined in s. 168(e)(6) of the Internal Revenue  
336 Code of 1986.

337 6. For taxable years beginning after December 31, 2020, and  
338 before January 1, 2026, the changes made to the Internal Revenue  
339 Code by Pub. L. No. 116-260, Division EE, Title I, s. 116 and  
340 Title II, s. 210 shall not apply to this chapter. Taxable income  
341 under this section shall be calculated as though changes made by  
342 those sections were not made to the Internal Revenue Code. The  
343 Department of Revenue may adopt rules necessary to administer  
344 the provisions of this subparagraph, including rules, forms, and  
345 guidelines for treatment of expenses and depreciation related to  
346 these changes.

347 7. Subtractions available under this paragraph may be  
348 transferred to the surviving or acquiring entity following a

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349 merger or acquisition and used in the same manner and with the  
350 same limitations as specified by this paragraph.

351 8. The additions and subtractions specified in this  
352 paragraph are intended to adjust taxable income for Florida tax  
353 purposes, and, notwithstanding any other provision of this code,  
354 such additions and subtractions shall be permitted to change a  
355 taxpayer's net operating loss for Florida tax purposes.

356 Section 6. Except as otherwise expressly provided in this  
357 act, this act shall take effect upon becoming a law.