

CHAPTER 98-100

Committee Substitute for Senate Bill No. 608

An act relating to the corporate income tax; amending s. 220.03, F.S.; updating references to the United States Internal Revenue Code for purposes of the corporate income tax; amending s. 220.02, F.S.; providing legislative intent regarding taxation of a “qualified subchapter S subsidiary;” amending s. 220.22, F.S.; requiring certain returns; providing for retroactive effect; providing an effective date.

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

Section 1. Paragraph (n) of subsection (1) and subsection (2) of section 220.03, Florida Statutes, are amended 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:

(n) “Internal Revenue Code” means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 1998 ~~1997~~, except as provided in subsection (3).

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

(a) The word “corporation” or “taxpayer” shall be deemed to include the words “and its successors and assigns” as if these words, or words of similar import, were expressed;

(b) Any term used in any section of this code with respect to the application of, or in connection with, the provisions of any other section of this code shall have the same meaning as in such other section; and

(c) Any term used in this code shall have the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 1998 ~~1997~~. However, if subsection (3) is implemented, the meaning of any term shall be taken at the time the term is applied under this code.

Section 2. Subsection (11) is added to section 220.02, Florida Statutes, to read:

220.02 Legislative intent.—

(11) Notwithstanding any other provision in this chapter, it is the intent of the Legislature that, except as otherwise provided under the Internal

Revenue Code, for purposes of this chapter a “qualified subchapter S subsidiary,” as that term is defined in s. 1361(b)(3) of the Internal Revenue Code, shall not be treated as a separate corporation or entity from the S corporation parent to which the subsidiary’s assets, liabilities, income, deductions, and credits are attributed under s. 1361(b)(3) thereof.

Section 3. Subsection (4) is added to section 220.22, Florida Statutes, to read:

220.22 Returns; filing requirement.—

(4) For the year in which an election is made pursuant to s. 1361(b)(3) of the Internal Revenue Code, the qualified subchapter S subsidiary shall file an informational return with the department, which return shall be restricted to information identifying the subsidiary, the electing S corporation parent, and the effective date of the election.

Section 4. The provisions of sections 2 and 3 are intended to clarify the intent of the Legislature under existing law and are effective with respect to tax years beginning on or after January 1, 1997; however, no penalty shall be assessed for failure to file the information return required by section 3 if the return would have been due on or before the date this enactment becomes law.

Section 5. This act shall take effect upon becoming a law and, except as otherwise provided, shall operate retroactively to January 1, 1998.

Became a law without the Governor’s approval May 22, 1998.

Filed in Office Secretary of State May 21, 1998.